

## Elimination of child labour and protection of children and young persons

### Bahamas

#### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

The Committee notes with *interest* that the Child Protection Act, 2007, entered into force on 1 October 2009.

*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(1). Minimum age for admission to hazardous work.* The Committee previously noted the Government's information that the Employment Act does not prohibit young persons between 14 and 18 years of age from being employed in hazardous work. The Committee expressed the hope that the Government would take the necessary measures to establish the minimum age for admission to hazardous work at 18 years in the near future.

The Committee notes with **satisfaction** that section 7(1) of the Child Protection Act provides that no child – a person below the age of 18 years – shall be employed or engaged in any activity that may be detrimental to his or her health, education, or mental, physical or moral development.

*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.***

*Part V of the report form. 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.**

## Burkina Faso

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments the Committee noted that a national study on child labour had been conducted in the country and that a new national plan of action on child labour was being drawn up.

The Committee notes the Government's indication that in 2006 Burkina Faso conducted a national survey of child labour (ENTE) with the support of ILO-IPEC-SIMPOC. The results of this survey were published in 2008 and are the most recent data available concerning child labour. The Committee notes that, according to the ENTE, child labour affects 41.1 per cent of children between 5 and 17 years of age in Burkina Faso, a total of 1,658,869 working children, who devote between 19 and 25 hours per week to their work. Moreover, 39.3 per cent of children are forced to perform harmful activities and 35.8 per cent do work that is classified as hazardous. The survey shows that there are more working children in rural areas (44.1 per cent) than in urban areas (23.2 per cent). The main sectors where economically active children are present are agriculture, fishing, hunting and domestic work. The proportion of working children increases considerably with age. Nearly 30 per cent of children between 5 and 9 years of age and 47.6 per cent of children between 10 and 14 years of age work in various economic sectors. In the 15–17 age group, more than half (56 per cent) are working children. The Committee notes that on 15 February 2012 the Government adopted the National Plan of Action against the worst forms of child labour in Burkina Faso 2011–15 (PAN/PFTE), drawn up in cooperation with ILO-IPEC, with the general objective of reducing the incidence of child labour by 2015. **Noting with concern that a significant number of children are working below the minimum age, especially in dangerous conditions, the Committee requests the Government to strengthen its efforts to ensure the gradual elimination of child labour. In this regard, it requests the Government to provide detailed information on the implementation of PAN/PFTE in its next report. The Committee also requests the Government to continue to supply information on the application of the Convention in practice, particularly statistics on the employment of children under 15 years of age and reports of the inspection services.**

*Article 3(1) and (2). Hazardous work and determination of these types of work.* The Committee previously noted that the Ministry of Labour and Social Security sponsored a study in 2008 in order to produce an overview of hazardous types of work and propose draft legislation prohibiting the performance of these types of work by children. The Committee reminded the Government that under *Article 3(2)* of the Convention, hazardous types of work should be determined after consultation with the organizations of employers and workers concerned, where such exist.

The Committee notes with *satisfaction* that the Government, in cooperation with the employers' and workers' organizations concerned, drew up and adopted Decree No. 2009-365/PRES/PM/MTSS/MS/MASSN of 28 May 2009 determining the list of hazardous types of work prohibited for children in Burkina Faso. This Decree, which defines a child as any person under 18 years of age, determines the list of hazardous types of work prohibited for children. The Committee observes that section 2 of the Decree specifically prohibits: work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children; work which exposes children to physical, psychological or sexual abuse; work performed underground, under water, at dangerous heights or in confined spaces; and work performed with dangerous machinery, equipment or tools, or which involves the handling or carrying of heavy loads. Moreover, section 5 of the Decree establishes a list of hazardous types of work prohibited for children by sector of activity, including agriculture, stock rearing, fishing, agro-forestry and hunting, industry, mining, quarries and small-scale gold mines, construction and public works, the informal sector, craft industries, performing arts, transport, and the human and animal health sector.

*Article 9(1). Penalties.* In its previous comments, the Committee requested the Government to indicate the precise penalties applicable for violations of section 149 of the Labour Code of 2008 concerning the prohibition on the performance of hazardous work by children and young persons.

The Committee notes the Government's indication that, since hazardous work is one of the worst forms of child labour, violations of section 149 of the Labour Code incur the penalties established by Act No. 029-2008/AN of 15 May 2008 combating trafficking in persons and similar practices. The Committee observes that section 7 of the Decree of 2009 determining the list of hazardous types of work prohibited for children in Burkina Faso provides that violations of the provisions of the Decree shall be penalized according to the provisions of section 5 of the Act of 2008 combating trafficking in persons and similar practices. The Committee notes with *interest* that, under the terms of section 5 of this Act, any person who commits an offence constituting one of the worst forms of child labour, including hazardous work, shall be liable to imprisonment ranging from ten to 20 years. **The Committee requests the Government to supply**



*information on the nature of the violations reported by the labour inspectorate, the number of persons prosecuted and the penalties imposed.*

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children and sanctions.* In its previous comments, the Committee noted the broad extent of internal and trans-border trafficking of children for the exploitation of their labour. The Committee also noted with interest the adoption of Decree No. 2008-332/PRES of 19 June 2008 issuing Act No. 29-2008/AN of 15 May 2008 to combat trafficking in persons and similar practices (Act to combat trafficking in persons and similar practices). The Committee took due note that sections 3 and 4 of the Act to combat trafficking in persons and similar practices provides for terms of imprisonment ranging from five to 20 years. The Committee noted several decisions handed down by the High Court between 2004 and 2007. The Committee also noted that individuals who had been prosecuted for trafficking in children had been found guilty and sentenced to terms of imprisonment ranging from two to 24 months, sometimes accompanied by a fine, and were ordered to pay costs. The Committee, however, observed that, of the seven prison sentences handed down, six were suspended; one person had been sentenced to two months' imprisonment and another to a fine of 50,000 CFA francs.

The Committee notes the Government's indications that, in total, 349 cases of the abduction of children and 44 prosecutions for trafficking in children have been recorded by the national courts over the past four years. The Government adds that in 2010 a police operation in the Cascades region resulted in the arrest of 17 traffickers in two days, who were then referred to the judicial authorities. The Government also conducted, with Interpol support, a police operation involving around 100 police officers and around 20 child protection workers, as a result of which, within two days, 173 children were intercepted and protected and 15 traffickers arrested. However, the Committee observes that the Government has not provided any information on the imposition of penalties on those responsible for violations relating to trafficking in children. The Committee also notes that, according to the examination of the reports submitted in accordance with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (examination of the reports submitted to the CRC/OPSC) of 7 May 2012 (CRC/C/OPSC/BFA/1, paragraphs 47–48), the available data on the cases of trafficking in children registered by the courts are not sufficient to indicate whether prosecutions have been opened in all of the presumed cases of trafficking.

The Committee once again reminds the Government that trafficking in children is a serious crime and that, under *Article 7(1)* of the Convention, the Government is obliged to take the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the application of sufficiently effective and dissuasive penal sanctions. ***The Committee requests the Government to take the necessary measures to ensure that the penalties imposed on individuals found guilty of trafficking in children are sufficiently effective and dissuasive and that they are applied in practice. It once again requests the Government to provide information in this respect. The Committee further requests the Government to continue providing information on the application in practice of the Act to combat trafficking in persons and similar practices, particularly by providing statistics on the number and nature of the violations reported, investigations, prosecutions, convictions and penal sanctions imposed.***

*Article 4(1). Determination of hazardous types of work.* In its previous comments, the Committee noted that the Ministry of Labour and Social Security had sponsored a study in 2008 to assess the situation with regard to hazardous work and to propose draft legislation prohibiting the performance of these types of work by children. The Committee expressed the firm hope that the draft legislation prohibiting the performance of these types of work by children under 18 years of age and determining these types of work would be drawn up in the near future.

The Committee notes with *satisfaction* that the Government, in collaboration with the employers' and workers' organizations concerned, prepared and adopted Decree No. 2009-365/PRES/PM/MTSS/MS/MASSN of 28 May 2009 to determine the list of hazardous types of work prohibited for children in Burkina Faso. This Decree, which defines a child as any person under 18 years of age, determines the list of hazardous types of work that are prohibited for children. The Committee notes that section 5 of the Decree contains a detailed list of hazardous types of work prohibited for children by sector, including agriculture, stock-raising, fishing, agro-forestry and hunting, industry, mines, quarries and gold-washing sites, construction and public works, the informal economy, artisanal work, arts and theatrical representations, transport, and the human and animal health sector.

*Article 5. Monitoring mechanisms. National Multi-Sectoral Committee to Combat Trafficking in Persons.* The Committee notes the Government's indication that a National Multi-Sectoral Committee to Combat Trafficking in Persons and Assimilated Practices, chaired by the Department of Social Action, was established by Joint Decree No. 2009-529/PRES/PM/MASSN/MATD/SECU of 17 July 2009. The Multi-Sectoral Committee meets annually in its ordinary session to review action to combat trafficking in persons, identify trends and make recommendations. During the 2011 session the need was identified to train actors in the field, and the necessity to disseminate widely certain papers on trafficking. ***The Committee requests the Government to continue its efforts to combat trafficking in children by reinforcing the capacity of the bodies responsible for law enforcement, including through the action of the National***

**Multi-Sectoral Committee to Combat Trafficking in Persons. It requests the Government to provide information on the progress achieved in this respect.**

*Article 6. Plan of action.* The Committee notes that, according to the examination of the reports submitted to the CRC/OPSC on 7 May 2012 (CRC/C/OPSC/BFA/1, paragraph 76), national action plans are being prepared, including the National Plan of Action to Combat Trafficking and Sexual Violence against Children in Burkina Faso, which sets out clear strategies for combating child trafficking and the sexual exploitation of children. **The Committee requests the Government to provide information on the specific measures adopted or envisaged in the context of the National Plan of Action to Combat Trafficking and Sexual Violence against Children in Burkina Faso, and the results achieved as a result of the implementation of these measures. It also requests the Government to provide a copy of the Plan of Action with its next report.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Sale and trafficking of children.* The Committee notes the Government's indications concerning its initiatives and prevention measures to combat trafficking, particularly of children. Through the Ministry of Social Action and National Solidarity (MASSN), the Government is undertaking awareness-raising activities with the principal stakeholders. Between 2008 and 2009, over 15,000 copies of the Act to combat trafficking in persons and similar practices were made available. These measures are combined with awareness-raising campaigns conducted among at-risk categories of the population through informal talks, cinema discussions and theatrical forums. The Government indicates that its awareness-raising activities as a whole have directly reached out to 70,834 people, including 18,815 men, 19,679 women and 32,340 children. **The Committee encourages the Government to continue its efforts to prevent children under 18 years of age from becoming victims of trafficking for economic or sexual exploitation. It requests the Government to provide information on the results achieved following the implementation of the MASSN's awareness-raising activities.**

*Clause (b). Direct assistance for the removal of children from the worst forms of child labour. 1. Sale and trafficking of children.* Further to its previous comments, the Committee notes the Government's indications that victims of trafficking in Burkina Faso are put up in transit centres, where boys are separated from girls. These victims are provided with food, medical and psychosocial care and clothing, as well as psychological support for those suffering from trauma, in accordance with the UNICEF guiding principles. The Government adds that victims of trafficking, without distinction as to nationality, benefit from reintegration measures on the basis of projects formulated with their participation with a view to facilitating their integration into the community. The repatriation of foreign victims of trafficking is not compulsory, particularly where victims are likely to be subject to reprisals in their country of origin. The Committee notes that there are now 23 transit centres and that the Government is continuing the construction and equipment of such transit centres in various regions, cities and departments of the country. The Committee notes with **interest** the Government's indications that, during the years 2009–11, some 2,299 child victims of internal trafficking (742 girls and 1,557 boys) and 329 child victims of trans-border trafficking (72 girls and 257 boys) were intercepted. The Committee takes due note of the measures adopted by the Government for the removal of children from sale and trafficking and to ensure their rehabilitation and social integration, and it considers these measures to be a demonstration of its political will to eliminate this worst form of child labour. **The Committee strongly encourages the Government to pursue its efforts and requests it to continue providing information on the time-bound measures taken for the removal of child victims of sale and trafficking and their rehabilitation and social integration, and the results achieved. It requests the Government to provide information on the number of child victims of trafficking, both internal and trans-border, who have benefited from rehabilitation and social integration measures in transit centres.**

*2. Project for small-scale gold mines in West Africa.* Further to its previous comments, the Committee notes the Government's indications that it has been undertaking, in partnership with UNICEF, the project "Child labour in artisanal mines and quarries", launched in 2009 under the coordination of a technical guidance committee chaired by the MASSN. The project activities cover 23 artisanal mines and quarries in five regions of Burkina Faso. The Committee notes that, since the inception of the project in 2009, it has led to the removal of 11,123 children (6,021 boys and 5,012 girls), who benefit from support for their rehabilitation in the education and economic systems. Accordingly, 3,062 children between the ages of 3 and 6 years benefited from pre-school care in *bisongos*; 6,216 children between 6 and 12 years have been registered in primary school; 897 children between 13 and 17 years of age have been placed in income-generating activities; 948 children between 15 and 17 years of age have been enrolled in vocational training in various sectors in partnership with the National Employment Agency; and 1,000 mothers of children working in mines have benefited from support for income-earning activities with a view to increasing their capacity to protect their children from the worst forms of child labour.

The Committee notes the Government's indication that, with a view to guiding the project activities more effectively, it undertook a study in 2010 on child labour in gold-washing sites and artisanal quarries in five regions of the country. This study shows that around one third of the population on the 86 artisanal gold-washing sites are children, or a total of 19,881 children, of whom 51.4 per cent were boys and 48.6 per cent girls. The study also reveals the use of children at all levels in the production of minerals, work in mine galleries, dynamiting rocks, rock breaking, crushing and sieving, the sale of food and water and hauling minerals to sheds. On mine and quarry sites, it is generally children who act as intermediaries for access to illicit products (the sale of drugs) or who procure prostitutes. While noting the considerable efforts made by the Government, the Committee is bound to express **concern** at the number of children

engaged in the worst forms of child labour in gold-washing sites and artisanal quarries in Burkina Faso. *The Committee, therefore, requests the Government to intensify its efforts to remove children from the worst forms of child labour in artisanal gold mines and to ensure their rehabilitation and social integration in the context of the UNICEF project “Child labour in artisanal mines and quarries” and through any other time-bound measures. It requests the Government to continue providing information on the results achieved.*

*Article 8. International cooperation and assistance. Regional cooperation.* The Committee noted previously that the Government has signed bilateral cooperation agreements on the cross-border trafficking of children with the Republic of Mali and multilateral cooperation agreements on combating the trafficking of children in West Africa.

The Government indicates in its report that Burkina Faso generally enjoys good cooperation with countries in the region, which facilitates the processing of cross-border trafficking cases. For example, solely during the first half of 2012, cooperation with the police in Benin resulted in the interception and repatriation of nine children, all boys, and the arrest of one trafficker. Cooperation with Côte d’Ivoire led to the removal of 14 boys from trafficking and their reintegration into their families. The Committee also notes the Government’s indication that the conclusion of a cooperation agreement with Côte d’Ivoire is envisaged for 2012 and that Burkina Faso is in the process of addressing a specific problem of the trafficking of young girls to Lebanon through the intervention of several ministries of justice, including that of the United States. *The Committee encourages the Government to continue its efforts to reinforce international cooperation and assistance for the elimination of the trafficking of children for economic and sexual exploitation and requests it to continue providing information on the results achieved in this respect.*

*Parts IV and V of the report form. Application of the Convention in practice.* The Committee noted previously that a national study on child labour had been conducted in the country and requested the Government to provide a copy of it.

The Committee notes the Government’s indication that Burkina Faso conducted a National Survey of Child Labour (ENTE) in 2006 with the support of ILO/IPEC/SIMPOC. The findings of the survey were published in 2008 and are currently the most recent data on child labour. The Committee notes that, according to the ENTE, child labour affects 41.1 per cent of children between 5 and 17 years of age in Burkina Faso, or 1,658,869 child workers. The ENTE also indicates that 1,447,146 children are engaged in hazardous types of work in Burkina Faso, or 35.8 per cent of all children between the ages of 5 and 17 years. Children engaged in hazardous activities are found more in rural than in urban areas (38.5 per cent compared with 19.9 per cent), and boys are more affected than girls (41.4 per cent compared with 29.9 per cent). The sector which employs the largest number of children between the ages of 15 and 17 years in hazardous work is agriculture, fishing and hunting, in which 85.8 per cent (or 774,041 children) of the children involved in the sector are engaged in hazardous types of work. The figures are 88 per cent (219,883 children) in domestic work, 79.7 per cent (58,263 children) in commerce and repairs, 91.5 per cent (27,268 children) in mineral extraction, 84.8 per cent (20,909 children) in manufacturing, water, electricity and gas, 94.4 per cent (10,941 children) in construction and 75.8 per cent (9,909 children) in other services. *Expressing concern at the situation and number of children under 18 years of age engaged in hazardous forms of work, the Committee requests the Government to intensify its efforts for the elimination of these worst forms of child labour. It requests the Government to continue providing information on any progress achieved in this respect and on the results obtained. The Committee further asks the Government to continue providing 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 infringements reported, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, the information provided should be disaggregated by age and sex.*

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 must therefore repeat its previous observation which read as follows:

*Article 2(1) of the Convention. Scope of application.* In its previous comments, the Committee noted the indication by the International Trade Union Confederation (ITUC) that child labour constitutes a serious problem in Burundi, particularly in agriculture and informal activities in urban areas. It also noted the statement by the Government that the socio-political crisis experienced by the country had aggravated the situation of children, some of whom were obliged to perform work “illegally” to support their families, very frequently in the informal economy and in agriculture. The Committee noted that section 3 of the Labour Code, in conjunction with section 14, prohibits work by young persons under 16 years of age in public and private enterprises, including farms, where such work is carried out on behalf of and under the supervision of an employer.

In its report, the Government confirmed that the country’s regulations did not apply to the informal sector, which consequently escapes any control. Nevertheless, the question of extending the application of the labour legislation to this sector was to be discussed in a tripartite context on the occasion of the revision of the Labour Code and its implementing texts. The Committee reminded the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship, including own-account work. *It once again expresses the firm hope that the Government will take the necessary measures to extend the scope of application of the*



**Convention to work performed outside an employment relationship, particularly in the informal economy and in agriculture. The Committee requests the Government to provide information in this respect.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted the ITUC's indications that the war had weakened the education system due to the destruction of many schools and the death or abduction of a large number of teachers. According to the ITUC, the school attendance rate is lower and the illiteracy rate higher for girls. The Committee further noted that, according to a report of the International Bureau of Education (UNESCO) of 2004 relating to data on education, Legislative Decree No. 1/025 of 13 July 1989 reorganizing education in Burundi does not provide for free and compulsory primary education. Entry into primary education is around the age of 7 or 8 years and lasts six years. Children therefore complete primary education around the age of 13 or 14 years and then have to pass a competition to enter secondary education. The Committee further noted that in 1996 the Government had prepared a Global Plan of Action for Education designed to improve the education system, among other measures, by reducing inequalities and disparities in access to education and achieving a gross school attendance rate of 100 per cent by the year 2010.

The Committee duly noted the information provided by the Government in its report with regard to the various measures adopted in the field of education. It noted that, under article 53(2) of the Constitution of 2005, the State is under the obligation to organize public education and promote access to such education. It further noted that basic education is free of charge and that the number of children attending school tripled during the 2006 school year. In 2007, primary schools would be constructed and other mobile and temporary schools would be established. Furthermore, coordination units for girls' education had been established and over 1,000 teachers recruited. **The Committee once again encourages the Government to pursue its efforts in the field of education and to provide information on the impact of the above measures in terms of increasing the school attendance rate and reducing the drop-out rate, with special attention to the situation of girls. It also requests the Government to indicate the age of completion of compulsory schooling and the provisions of the national legislation which determine this age.**

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

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

## Chad

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict.* With reference to its previous comments, the Committee noted that, under section 14 of Ordinance No. 01/PCE/CEDNACVG of 16 January 1991 reorganizing the armed forces of Chad [Ordinance No. 1 of 16 January 1991], the age of recruitment is 18 years for volunteers and 20 years for conscripts.

The Committee noted that, according to the report of the United Nations Secretary-General of 7 August 2008 on children and armed conflict in Chad (S/2008/532, for the period July 2007–June 2008), the political, military and security situation in the country remains highly volatile, owing to the continuation of armed conflict between the Chad armed forces and armed rebel groups, the presence in eastern Chad of foreign rebel groups, cross-border raids by the Janjaweed militia and continuing inter-ethnic tensions. The Committee noted that, according to the Secretary-General's report, the Government of Chad and the three main rebel groups, namely the *Union des forces pour la démocratie et le développement* (UFDD), the *Rassemblement des forces pour le changement* (RFC) and the *Concorde nationale tchadienne* (CNT), signed a peace agreement on 25 October 2007 which provided for an immediate ceasefire. However, despite the signature of this agreement, fighting has continued and all the parties concerned have continued to recruit and use children in the conflict.

The Committee noted that the Secretary-General's report showed that the forced recruitment and use of child soldiers in the conflict in Chad is related to the regional dimension of the conflict. The Toroboro or Sudanese armed groups allied with the Government of Chad are recruiting children from two refugee camps, at Tréguine and Bredjing, during the rainy season. Furthermore, heavy recruitment also occurs on the basis of needs in Darfur. The Sudanese rebel movement Justice and Equality Movement (JEM) continues to recruit in and around refugee camps, notably Oure Cassoni (Bahai). According to information in the Secretary-General's report, between 7,000 and 10,000 children are associated with the armed forces and armed groups. The Committee noted that the Working Group on Children and Armed Conflict, in its conclusions of December 2008 (S/AC.51/2008/15), expressed grave concern that all parties to the conflict continue to recruit and use children and called for measures to be taken to prosecute the perpetrators and put an end to impunity.

The Committee noted that the situation in Chad has been unstable for many years and that it remains fragile. The Committee also noted that, despite the fact that Ordinance No. 1 of 16 January 1991 provides that the age of recruitment is 18 years for volunteers and 20 years for conscripts, the recruitment of children for use in armed conflict is continuing in practice. In this regard, it noted that no penalties are laid down for violations of this prohibition. The Committee expressed deep concern at the current situation, especially as the persistence of the worst forms of child labour leads to other violations of the rights of the child, such as abduction, death and sexual violence. It reminded the Government that under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, members States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. **The Committee requests the Government to take the necessary measures as a matter of urgency to stop in practice the forced recruitment of children under 18 years of age by armed forces and groups and immediately undertake the full demobilization of all children. With reference to Security Council resolution 1612 of 26 July 2005, which recalls the "responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate steps to ensure that perpetrators are investigated and prosecuted and that penalties which are sufficiently effective and dissuasive are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. It requests the Government to supply information in this respect.**

*Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration, including access to free basic education and vocational training. Children who have been enlisted and used in armed conflict.* Further to its previous comments, the

Committee noted that, according to the report of the United Nations Secretary-General of 7 August 2008 on children and armed conflict in Chad (S/2008/532), the Government of Chad signed an agreement with UNICEF on 9 May 2007 to ensure the release and sustainable reintegration of all child soldiers associated with armed forces and groups in the country. According to the Secretary-General's report, since the agreement was signed, 512 child soldiers have been released to UNICEF, which has provided support at five transit centres. So far 265 children have voluntarily returned to or been reunited with their families, and 220 have been placed in schools and 85 in professional activities. Most of the demobilized children were associated with non-governmental armed groups. Very few children associated with the Chadian armed forces have been released. According to the Secretary-General's report, negotiations are under way for placing the demobilized children in vocational training institutions and providing them with gainful employment. Some NGOs which are partners of UNICEF are currently working on the reintegration programme. Moreover, the encouraging start of disarmament, demobilization and reintegration activities in Chad is likely to lead to the release of another estimated 2,500 children associated with armed forces and groups.

The Committee also noted that, according to the Secretary-General's report, Chad undertook to release as a matter of priority children associated with armed groups held in detention. Moreover, it decided that an inter-ministerial task force would be established to coordinate and ensure effective reintegration of children. The Committee on the Rights of the Child, in its concluding observations of February 2009 (CRC/C/TDC/CO/2, paragraph 71), urged the Government to take the necessary measures immediately to facilitate contact between armed groups operating in Chad and the United Nations in order to promote the demobilization of children and prevent the recruitment of children, particularly in refugee camps. In this regard, the Committee on the Rights of the Child urges the Government to extend the disarmament, demobilization and reintegration programme, placing particular emphasis on the demobilization and reintegration of girls.

The Committee noted the measures taken by the Government to demobilize and reintegrate child soldiers, particularly through collaboration with UNICEF. It noted, however, that the current situation in the country remains a source of concern. *The Committee therefore requests the Government to intensify its efforts and continue its collaboration with UNICEF and other organizations in order to improve the situation of child victims of forced recruitment for use in armed conflict. Moreover, the Committee requests the Government to take effective and time-bound measures to ensure that child soldiers removed from armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training, wherever possible and appropriate. It requests the Government to supply information in this respect.*

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.*

## Congo

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

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 read as follows:

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children.* In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. *The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.*

*Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children.* In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. *The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.*

*Part V of the report form. Application of the Convention in practice.* The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of the Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. *The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.*

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

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



## Dominican Republic

### **Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1973)**

*Articles 2(1) and 3(1) of the Convention. Thorough medical supervision up to the age of 18 years.* In its previous comments, the Committee noted that section 248 of the Labour Code provides that any minor under 16 years of age wishing to carry out any kind of work must undergo a thorough medical examination. It also noted that sections 52 and 53 of Regulation No. 258-93 of 12 October 1993 issuing regulations under the Labour Code (hereinafter, Regulation No. 258-93 of 12 October 1993), provide that working minors shall be under medical supervision until they reach the age of 16 years, as envisaged in section 17 of the Labour Code. The Committee requested the Government to provide information on the measures adopted to raise the age set out in the Labour Code and in Regulation No. 258-93 of 12 October 1993 from 16 to 18 years so that the above texts are brought in compliance with the Convention. It noted the Government's indications that preparatory work in this regard had concluded that the age established by the Labour Code should be raised and that a resolution relating to Regulation No. 258-93 of 12 October 1993 had already raised the age from 16 to 18 years.

The Committee notes the Government's information in its report that, on 10 August 2012, the Ministry of Labour presented for tripartite discussion to the most representative employers' and workers' organizations a proposal to amend the Labour Code. *The Committee hopes that the proposal to amend the Labour Code to be adopted will ensure that the Labour Code and Regulation No. 258-93 of 12 October 1993 are brought into conformity with the Convention and raise from 16 to at least 18 years the age established for thorough medical supervision. It requests the Government to provide information on any progress made in this regard. Noting the absence of information on this point in the Government's report, the Committee once again requests the Government to provide a copy of the resolution which is reported to have already raised the age established for thorough medical supervision from 16 to 18 years.*

*Article 4(1). Medical examinations and re-examinations for fitness for employment until at least the age of 21 years.* The Committee noted previously that, under the terms of section 53 of Regulation No. 258-93 of 12 October 1993, the medical examination only applies to those under 16 years of age and has to be renewed annually or every three months where the work involves high risks for the health of the young person. The Committee recalled that, by virtue of *Article 4(1)* of the Convention, in occupations which involve high health risks for children or young persons, the medical examination and re-examination for fitness for employment shall be required until at least the age of 21 years. *The Committee hopes that the proposal to amend the Labour Code, referred to above, will soon be adopted so as to bring legislation in compliance with the Convention on this point and requests the Government to provide information on any progress made in this regard.*

*Article 4(2). Specification of the occupations in which a medical examination for fitness for employment shall be required until at least the age of 21 years.* The Committee notes the Government's indications that resolution No. 52/2004 establishes a detailed list of hazardous and unhealthy types of work prohibited for children under 18 years of age. However, the resolution does not specify the occupations or categories of occupations in which a medical examination for fitness for employment shall be required until at least the age of 21 years, or empowers an appropriate authority to specify such occupations. *The Committee therefore requests the Government to take the necessary measures to ensure that the process of amending the Labour Code referred to above takes into account this matter in order to bring legislation in compliance with the Convention.*

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

## Gabon

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3(a) of the Convention and Part III of the report form. 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 Applications 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.***

*Part V of the report form. 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.

## Georgia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1996)**

The Committee notes the Government's report and the comments of the Georgian Trade Unions Confederation (GTUC) dated 21 September 2012.

*Article 2(1) and (3) of the Convention and Part V of the report form. Minimum age for admission to employment, compulsory education and application of the Convention in practice.* In its previous comments, the Committee had noted the comments made by the GTUC that according to UNICEF estimates, 30 per cent of children between the ages of 5–15 years worked in Georgia and that there were reports of children between the ages of 7–12 years working on the streets of Tbilisi, in markets, carrying or loading wares, selling goods in underground carriages, railway stations, etc. Moreover, based on the information provided by the Trade Union of Agricultural Workers, the GTUC alleged that child labour is widespread in the agricultural sector at harvest time in several regions of Georgia.

The Committee had noted the Government's statement that allegations by the GTUC were based on unverified sources and that UNICEF was planning to conduct a study on street children which would help to assess the actual situation of child labour in the country. It had noted that the child labour estimates of the Multiple Indicator Cluster Survey (MICS), UNICEF 2005, indicated an important drop in the percentage of children involved in labour, from 30 per cent in 1999 to 18 per cent in 2005. The Committee had further noted the Government's information that education was one of its priorities and that it had taken a number of steps to strengthen the educational system and the school attendance of children, through increasing expenditure on general education and renovating more than 300 public schools under the "Public Schools Rehabilitation Programme". The Committee noted that as per the UNICEF statistics on education, in Georgia, the gross primary school enrolment rate in 2008 was 100 per cent for males and 98 per cent for females. The Committee had requested the Government to provide recent statistical information on the employment of children and young persons, in particular children working in the streets and in the agricultural sector.

The Committee notes the Government's statement that Georgia has a strong tradition of education with almost universal primary school enrolment rates across the country. Hence the possibility of children being involved in child labour is very low. The Committee also notes the Government's indication that in order to ensure the well-being of street children, an inter-agency commission was created which elaborated a new strategy to protect street children. Furthermore, the Government has implemented a voucher system for street children, enabling them to receive financial support. The Committee notes that according to the UNICEF report entitled "Georgia and the Convention on the Rights of the Child, 2011", the primary net attendance ratio for 2010 was 93 per cent which indicates that 20,000 primary school-aged children were not enrolled in school while the net attendance ratio at the secondary level was 86 per cent. The Committee further notes that according to the UNICEF study report on street children of 2009, there was an average of 1,049 street children in the four cities of Tbilisi, Kutaisi, Rustavi and Batumi where the study was conducted, of which 66 per cent was children between the ages of 5–14 years. *The Committee encourages the Government to pursue its efforts in the field of education by taking measures to enable children to attend and complete compulsory education and to ensure free basic education to all children, particularly street children. It requests the Government to provide information on the measures taken in this regard and the results achieved.*

*Article 2(1). Scope of application.* The Committee had previously noted the Government's indication that self-employment was not regulated by the legislation of Georgia. It had also noted that section 4(2) of the Labour Code permits the employment of children below 16 years, on the condition that such work is not against their interests, does not damage their moral, physical or mental development or limit their right and ability to obtain elementary, compulsory and basic education, and upon the consent from their legal representative, tutor or guardian.

The Committee had noted the comments made by the GTUC that the Labour Code applied only to hired labourers. As such, children working on family farms or in the agricultural sector are not afforded the protection guaranteed under the Convention. Furthermore, with the abolition of the labour inspectorate by the Labour Code of 2006, there exists no public authority to observe the implementation of labour legislation, including child labour provisions.

In this context, the Committee had noted the Government's reference to *Article 5(3)* of the Convention which provides for the possibility of limiting the scope of application of the Convention to certain branches of economic activity, "excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers". The Government had further stated that children's work in the agricultural sector is not hired work and therefore their activities cannot be considered as incompatible with the Convention, as it is excluded under *Article 5(3)* of the Convention. Observing that at the time of ratification, Georgia did not avail itself of this provision and therefore the provisions of the Convention apply to all branches of economic activity, including family undertakings and small-scale

holdings, and cover all types of employment, whether hired or self-employed, the Committee had requested the Government to take the necessary measures to ensure that children working in the agricultural sector, whether paid or unpaid, as well as those working on their own account, are entitled to the protection afforded by the Convention.

The Committee notes the comments made by the GTUC that according to the data of the Department of Statistics, the number of self-employed minors is much higher than that of those employed in the formal sector. The GTUC further states that child labour is widespread in various regions of Georgia during the crop period in the agriculture sector.

The Committee notes the Government's indication that in order to enhance the rights of a child, the Government is currently exploring the possibility to more precisely address the minimum age provisions as well as restrictions on working hours of children in Georgia's labour laws. ***The Committee expresses the firm hope that the Government, in its attempt to address more precisely the minimum age provisions under the Labour Code, will take the necessary measures to ensure the application of the Convention to all branches of economic activity, including family undertakings and small-scale holdings and cover all types of employment, whether hired or self-employed, in order to bring the national legislation into conformity with the Convention. It requests the Government to provide information on any progress made in this regard.***

*Article 7(1) and (3). Light work and determination of light work.* The Committee had previously noted the comments by the GTUC that the hours of work of young workers are not limited. It had noted that as per section 14 of the Labour Code, if parties do not agree otherwise, a working week shall not exceed 41 hours, which is also applicable to young workers. The Committee also noted the comments made by the GTUC that the regulation on the work of young persons under the Labour Code does not guarantee sufficient protection to minors in employment relations. The GTUC further added that it is important to restrict the working hours of young persons and to also include provisions for rest periods, breaks and holidays.

The Committee had noted that section 18 of the Labour Code which prohibits night work (10 p.m. to 6 a.m.) by young persons if read in conjunction with section 4(2) which lays down the condition that work by children below 16 years of age shall not limit their right and ability to obtain elementary, compulsory and basic education, implies that children may work for about eight hours per day, excluding school hours and night work. In this context, the Committee drew the Government's attention to Paragraph 13(1)(b) of the Minimum Age Recommendation, 1973 (No. 146), 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 (including the time needed for homework related thereto) for rest during the day and for leisure activities. Noting that the Labour Code allows children between 14 and 16 years to perform light work under the conditions specified under section 4(2) of the Labour Code, the Committee had urged the Government to take the necessary measures to determine light work activities permitted for children between 14 and 16 years of age and to prescribe the number of hours during which, and the conditions in which, light work may be undertaken by such persons.

The Committee notes the Government's indication that it is attempting to review the Labour Code for further enhancement of the provisions regarding restrictions on working hours of children. The Committee expresses its **concern** that the national legislation allows children between the ages of 14 and 16 years to work for eight hours a day. ***The Committee therefore urges the Government to take the necessary measures in the near future to determine the light work activities that may be undertaken by children of 14 years and above and the number of hours during which, and the conditions in which, such work may be undertaken.***

*Article 8. Artistic performances.* The Committee had previously noted the information contained in the Government's report to the Committee on the Rights of the Child (CRC/C/41/Add.4, 1997, paragraph 13) that, under certain conditions, children under 15 years of age may be engaged in artistic activities, such as the circus or the cinema. It had also noted the Government's statement that the working conditions of young persons in all spheres, including artistic performances, were well protected under the Labour Code and therefore no separate method of issuance of permits for artistic performances had been set up. The Committee had noted the provisions under section 4(3) of the Labour Code which states that a labour contract can be concluded with a child below 14 years only for work related to sport, art, cultural and advertising activities. Observing that there were no provisions under the Labour Code which limit the number of working hours or set maximum working hours or conditions for employment of young persons who participate in artistic performances, the Committee had requested the Government to indicate the measures taken or envisaged to ensure that approval for young persons below 15 years of age to take part in artistic activities is granted in individual cases, and that permits so granted shall prescribe the number and hours during which, and the conditions in which, such employment or work is allowed.

The Committee notes the Government's reference to section 4(2) of the Labour Code which states that the labour capacity of a child below 16 years shall be concluded only with the consent of his/her legal representative, tutor or guardian, if it is not against his/her interests, does not damage his/her moral, physical or mental development and does not limit his/her right and ability to obtain elementary, compulsory and basic education. It further notes the Government's statement that accordingly, the activities in which employment or work may be permitted for an under-age person and the number of hours of such work may be defined as per the consent of the child's legal representative, tutor or guardian. The Committee once again recalls that *Article 8* of the Convention allows exceptions to the specified minimum age of admission to employment or work for such purposes as artistic performances only by permits granted in individual cases

by the competent authority and not just with the consent of the parent or legal guardian and that such permits so granted shall limit the number of hours during which, and prescribe the conditions in which, such employment or work is allowed. ***The Committee therefore requests the Government to indicate whether the labour contracts or certificates of consent concluded under section 4(2) and (3) of the Labour Code which allow children below the minimum age (15 years) to participate in sport, art, cultural and advertising activities and which lay down the conditions and the number of hours during which such activities may be undertaken, are granted by the competent authority. It also requests the Government to provide a copy of such labour contracts or certificates along with its next report.***

*Article 9(1) and Part III of the report form. Penalties and labour inspection.* In its previous comments, the Committee had noted the Government's statement that the labour inspectorate stands abolished according to the Labour Code of 2006. It had noted the comments made by the GTUC that with the abolition of the labour inspectorate, there exists no public authority to observe the implementation of labour legislation, including child labour provisions.

The Committee had noted the Government's indication that the police are responsible for the monitoring of infringements related to child labour. While noting that the Government's report contained information on the activities of the police with regard to crime prevention, child abuse and the protection of minors with unusual social behaviour, the Committee observed that these did not relate to infringements of the Labour Code related to child labour. It had observed with concern that there existed no public authority to monitor the implementation of the child labour-related provisions in the country and therefore urged the Government to take the necessary measures to ensure the effective monitoring and implementation of the provisions giving effect to the Convention.

The Committee notes the Government's information that the competencies of the Patrol Police Department and district police units are divided according to regions/districts of Georgia. It notes the Government's information that the district police inspectors who keep information about minors within the area of their coverage, visit families of minors to make them aware of their rights. Furthermore, the district police inspectors also conduct classes for school teachers on children's rights and their infringement. The Government further states that the Ministry of Education and Science (MoES) is responsible for monitoring the security of school children and also to provide legal consultations to teachers, parents and children. The Committee also notes the Government's information that the Department of Social Protection within the Ministry of Labour, Health and Social Assistance (MOLHSA) focuses on policy recommendations related to rights of children, including child labour. Furthermore, the Social Issues and Programmes Division within this department receives and forwards complaints of child labour violations to the Social Service Agency within MOLHSA and law enforcement agencies for further investigations. ***The Committee requests the Government to provide information on the number of violations detected by the district police inspectors as well as the number of complaints received by the Social Issues and Programmes Division related to child labour.***

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

## Greece

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1986)***

The Committee notes the Government's report and its communication of 16 May 2011, as well as the communication of the Greek General Confederation of Labour (GSEE) dated 28 July 2011.

*Article 3(3) of the Convention. Authorization to carry out hazardous work from the age of 16 years.* In its previous comments, the Committee noted that section 7(5) of Presidential Decree No. 62/1998 provides that certain exceptions regarding the authorization to carry out hazardous work of "adolescents" may be made. The Committee noted that section 2(c) of Presidential Decree No. 62/1998 seems to define an "adolescent" as a young person of at least 15 years of age who has ceased to attend compulsory school in accordance with the relevant provisions. The Committee reminded 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.

The Committee notes 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 in order to ensure the protection of these adolescents' health and safety. However, the Committee notes once again with ***concern*** that Presidential Decree No. 62/1998 continues to permit the performance of hazardous work by persons as of the age of 15 years, pursuant to sections 2(c) and 7(5). ***The Committee therefore once again strongly urges 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 circumstance. In this regard, it once again urges the Government to take measures to ensure that section 2(c) of Presidential Decree No. 62/1998 is amended to define a "young person" as a person of at least 16 years of age.***



*Article 6. Apprenticeship and conditions of employment.* The Committee previously noted that the Greek Parliament adopted, on 5 May 2010, Act No. 3845/2010 (FEK A'65/6-5-2010) on "Measures to implement a mechanism to support the Greek economy by the Member States of the Euro area and the International Monetary Fund". The Committee also noted the adoption of Act No. 3863/2010 on the "New social security system and relevant provisions" (FEK A'115) which is aimed at implementing the time-bound commitments made in the two memoranda with regard to structural policies on strengthening labour markets. The Committee noted the statement in the previous communication of the GSEE that Act No. 3845/2010 includes provisions that directly exclude (or serve as a legal authorization for the introduction of further exclusions) groups of workers, including young workers, from the scope of the National General Collective Labour Agreement, and from the generally binding provisions on minimum wages and conditions of work. The GSEE further alleged that, pursuant to Act No. 3863/2010, minor workers of 15 to 18 years of age will be employed under contracts of "apprenticeship" with extended probationary periods and will receive 70 per cent of the minimum wage established in the national collective agreement. According to the GSEE, these young workers will be excluded from the protective provisions of labour legislation on permissible working hours, the start and end of the working day taking into account course schedules, obligatory periods of rest, obligatory paid annual leave, time off for attending school, studying and sick leave (pursuant to section 74(8) and (9) of Act No. 3863/2010). The GSEE stated that the deregulation of the existing minimum protective legislative framework, in addition to the absence of adequate guarantees and deficient inspection mechanisms, will have multiple harmful side effects for young workers. In this regard, the Committee drew the Government's attention to Part IV, Paragraphs 12 and 13 of the Minimum Age Recommendation, 1973 (No. 146). Paragraph 12 states that measures should be taken to ensure that the conditions in which children and young persons under the age of 18 years are employed or work reach and are maintained at a satisfactory standard. Paragraph 13 states that in connection with Paragraph 12 "special attention should be given to: (a) the provision of fair remuneration and its protection, bearing in mind the principle of equal pay for equal work ...; and (e) coverage by social security schemes, including employment injury, medical care and sickness benefit schemes, whatever the conditions of employment or work may be". The Committee requested the Government to provide information in its next report on measures taken or envisaged to ensure that the conditions of work for young persons under the age of 18 are maintained at a satisfactory standard and that adequate safeguards are adopted to protect them from hazardous work, taking into account Greece's ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182).

The Committee notes the Government's information, in its communication of 16 May 2011, concerning the conditions of apprenticeship contracts. According to section 74(9) of Act No. 3863/2010, employers are given an incentive to conclude special apprenticeship contracts of up to one year's duration with young persons aged between 15 and 18 years, in order for them to acquire skills and professional experience and ease their entry into the labour market. Apprenticeships are paid at a rate of 70 per cent of the minimum wage provided for by the National General Collective Labour Agreement. The period of apprenticeship for persons aged over 16 years cannot exceed eight hours per day and 40 hours per week, while those who are under 16 years of age cannot work for more than six hours per day and 30 hours per week. Moreover, the apprenticeship cannot take place between 10 p.m. and 6 a.m.

The Committee notes the Government's information in its report that, in accordance with Cabinet Decree No. 6 of 28 February 2012 on the "Regulation of issues concerning the application of article 1(6) of Act No. 4046/2012", the statutory minimum wages and salaries for young persons aged below 25 years have been reduced by 32 per cent, and section 74(9) of Act No. 3863/2010 has been amended only with regard to the remuneration of apprentices, which now amounts to 68 per cent of the minimum wage and salary thresholds, but retains all other requirements and conditions of employment.

The Committee notes the allegation of the GSEE according to which new provisions allow the employment of young workers of 18 to 25 years of age under apprenticeship contracts of prolonged duration – 24 months – while excluding young workers from the scope of minimum wage standards.

However, the Committee once again recalls that Paragraph 12 of the Minimum Age Recommendation, 1973 (No. 146), provides that measures should be taken to ensure that the conditions in which children and young persons *under the age of 18 years* are employed or work reach and are maintained at a satisfactory standard. Moreover, the Committee recalls that, by virtue of *Article 6* of the Convention, apprenticeships may be permitted for persons of at least *14 years* of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned. In this regard, the Committee observes that children under 18 years of age performing apprenticeships may not do so at night and may not perform overtime. Moreover, the Committee observes that children appear to always be under the supervision of the professionals who train them. The Committee therefore observes that there appear to be adequate safeguards to protect apprentices under the age of 18 years from hazardous work.

With regard to the issue of the provision of fair remuneration and its protection, the Committee refers to its comments made under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Part V of the report form. Application of the Convention in practice. Labour inspection.* Following its previous comments, the Committee notes the Government's information that in 2010 the labour inspectorate recorded three complaints of illegal employment of under-age persons and imposed four fines, while in 2011 it recorded two complaints of illegal employment of under-age persons and imposed 21 fines. The Government further indicates that 1,462 young

persons (between the ages of 15–18) were permitted to work in 2009, pursuant to Act No. 3850/2010 on the ratification of the code of laws on workers' health and safety, and 874 such young persons in 2011. *The Committee requests the Government to continue to provide information on the manner in which the Convention is applied, including, for example, statistical data on the employment of children and young persons, extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied involving children and young persons.*

## Guatemala

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1990)**

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the 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, as well as the results of the programme *Mi Familia Progresa*. It also observed that the Committee on the Rights of the Child, in its concluding observations of 25 October 2010, regretted that the implementation of the various initiatives to address violations of children's rights was insufficient and suffered from a lack of adequate evaluation due to institutional weaknesses and the inadequate allocation of resources (CRC/C/GTM/CO/3-4, paragraph 19). In these circumstances, the Committee urged the Government to intensify its efforts to ensure the progressive elimination of child labour, including through strengthening the labour inspectorate.

The Committee notes the extracts from the reports of the inspection services and information on the number and nature of the violations reported for 2011. It observes that the labour inspection services identified two children under 14 years of age engaged in work.

The Committee notes from the Government's report on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), that the Government has developed a plan of action which puts forward detailed measures to implement the "roadmap" to ensure that Guatemala is a country free from child labour and its worst forms. The Committee 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 the Ministry of Labour in collaboration with ILO-IPEC is developing a monitoring and evaluation system to measure the results and impact of the implementation of the roadmap. The Committee likewise notes from the information provided by the Government on the application of Convention No. 182, that in 2011 the Government's National Commission for the Eradication of Child Labour (CONAPETI) established inter-agency committees for the eradication of child labour in the 22 departments of the country, which aim to prevent, identify and reduce child labour at the local level. It notes the plan for the institutional strengthening of these inter-agency committees, which provides for a detailed strategy, planned activities, and indicators for measuring results.

However, the Committee notes the statistics of the Understanding Children's Work project, based on the 2011 results of the National Study of Living Conditions in Guatemala (ENCOVI), according to which 13.4 per cent of children between 7 and 14 years of age are engaged in economic activity (8.4 per cent of girls and 18 per cent of boys in this age group). Of these children, 39.4 per cent are exclusively working, whereas 17.3 per cent are working and attending school. The agricultural sector is the branch of economic activity with the most child workers (68.3 per cent), followed by services (18.3 per cent) and manufacturing (12 per cent). The 2010 UNICEF statistics indicate that 21 per cent of children between the ages of 5 and 14 are working.

*While noting the measures taken by the Government, the Committee expresses concern at the large number of children who work and who are below the minimum age for admission to employment or work, and again urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests the Government to take practical measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, taking into account its important role for the purpose of monitoring the implementation of the minimum age for employment. In this regard, the Committee also requests the Government to provide information on the results achieved in the context of the implementation of the roadmap to ensure that Guatemala is a country free from child labour and its worst forms. The Committee also requests the Government to continue to provide information on the manner in which the Convention is applied in practice, based in particular on statistics on the employment of children under 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 sanctions imposed.*

*Article 3(1). Minimum age for admission to hazardous work.* In its previous comments, the Committee noted that section 148(a) of the Labour Code prohibits work by minors in unhealthy and dangerous workplaces. However, it observed that the Labour Code does not define the term "minor" and that it is therefore impossible to determine the minimum age from which a minor may be admitted to perform hazardous work. In this respect, it noted that section 4 of the draft reform of the Labour Code (Initiative No. 4205) envisaged the revision of section 148(a) so as to prohibit the engagement of young persons under 18 years of age in various types of hazardous work. The Committee also noted that section 32 of Government Agreement No. 112-2006 of 7 March 2005 issuing Regulations on the protection of children

and young persons at work prohibits work by children and young persons under 18 years of age in various types of hazardous work.

The Committee notes Government Agreement 250-2006 regulating the application of ILO Convention No. 182, which in section 7 provides a detailed list of the types of hazardous work prohibited for children under 18 years of age. The Committee also notes the official statement by the labour inspectorate, which while recalling ILO Convention No. 138 and section 148 of the Labour Code, declares the prohibition of any employment or work which is likely to jeopardize the health, safety and morals of persons under 18 years of age, and contains a detailed list of types of employment which, due to their nature or condition, are considered hazardous for minors. Yet, the Committee notes that the Government's report contains no information about the draft reform of the Labour Code.

*In order to ensure that the law is unambiguous on this point, the Committee requests the Government to take the necessary steps to harmonize the provisions of the Labour Code with Agreement No. 112-2006, Agreement No. 250-2006 and the declaration of the labour inspectorate. To this end, the Committee expresses the firm hope that the draft reform of the Labour Code will be adopted in the very near future so that the national legislation is in conformity with the Convention on this point. It again requests the Government to provide information on the progress achieved in this regard.*

*Article 6. Apprenticeship. Age of admission to apprenticeship.* The Committee noted previously that section 171 of the Labour Code does not establish a minimum age for admission to apprenticeship. It also noted that, by virtue of section 150 of the Labour Code, the General Labour Inspectorate can issue a written authorization allowing daily work by minors under 14 years of age. This authorization must state that the minor will be working as an apprentice. The Committee also pointed out that a reading of section 24 of the Regulations on the protection of children and young persons at work and section 2 of Decree No. 27/2003 issuing the Act on the comprehensive protection of children and young persons suggests that the age of admission to apprenticeship is 13 years. For its part, the Government indicated that the Special Labour Inspectors Unit provides the basis for the application of *Article 6* of the Convention by providing that no minor under 14 years of age may be a party to an apprenticeship contract. The Committee noted the Government's indication that the Tripartite Committee on International Labour Affairs had started a review of the national labour legislation and that the issue of the minimum age for admission to apprenticeship would be brought to its attention.

The Committee notes that the Government's report contains no information relating to the reform of the national labour legislation on the issue of the age of admission to apprenticeship. *The Committee therefore again urges the Government to take the necessary measures to harmonize the provisions of the national legislation with Article 6 of the Convention so as to establish a minimum age for admission to apprenticeship of 14 years. It requests the Government to continue to provide information on the progress achieved in this respect in its next report.*

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children for commercial sexual exploitation and the penalties applied.* The Committee previously noted the adoption of the Law against sexual violence, exploitation and trafficking in persons (Decree No. 9/2009). It noted the sanctions prescribed by the Law, as well as the statistics provided by the Government relating to the application in practice of these new provisions. The Committee observed that no sanctions appeared to have been applied for the crime of trafficking of children between 2008 and 2009 and that also the Committee on the Rights of the Child (CRC), in its concluding observations of 25 October 2010 expressed concern at the lack of convictions for sexual exploitation since the adoption of Decree No. 9/2009, and at the tolerance of the competent authorities in relation to trafficking (CRC/C/GTM/CO/3-4, paragraph 94). The Committee expressed concern at the information bearing witness to the persistence of the problem of the trafficking of children under 18 years of age for their commercial sexual exploitation and at the allegations of the complicity between officials entrusted with the enforcement of the law and persons engaging in the trafficking of persons. In this regard, it urged the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions were carried out against the perpetrators and requested it to provide detailed information on the number of investigations conducted, and prosecutions and convictions applied.

The Committee notes the statistics available on the website of the National Centre for Analysis and Legal Documentation as regards the application of section 202ter and section 202 quarter of the Penal Code, as amended by Decree No. 9-2009 issuing the Act against sexual violence, exploitation and trafficking in persons. The Committee notes that 294 cases concerning trafficking in persons were brought to the attention of the judicial bodies during the period 2009–April 2012, of which 86 concerned girls and 20 concerned boys under the age of 18. 38 judgments were rendered resulting in ten convictions. Yet the information does not specify how many judgments and sentences concerned the sale and trafficking of children under 18 years of age for commercial sexual exploitation and of officials who are complicit in such acts, nor the types of sanctions applied.

The Committee 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 the Government through Agreement 1-2012 established a prosecution office specialized in trafficking in persons and that the judiciary set up specialized courts for exploitation and trafficking to ensure specialized expertise of the judges.



*While noting the statistics on the application of Decree No. 9/2009, as well as the measures taken to reinforce the prosecution of trafficking and commercial sexual exploitation offences, 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 of officials who are complicit in such acts. It also requests the Government to continue to provide information on the number of investigations, prosecutions, convictions and sanctions imposed against persons who engage in the sale and trafficking of children under 18 years of age for commercial sexual exploitation.*

*Article 3. Worst forms of child labour. Clause (d). Hazardous types of work. Production and handling of explosive materials and products.* The Committee previously noted the measures adopted by the Government to combat child labour in the fireworks industry. It also noted that national legislation prohibits work by persons under 18 years of age in the manufacture, preparation and handling of explosive substances or products and the production of explosives or fireworks. It requested the Government to continue to provide information on the number of inspections carried out by the labour inspection services in firework factories, as well as the nature of the violations reported and the penalties imposed as a result of such inspections.

The Committee notes from the information provided by the Government that many factories manufacturing fireworks have disappeared, due to the stringent legislation in this regard and many factories have therefore favoured homework. The Committee also notes the Government's indication that the labour inspectorate has only managed to visit ten factories in 2011, since the population of the places where most factories manufacturing fireworks are concentrated have prevented surveillance by the labour inspectorate out of fear of becoming unemployed. In 2011, the labour inspectorate did manage to carry out 167 visits of distribution centres of fireworks. The Committee notes that a total of 16 contraventions were found and presented to the Labour Tribunal, the resolution of which is currently still pending.

*Noting the Government's information that firework production has been largely moved from the factory premises to work carried out at home, the Committee urges the Government to take immediate and effective measures to ensure that persons under 18 years of age are not engaged in the manufacturing, preparing and handling of explosive substances or products and the production of explosives or fireworks at home. The Committee requests the Government to provide information on the concrete measures taken and results achieved in this regard. In addition, it urges the Government to step up its efforts to carry out labour inspections in all firework factories. It requests the Government to provide information on the number of inspections carried out in this regard, as well as the nature of the violations reported and the penalties imposed as a result of such inspections.*

*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. The Committee observed that, in the Government's reports submitted to the CRC on 23 November 2009 (CRC/C/GTM/3-4, paragraphs 255-256), the Government indicated that the National Plan of Action to Combat the Commercial Sexual Exploitation of Children had been adopted as official policy by the Secretariat of Social Welfare, but that the secretariat had not been able to implement the Plan and, in view of the inadequacy of the budget allocated, it was only able to implement programmes for the children of female sex workers in the area around the airport. The Committee requested the Government to provide information on the programmes of action developed as part of the implementation of the National Plan.

*Noting that the Government's report again does not provide information on this point, the Committee once again urges the Government to adopt immediate and effective measures to ensure the implementation of the National Plan of Action to Combat the Commercial Sexual Exploitation of Children. It requests the Government to provide information on this subject in 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, removing them from these forms of labour and ensuring their rehabilitation and social integration. Commercial sexual exploitation and trafficking for that purpose.* In its previous comments, the Committee noted the adoption in 2007 of a "Public Policy to combat the Trafficking of Persons and Ensure the Full Protection of Victims and a National Plan of Strategic Action (2007-17)", with the objectives of the immediate and full protection of victims, namely medical and psychological care and reintegration into the family and society. It also observed that the CRC, in its concluding observations of 25 October 2010 noted with concern that the competent authorities did not provide specialized or appropriate care for victims of trafficking and sexual exploitation and that the Government did not provide appropriate support to organizations working in this field (CRC/C/GTM/CO/3-4, paragraph 94). The Committee requested the Government to take time-bound measures to prevent the commercial sexual exploitation of children and provide direct assistance to children to remove them from these worst forms of child labour.

The Committee notes the information provided by the Government in its report concerning the results of the project *Conrado de la Cruz* carried out by the Ministry of Labour and Social Welfare. Between September 2011 and January 2012 the project reached out to a total of 11,175 children to prevent their engagement in child labour; 4,575 children below the minimum age for employment (14) were reintegrated in the education system and received funding for this purpose and 417 children above 14 years old received vocational and technical education. In addition, numerous information activities have been organized to raise awareness about child labour, in particular its worst forms, existing protection measures, in particular for vulnerable children.

The Committee also notes from the Government's report on the application of the Forced Labour Convention, 1930 (No. 29), that, in the context of the implementation of the "Public Policy to combat the Trafficking of Persons and Ensure the Full Protection of Victims and a National Plan of Strategic Action (2007–17)", the Secretariat against Sexual Violence, Exploitation and Trafficking of Persons (SVET) has been established. The SVET, which started its operations in 2011, has been created to ensure compliance with the Law against sexual violence, exploitation and trafficking in persons (Decree No. 9/2009) and to coordinate and supervise Government policies and programmes in this respect. The Committee notes that the first activities of the SVET have focused on prevention and so far 49 seminars and conferences for different Government institutions, inter alia, the Ministry of Education, the Ministry of Health and the labour inspectorate, have been carried out.

*While noting the measures taken by the Government, the Committee requests the Government to continue its efforts to take effective and time-bound measures to prevent and remove children from the worst forms of child labour, in particular from becoming victims of commercial sexual exploitation or trafficking for that purpose; and to provide the necessary and appropriate direct assistance to remove the child victims from these worst forms of child labour. In this regard, the Committee requests the Government to continue to provide information on the measures adopted or envisaged as part of the implementation of the "Public Policy to combat the Trafficking of Persons and Ensure the Full Protection of Victims and a National Plan of Strategic Action (2007–17)".*

*Article 8. International cooperation. Trafficking of children for commercial sexual exploitation.* In its previous comments, the Committee noted that the CRC, in its concluding observations of July 2007 (CRC/C/OPSC/GTM/CO/1, paragraph 29), while recognizing the conclusion of memorandums of understanding with neighbouring countries of Guatemala, expressed concern at the fact that 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 a new Inter institutional Protocol for the repatriation of victims of trafficking was adopted in December 2009. While observing that the Protocol was not yet implemented in practice, the Committee requested the Government to provide information on the measures taken to implement the Protocol.

While the Government's report contains no information on the implementation of the Protocol, the Committee notes from the Government's report on the application of Convention No. 29 that one of the tasks of the SVET is to promote the conclusion and implementation of bilateral and multilateral agreements to ensure international protection of victims.

*In these circumstances, the Committee once again requests the Government to provide information on the measures taken to ensure the rehabilitation and social integration of child victims removed from trafficking for commercial sexual exploitation in their country of origin in the context of the implementation of the Inter-institutional Protocol for the repatriation of victims of trafficking and the activities of the SVET.*

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

## Guinea

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour.* The Committee noted previously the information provided by the Government that it had taken urgent measures to bring the national legislation into conformity with the provisions of international instruments on children ratified by the country. The Committee hoped that the legislative reforms undertaken by the Government would be adopted in the very near future and requested it to provide information in this respect.

The Committee notes with *interest* the adoption of the Guinean Children's Code (Act No. L/2008/011/AN) of 19 August 2008.

*Articles 3(a) and 4(1) and (3). All forms of slavery or practices similar to slavery and determination and revision of the list of types of hazardous work. Sale and trafficking of children and hazardous types of work.* Further to its previous comments, the Committee notes with *satisfaction* that sections 385 to 396 of the Children's Code of 2008 effectively prohibit trafficking in persons, including children, for sexual exploitation or for the exploitation of their labour. Section 386 provides that anyone who engages in or is an accomplice to trafficking in children shall be liable to a sentence of imprisonment from three to ten years and a fine from 1 to 3.5 million Guinea francs (GNF).

The Government adds that a Bill prohibiting child labour and trafficking is currently being prepared. The Committee notes the Government's indication that this new Bill includes provisions bringing the national legislation into conformity with the Convention with regard to hazardous work and that, to that effect, the list of hazardous types of work has been reviewed in relation to the various sectors. *The Committee requests the Government to provide information on the progress achieved in the preparation of the Bill prohibiting child labour and trafficking and to provide a copy once it has been adopted, including the duly revised list of hazardous types of work.*

*Article 3(a). All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict.* Further to its previous comments, the Committee notes with *satisfaction* that section 429 of the Children's Code of 2008 provides that no child under 18 years of age shall participate in hostilities, directly or indirectly, or be

enrolled into the armed forces or an armed group, under penalty of imprisonment from two to five years and a fine from GNF50,000 to GNF500,000.

*Article 3(b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* The Committee notes with **satisfaction** that sections 359 and 360 of the Children's Code prohibit the production, offering, dissemination, procuring, possession and representation of any pornography involving the performance by children of explicit sexual activities, whether real or simulated, or any representation of the sexual organs of a child, under penalty of imprisonment from one to five years and a fine from GNF300,000 to GNF1 million. It also observes that section 383 of the Children's Code provides that the act of directly causing a child to transport, hold in their possession, offer or provide drugs shall be punishable by imprisonment from one to five years and a fine from GNF250,000 to GNF1 million, or one of these penalties.

*Article 3(d). Hazardous types of work. Self-employed workers.* The Committee noted previously that, under the terms of section 187 of Ordinance No. 003/PRG/SGG/88 of 28 January 1988 issuing the Labour Code (the "Labour Code"), apprentices and employed persons under 18 years of age may only be engaged in unhealthy or hazardous work under special conditions of protection determined by ministerial orders. The Committee noted that, under section 1(1), the Labour Code is applicable to workers and employers exercising an occupational activity in Guinea. However, it also noted that section 1(2) defines the term "worker" as "[...] any person who has undertaken to place her or his occupational activity [...] under the direction and authority of another person [...]". The Committee observed that, by virtue of this provision, the Labour Code does not apply to young persons under 18 years of age without contractual employment relations who perform hazardous types of work. It requested the Government to indicate the measures adopted to ensure that young persons under 18 years of age benefit from the protection afforded by *Article 3(d)* of the Convention.

The Committee notes with **satisfaction** that, under section 411 of the Children's Code, the worst forms of child labour are prohibited, including all 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 the terms of section 1 of the Children's Code, any human being aged under 18 years is a child.

*Article 7(1). 1. Penal sanctions.* The Committee notes that the Children's Code of 2008 establishes several sanctions in relation to cases of the worst forms of child labour envisaged in *Article 3(a) to (c)* of the Convention. The Committee also notes the Government's indications that in 2011 there were 13 cases of trafficking in persons, but that these cases are currently before the courts and that no convictions have yet been handed down. ***The Committee requests the Government to provide information on the number and nature of the violations of the Children's Code relating to the worst forms of child labour, and particularly trafficking in children for sexual exploitation or the exploitation of their labour, the investigations conducted, prosecutions, convictions and penalties imposed.***

*2. Sanctions.* The Committee noted previously that section 205 of the Labour Code establishes sanctions for those committing infringements of the Child Labour Order, and particularly for the employment of children in hazardous types of work.

The Committee further notes that section 428 of the Children's Code of 2008 provides that persons violating the prohibition to employ children under 18 years of age on 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 sanctions envisaged in the Labour Code to that effect. The Committee notes the Government's indication that no reports by the labour inspectorate refer to cases of child labour, as a result of which no court rulings exist imposing penalties under section 205 of the Labour Code. However, the Committee notes that, according to the report on the National Survey on Child Labour and Trafficking (ENTE) in Guinea of November 2011, conducted in collaboration with ILO/IPEC/SIMPOC and the National Statistical Institute of Guinea, 40.1 per cent of children between the ages of 5 and 17 years in Guinea, or 1,427,778 children, are engaged in types of work that are to be abolished, of whom 84.1 per cent are engaged in hazardous types of work, amounting to 33.7 per cent of children between the ages of 5 and 17 years (a total of 1,200,292 children). ***The Committee, therefore, requests the Government to take immediate measures to strengthen the capacity of the labour inspection services 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, and particularly in hazardous types of work. The Committee also requests the Government to provide extracts from labour inspection reports relating to children engaged in hazardous types of work.***

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

## Haiti

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)***

The Committee notes the Government's report and the communication of the International Trade Union Confederation (ITUC) of 31 August 2011.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children.* In its previous comments, the Committee noted that the Committee on the



Rights of the Child had expressed deep concern at the number of cases of trafficking of children from Haiti to the Dominican Republic (CRC/C/15/Add.202, 18 March 2003, concluding observations, paragraph 60). The Committee also noted the September 2006 report on the fact-finding mission of the General Secretariat of the Organization of American States (OAS) relating to the situation with regard to the trafficking of persons and human smuggling in Haiti, which emphasized a trend for trafficking and human smuggling to become systematic in the country.

The Committee also noted that, according to the report of the United Nations Special Rapporteur on contemporary forms of slavery, its causes and consequences (A/HRC/12/21/Add.1, of 4 September 2009, paragraph 19) (report of the Special Rapporteur), 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 also observed that, according to a UNICEF press release of 15 October 2010, the number of child victims of trafficking had increased since the earthquake of January 2010, with traffickers taking advantage of the resulting chaos to prey on children who were lost or separated from their parents.

The Committee previously noted with interest the Government's information concerning the preparation and adoption of preliminary draft legislation on trafficking in persons, under the terms of which the procuring, enlistment, transfer, transportation, accommodation or reception of a child for the purposes of exploitation are considered as trafficking and constitute a violation of the law. The draft legislation provides that trafficking in children, defined as any persons under 18 years of age, constitutes an aggravating circumstance giving rise to liability to the maximum penalty established by law. However, the Committee observed that, in its concluding observations, the Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern at the fact that, despite the alarmingly high number of women victims of trafficking in Haiti, specific legislation criminalizing trafficking was still in draft form and had not yet been submitted to Parliament (CEDAW/C/HTI/CO/7, of 10 February 2009, paragraph 26). CEDAW observed that cases of trafficking might result in insufficient investigations, consequently leading to impunity for perpetrators.

The Committee notes the ITUC's allegations that smuggling and trafficking in children is 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. The ITUC expresses 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. The ITUC is launching an appeal to the Government of Haiti for every effort to be made to ensure that the draft legislation on trafficking and the protection of victims of trafficking is adopted as a matter of great urgency, in consultation with the social partners, and that resources are made available for its implementation.

The Committee notes the Government's indication that the absence of specific legislation on the smuggling and trafficking in persons constitutes a significant legal void. The Government adds that efforts are being made to prevent, punish and suppress trafficking in persons, but that these efforts have not up to now had any impact, as the draft legislation on smuggling and trafficking in persons has still not been adopted by Parliament. According to ILO/IPEC information, very little progress has been achieved in the adoption of the draft legislation. The Committee, therefore, expresses its **deep concern** at the situation and exploitation of children, and particularly young girls, who are victims of trafficking in Haiti, and at the fact that the draft legislation on smuggling and trafficking in persons does not appear to be in the process of being adopted. **The Committee, therefore, requests the Government to take the necessary measures to ensure that the Bill on trafficking in children is adopted as a matter of great urgency and requests the Government to provide information on any further developments in this respect. It also urges the Government to take immediate and effective measures to ensure that in-depth investigations and effective prosecutions are completed with regard to persons who have engaged in delivering children under 18 years of age for sale or trafficking.**

*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 allegations 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 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. It requests the Government to provide information on the tangible results achieved in terms of the number of children who have benefitted from such measures. The Committee encourages the Government to ratify the Domestic Workers Convention, 2011 (No. 189), which has key provisions for child protection.***

*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 CEDAW, in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 27), encourage 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)***

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the measures taken to combat child labour and the results achieved, particularly in the context of the implementation of the Plan of Action for the Elimination of Child Labour (2008–15). It noted the objectives, the components and the development of indicators to evaluate the implementation of the Plan of Action, as well as the daily workshops on rights and duties at work in relation to children and young persons, the involvement of the labour inspectorate, and the integration of a "child labour" module into household surveys carried out by the National Institute of Statistics (INE). Yet, the Committee raised concerns at the results of the 2010 INE household survey according to which 14.3 per cent of children and young persons between the ages of 5 and 17 are engaged in an economic activity and the UNICEF 2009 statistics indicating that 16 per cent of children between the ages of 5 and 14 are working. Due to the large number of children who are below the minimum age for admission to employment and who work, the Committee requested the Government to intensify its efforts to ensure the progressive elimination of child labour and provide information in this regard.

The Committee notes with *interest* the Government's indications as regards the measures taken to implement the Plan of Action for the Elimination of Child Labour (2008–15), which have included, inter alia, the appointment of 30 municipal child defenders in the departments of Valle, Copan and La Paz; the decentralization of activities to eliminate child labour through the establishment of four subregional technical advisory committees composed of workers' and employers' organizations, Government and civil society with coordinating authority on the local level in Choluteca, San Pedro Sula, Progreso and Ceiba; as well as other institutional changes.

The Committee notes that in order to achieve the objective to eliminate child labour by 2020 (set out in the Decent Work in the Americas: An agenda for the Hemisphere), the Government together with the ILO–IPEC formulated a Roadmap for the Prevention and Eradication of Child Labour and its Worst Forms. The Committee notes the Government's indications that the Roadmap provides the basis for strategic programming and the link between the different policies and measures that have a direct or indirect impact on the prevention and eradication of child labour. The Roadmap sets out action at the regional, subregional and local levels and contains dimensions on poverty, health,



education, the protection of rights, capacity building, awareness raising and the creation of knowledge base on child labour. The Committee notes that the Government through Executive Decrees PCM-011-2011 of February 2011 and PCM-056-2011 of August 2011, approved the Roadmap as national policy instructing all secretariats and their dependencies to incorporate the eradication of child labour into their institutional and strategic planning processes. The Committee notes from the Government's report and on the basis of the report of June 2012 on the ILO-IPEC project entitled "Eliminating Child Labour in Latin America (Phase IV)" that the Government has finalized the programming measures for 2012–14 to implement the Roadmap.

The Committee furthermore notes the Government's information provided in its report concerning the implementation of the conditional cash transfer programme "*Bono 10.000*" extending financial assistance to families with minors under 18 years of age conditional on children's school attendance and benefiting 345,000 families so far. The Committee also notes the Government's statement that in 2011 the Secretariat of Labour provided 492 daily workshops on rights and duties at work for children, young persons and their legal representatives, which were attended by 4,227 participants (compared to 2,528 participants between January 2009 and April 2010). Moreover, it notes the Government's indications as regards the labour inspectorate and its programme for the gradual and progressive eradication of child labour. In this regard, the Committee notes that according to the 2012 Report on Child Labour prepared by the Secretary of State in the Offices of Justice and Human Rights, 122 labour inspectors are working in the area of child labour dispersed over 17 regional offices. In 2011, 3,736 child labour inspections were carried out covering 72,488 persons, yet the abovementioned report indicates that no violations were found. The Committee raises *serious concern* about the lack of contraventions reported, all the more so because according to the 2010 UNICEF statistics (and 2009 statistics), 16 per cent of children between the ages of 5 and 14 years are working in Honduras, indicating a large number of children who work that are below the minimum age for admission to employment or work.

The Committee recalls that, pursuant to the Convention, the minimum age should apply not only to formal arrangements but also to the informal economy, which can be achieved through appropriate monitoring mechanisms, including labour inspections. *While noting the Government's efforts, the Committee requests the Government to take practical measures to further strengthen the labour inspectorate in its action to prevent and combat child labour, taking into account its important role for the purpose of controlling the implementation of the minimum age for employment. In this regard, the Committee requests the Government to continue to provide information on the manner in which the Convention is applied in practice, based in particular on statistics on the employment of children under 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 sanctions imposed. The Committee also requests the Government to provide information on the results achieved through the implementation of the Plan of Action for the Elimination of Child Labour (2008–15) and the measures taken and results achieved in 2012–14 on the implementation of the Roadmap for the eradication of child labour.*

*Article 2(1) and (4). Scope of application.* The Committee previously noted 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 permit them to work if they consider it indispensable in order to provide for their subsistence or that of their parents or brothers and sisters, and provided that it does not prevent them from following compulsory schooling. Furthermore, under the terms of section 2(1), agricultural and stock-raising undertakings that do not permanently employ more than ten workers are excluded from the scope of the Labour Code. It also noted that the Regulations on child labour of 2001, in accordance with sections 4–6, only apply to contractual labour relations. The Government indicated in this respect that a draft revision of the Labour Code had been prepared which contained provisions to bring the national labour legislation into conformity with the international Conventions ratified by Honduras, and therefore to harmonize the provisions of the Labour Code and the Regulations on child labour of 2001 with the Code for Children and Young Persons of 1996. The draft text would also allow the application of the provisions on the minimum age for admission to employment to all children, whether they are engaged under an employment contract or work on their own account. The Committee observed that the majority of children under 14 years of age work in agriculture, forestry, hunting and fishing.

The Committee notes that the Government's report again does not contain information on the situation regarding the legislative process for the adoption of the draft revision of the Labour Code. The Committee notes the Government's indications that the most recent laws concerning child labour, that is the Code for Children and Young Persons of 1996 and Regulations on Child Labour of 2001, which expressively prohibit under all circumstances the employment of children under 14 years of age (in its sections 120(2) and 15 respectively) are strictly applied. In this regard, the Committee recalls its earlier observation that the Regulations on Child Labour of 2001, in accordance with sections 4–6, only appear to apply to contractual labour relations and therefore would not cover children carrying out economic activities without an employment agreement, including self-employed children and children working in the informal economy.

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 exemptions set out in *Articles 4–8* 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.

*The Committee again urges the Government to take the necessary measures to harmonize the provisions of the Labour Code and the Regulations on Child Labour of 2001 with the Code for Children and Young Persons of 1996 to ensure that no child under 14 years of age is permitted to work, including children who work 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 any progress achieved in this respect.*

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted that, although the net school enrolment rate at the primary level was relatively high, the net school attendance rate at secondary level remained low. The Committee also noted that a preliminary draft of the General Education Act, which is to replace the Consolidated Act of 1966, had been submitted to the Directorate of Education. The new legislation would, among other provisions, establish that school is compulsory and free of charge for ten years, namely one year of pre-school and nine years of primary education. The Committee also noted that education is one of the components of the implementation of the National Plan of Action for the Elimination of Child Labour 2008–15.

The Committee notes that the Government's report again does not provide any information on progress in relation to the envisaged reform of the Consolidated Act of 1966. Neither does the Government report contain any information on the efforts undertaken by the Government to improve the operation of the education system with a view to increasing school attendance rates among children under 14 years of age in compulsory basic education, in the context of the National Plan of Action for the Elimination of Child Labour (2008–15).

Notwithstanding the absence of information on this point, the Committee observes that, according to UNICEF statistics for 2010, the net school attendance rate for primary education has improved and stands at 90 per cent for girls and 87 per cent for boys (compared to 80 per cent and 76 per cent respectively in 2009). The net school attendance rate for secondary education remains low with only 43 per cent of girls and 35 per cent of boys attending this level of education (compared to 36 per cent and 29 per cent respectively in 2009).

*Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again firmly requests the Government to intensify its efforts to improve the functioning of the education system with a view to increasing school attendance completion rates for secondary education among children under 14 years of age in compulsory basic education. It requests the Government to provide information on the measures adopted in this respect, particularly in the context of the National Plan of Action for the Elimination of Child Labour and the Roadmap for the Eradication of Child Labour. The Committee also once again expresses the firm hope that the preliminary draft General Education Act will be adopted in the near future and that it will contain provisions guaranteeing compulsory schooling up to the age of 14. It requests the Government to provide a copy of the Act once it has been adopted.*

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a)–(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 penalties applied.* In its previous comments, the Committee noted information on the denunciations received by the Office of the Public Prosecutor concerning the economic exploitation of minors, child pornography and the procuring and trafficking of persons, the number of crimes reported relating to the commercial sexual exploitation of minors and the number of prosecutions initiated concerning the trafficking of persons and the commercial sexual exploitation of children. While noting that the national legislation, in particular Decree No. 234-2005 of 28 September 2005 amending the Penal Code, prohibits the trafficking of children for commercial sexual exploitation and the use of children for prostitution and for the production of pornography and for pornographic performances, the Committee expressed concern at the allegations of corruption and complicity between those engaged in trafficking and law enforcement, and at the fact that no investigations had been conducted of these cases. In this regard, it urged the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions were carried out against the perpetrators and requested it to provide detailed information on the number of investigations conducted, prosecutions and convictions applied.

Although the Government indicates that special units were created within the Police and Public Ministry for the prosecution of cases of trafficking and commercial sexual exploitation and that various convictions against trafficking in persons were handed down, the Committee notes with *regret* that the Government's report contains no information on the number of prosecutions, convictions or sanctions imposed for the sale and trafficking of persons under 18 years of age for the purposes of commercial sexual exploitation or for the use of persons under 18 years of age for prostitution, the production of pornography or for pornographic performances, as well as for officials who are accomplices in such crimes.

The Committee also notes that the Special Rapporteur on the sale of children, child prostitution and child pornography visited the country in September 2012 and called on the Government to increase its efforts to protect children from sexual exploitation, adding that the country still faces many challenges to ensure that children are not victims of prostitution, pornography and abuse. According to the Special Rapporteur these challenges consist of difficulties in accessing mechanisms to guarantee rapid protection and security of children, lack of coordination among government mechanisms, limited resources and slow judicial investigations and impunity denying protection to victims and witnesses (UN News Wire, 10 September 2012).

The Committee notes with *interest* the Law against Trafficking in Persons, which was adopted by the National Congress on 30 May 2012 through Legislative Decree No. 59-2012. Section 6 of the Law prohibits all forms of trafficking, and also includes the prohibition of commercial sexual exploitation and the use of children below 18 years of age in illegal activities. The Law mandates the establishment of the Inter-Institutional Commission on Sexual Exploitation and Trafficking in Persons, which is to promote inter-agency cooperation and the coordination of activities for the prevention, protection and eradication of these crimes. For this purpose, the Law establishes a range of measures for the protection of victims, to ensure compensation and to provide rehabilitation services. The Committee notes that as a general principle the Law sets out the best interests of the child (section 3) and special attention is paid to child victims of trafficking (section 25). Section 52 prescribes penalties from ten to 15 years of imprisonment and fines between 150 and 250 daily wages for the crimes enumerated in section 6 of the Law and establishes that these penalties are increased by 50 per cent in case the victim is a child below 18 years of age.

***The Committee urges the Government to take the necessary measures to ensure the immediate and effective implementation in practice of the 2012 Law against Trafficking in Persons. In this regard, the Committee again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out against persons engaged in the sale and trafficking of persons under 18 years of age for the purposes of commercial sexual exploitation or who use persons under 18 years of age for prostitution, the production of pornography or for pornographic performances, as well as against officials who are accomplices in such acts, and that sufficiently effective and dissuasive sanctions are applied in practice. It reiterates its request to the Government to provide 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. Commercial sexual exploitation and trafficking for that purpose.* In its previous comments, the Committee noted the National Plan of Action to Combat Commercial Sexual Exploitation (2006–11), which envisages the establishment of procedures for the identification, referral and provision of assistance to children and young persons who are victims of trafficking, as well as the development of models, programmes and projects for comprehensive assistance to children and young persons who are victims of commercial sexual exploitation. The Committee also noted the activities under the ILO–IPEC subregional project on the commercial sexual exploitation of children which were completed in April 2009 and the development of a Protocol in 2008 for comprehensive assistance to children and young persons who are victims of commercial sexual exploitation. The Committee requested the Government to pursue its efforts and requested it to provide detailed information on the measures adopted and results achieved in the context of the 2008 Protocol and the National Plan of Action (2006–11).

The Committee notes the Government's information that the National Plan of Action to Combat Commercial Sexual Exploitation (2006–11) was elaborated and is being implemented in all relevant institutions. Other measures have included: the implementation of a pilot project on the social rehabilitation of victims of commercial sexual exploitation in the South of the country in June 2011; the effective coordination with different non-governmental organizations to ensure adequate assistance to victims; awareness-raising and capacity-building activities for a large number of justice and civil society workers and various awareness-raising and communication activities. Yet the Committee notes that the Government's report contains no information on the results achieved in terms of the number of children who have, in practice, been removed from trafficking and commercial sexual exploitation, and who have benefited from social integration measures.

***Noting that the abovementioned 2012 Law against Trafficking in Persons also contains comprehensive provisions on the protection, assistance and social reintegration measures to be provided to victims of trafficking and commercial sexual exploitation, the Committee strongly encourages the Government to take immediate and effective measures to implement in practice, measures to provide comprehensive assistance to children and young persons who have been victims of commercial sexual exploitation and trafficking for that purpose. In this regard, the Committee hopes that the Government will have the capacity to provide detailed information with its next report on the results achieved, including an indication of the number of children who have, in practice, been removed from trafficking and commercial sexual exploitation, and who have benefited from social integration measures.***

*Clause (d). Children at special risk. 1. Street children.* The Committee previously noted the high number of street children and the results of the *Mano Amiga* project targeting young persons living in the crematoria of Tegucigalpa and San Pedro Sula. It requested the Government to continue its efforts to protect street children from the worst forms of child labour and to provide information on the results achieved, particularly within the framework of the *Mano Amiga* project.

The Committee notes that the Government's report contains no information on the number of children removed from the streets and who benefited from rehabilitation and social integration measures. The Committee notes from a press release posted on the website of the Organization of Ibero-American States (OEI) of 27 February 2012, and based on the information provided by the Government that the objective of the *Mano Amiga* project is to capacitate directly 550 and indirectly 2,750 beneficiaries in the main cities of the country. The press release informs that as a result of the project, 241 waste scavengers were removed from the crematorium of the city of San Pedro Sula.



*While noting this information, the Committee encourages the Government to continue its efforts to protect street children from the worst forms of child labour and it requests the Government to continue to provide information on the number of children removed from the streets and who have benefited from rehabilitation and social integration measures, in particular through the “Mano Amiga” project.*

2. *Indigenous children.* In its previous comments, the Committee noted the policy and programmatic measures taken to prevent and remove indigenous girls, boys and young persons from child labour, including in the framework of the ILO–IPEC activities in the country. The Committee requested the Government to intensify its efforts to protect indigenous children that are at risk of being engaged in the worst forms of child labour, and requested it to provide information on the results achieved.

While noting the information concerning the consultation of indigenous groups in the framework of the design and implementation of the Public Policy and National Action Plan on Justice and Human Rights, the Committee notes that the Government’s report contains no information on measures and results achieved to protect indigenous children from the worst forms of child labour. The Committee takes due note of the information contained in the 2012 report on child labour prepared by the Secretary of State in the Offices of Justice and Human Rights, which reports about a direct assistance programme allowed for the withdrawal of 150 children and the prevention of 350 children from child labour in the indigenous community of Opatoro.

*Recalling that the children of indigenous peoples are often victims of exploitation, which takes on very diverse forms, and are a population at risk of being engaged in the worst forms of child labour, the Committee reiterates its request to the Government to intensify its efforts to protect these children from the worst forms of child labour and to provide information on the results achieved in its next report.*

*Clause (e). Special situation of girls. Child domestic workers.* The Committee previously noted that a large number of children, particularly girls, are engaged in domestic work. It emphasized that children engaged in domestic work, particularly 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, requested the Government to take effective measures in that respect.

*Noting with regret the absence of information on this point in the Government’s report, the Committee is bound to reiterate its request to the Government to take immediate and effective measures for the protection of children engaged in domestic work against the worst forms of child labour, taking into account the special situation of girls. It again requests the Government to provide information in its next report on the measures adopted and the results achieved in this respect, with an indication of the number of child domestic workers who have, in practice, been removed from the worst forms of child labour and the specific rehabilitation and social integration measures adopted for these children.*

*Article 8. International and regional cooperation. Commercial sexual exploitation and trafficking for that purpose.* In its previous comments, the Committee noted that the ILO–IPEC subregional project on the commercial sexual exploitation of children envisaged the strengthening of horizontal collaboration between countries participating in the project. It considered that cooperation between law enforcement agencies, particularly the judicial authorities and police forces, is indispensable to prevent and eliminate commercial sexual exploitation, and particularly the sale and trafficking of children for that purpose, through the collection and exchange of information and through assistance in the detection and prosecution of the individuals involved, and the repatriation of victims. The Committee requested the Government to provide information on the measures adopted to promote cooperation with neighbouring countries in this regard and indications as to the number of children repatriated to their countries of origin.

The Committee notes that besides the statement that the Government has exchanged experiences with other countries on trafficking and the commercial sexual exploitation of children in Colombia in December 2010, the Government’s report provides no information on this point. The Committee notes that section 43 of the abovementioned 2012 Law against Trafficking in Persons provides for the repatriation of foreign victims of trafficking abroad or of nationals to Honduras, which should be voluntary and assisted.

*In these circumstances, the Committee once again requests the Government to provide information on the measures adopted to promote cooperation with neighbouring countries and strengthen security measures at common borders with a view to combating the trafficking and commercial sexual exploitation of children. It also requests the Government to provide detailed information on the implementation of the 2012 Law against Trafficking in Persons, with an indication of the number of children repatriated to their countries of origin.*

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

## Indonesia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1999)**

*Article 1 of the Convention and Part V of the report form. National policy and the application of the Convention in practice.* The Committee previously noted the information in the Indonesia Child Labour Survey (2009) that there were approximately 1.76 million children engaged in prohibited child labour in Indonesia (defined as working children between

the ages of 5–12, children aged 13–14 engaged in non-light work activities, and children between 15–18 years engaged in hazardous work). 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 requested information on measures taken to ensure that children under the minimum age were not engaged in child labour.

The Committee notes 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, implemented by the Ministry of Social Affairs, which included providing capital assistance to parents of children at risk and measures to encourage children to return to school. The Government also provides tuition assistance to children who were withdrawn through the Reduction of Child Labour Programme, through the Directorate of Special Education and Services within the Ministry of Education. The Committee further notes the information from ILO-IPEC of September 2011 that the Mid-Term National Development Plan (2010–14) includes strategies and policies to address child labour. Moreover, since 2008, the Government has been implementing a conditional cash transfers programme to improve educational access for children from poor families, with the reduction of child labour as a key indicator of the programme. By the end of 2011, the programme was expected to cover approximately 1.1 million households. *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 urges 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. It also requests the Government to provide information on the manner in which the Convention is applied in practice, including information from on the labour inspectorate on the number and nature of contravention 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 Indonesia Child Labour Survey Report 2009, 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. The Survey further indicated that only 4.8 per cent of working children between the ages of 5–12 (and only 12.1 per cent of children aged 13–14) were working as “employees”, and therefore within the scope of application of the Manpower Act. 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 the Government's indication that a draft government regulation, aiming to protect 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 it is maintaining coordination with the relevant stakeholders in order to finalize the draft Act on the protection of children who work outside of an employment relationship. The Government indicates that, to date, the definition of children working outside of an employment relationship is still to be formulated. The Committee must therefore 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 Act on the protection of children who work outside of an employment relationship in the very near future. It requests the Government to provide a copy of this Act, once adopted.*

2. *Domestic work.* The Committee previously noted the ITUC's allegation in its communication that young domestic workers routinely work 14–18 hours a day, seven days a week, without a day off. The ITUC indicated that these girls typically entered domestic work between the ages of 12 and 15, with some beginning even earlier, despite the established minimum age of 15. The ITUC further stated that it appeared that the Government had failed to take meaningful action to protect domestic workers – who numbered at a minimum 688,000 children – from exploitation and abuse. In this regard, the ITUC indicated that national labour laws exclude domestic workers from the minimum protections afforded to workers in the formal sector and that laws enacted to protect children from labour exploitation did not address child domestic labour.

The Committee also noted the information in a report entitled “Recognizing domestic work as work”, published by the ILO Country Office in Jakarta in April 2010 that approximately 25 per cent of domestic workers in Indonesia are under the age of 15, but that these children are expected to perform the same amount of work as adult domestic workers. This report further indicated that 81 per cent of domestic workers work 11 hours or more a day, and quotes a study where 93 per cent of domestic worker respondents had experienced physical violence at work. However, the Committee noted the Government's indication that a draft Act for the protection of domestic workers had been formulated and would be discussed in the Indonesian House of Representatives. The Committee further noted the Government's indication that it had increased its efforts to prevent children under 15 from working as domestic workers, including through the creation of guidelines and collaboration with local governments to prevent children under 15 from engaging in domestic work and

through specialized inspections. The Committee expressed its deep concern at the number and situation of children working as domestic workers, and urged the Government to take measures to ensure the adoption of the draft Act for the protection of domestic workers.

The Committee notes the Government's statement that the draft Act on the Protection of Domestic Workers has been included in the Register of the National Legislation Programme for 2010–14. The Government indicates that it continues to encourage discussion on this draft Act. The Committee also notes the Government's indication concerning its work with the ILO–IPEC and the NGO Save the Children, to withdraw child labourers, particularly in the domestic sector. The Government also indicates that the Ministry of Home Affairs will conduct activities under a pilot project entitled “Stop Child Domestic Work” in four provinces, and has provided rehabilitation services to child domestic workers through the Temporary House Shelter for Children. Moreover, the Ministry of Education has established several child-friendly pilot schools for former child labourers, including child domestic workers. ***Recalling that the Government first referred to the draft Act on the Protection of Domestic Workers in 2008, the Committee urges the Government to take the necessary measures to ensure that this Act is adopted in the near future, and to provide a copy of this legislation once adopted. Taking note of the measures taken by the Government to prevent children under 15 from engaging in domestic work, the Committee urges the Government to pursue and strengthen these efforts, and to provide information on the impact achieved.***

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*, published by the ILO country office in Jakarta that approximately 35 per cent of domestic workers are under the age of 18. This report also indicated 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. This report further indicated that 68 per cent of domestic worker respondents indicated that they had experienced mental abuse, 93 per cent had experienced physical violence, and 42 per cent had experienced some form of sexual harassment or abuse while at work. However, the Committee noted the Government's statement that a draft Act on domestic workers' protection had been formulated, and would be discussed in the Indonesian House of Representatives. The Government further indicated that it was making serious efforts to provide physical, psychological, economic and legal protection to domestic workers, including through the creation of guidelines and the provision of training to prevent children from entering domestic work.

The Committee notes the Government's indication that it has continued to take measures, in cooperation with non-governmental organizations, to protect domestic workers through activities such as mentoring, training, data collection and the dissemination of information, and that national and local governments have conducted trainings on the subject. The Government indicates 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 (including the prevention of child domestic labour). The Committee also notes the Government's statement that the draft Act on the protection of domestic workers has been included in the Register of the National Legislation Programme for 2010–14. The Committee further notes the Government's indication that sanctions may be imposed on persons who employ children under 18 in hazardous household work under the provisions in the Manpower Act prohibiting the employment of children in hazardous work as well as under the Child Protection Act which provides for the special protection of children against economic exploitation. However, the Committee notes the information from a document from ILO–IPEC concerning the Project of Support to the Indonesian Time-bound Programme on the elimination of the worst forms of child labour of September 2011 that the current legislation on child labour is not effective in tackling the problem of child domestic workers. ***Therefore, the Committee urges the Government to take the necessary steps to ensure that the draft Act for the protection of domestic workers is adopted as a matter of urgency, to ensure the protection of children under 18 from hazardous domestic work. It requests the Government to continue 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. The Committee encourages the Government to ratify the Domestic Workers Convention, 2011 (No. 189), which has key provisions for child protection.***

*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 also noted the information from the International Organization for Migration that there was a great need to sensitize criminal justice agencies across Indonesia with regard to the content of the Anti-Trafficking in Persons Act of 2007. 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 notes the Government's statement that the Anti-Trafficking in Persons Act has been consistently applied to persons involved in trafficking. The Government indicates that the police handled cases of trafficking involving 146 adults and 68 children in 2011. The Government indicates that 164 trafficking offenders were identified, and 91 of the cases were successfully prosecuted. The Committee also notes the information in the Government's report to the Committee on the Rights of the Child that it will take measures to strengthen the Task Force for Combating Trafficking in Persons at the national, provincial, and regency/district levels, especially in areas of origin, transit and destination (CRC/C/IDN/3-4, paragraph 93). In this regard, the Committee notes the information from ILO-IPEC of September 2011, that 18 provinces had established a task force to optimize the handling of the trafficking cases. However, the Committee notes the Government's statement in its report to the Human Rights Committee (HRC) for the Universal Periodic Review (UPR) of 7 March 2012 that, in 2010, 28,289 Indonesian citizens were indicated to have been victims of trafficking in persons (A/HRC/WG.6/13/IDN/1, paragraph 117). ***The Committee, therefore, 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 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 6. Programmes of action to eliminate the worst forms of child labour. Trafficking.* The Committee previously noted that the Government had developed a National Plan of Action on the Eradication of Trafficking in Persons and Sexual Exploitation of Children 2009–14 (NPA on Trafficking and SEC). It also noted that, in collaboration with 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 scope of the country's trafficking problem. The Committee requested information on the concrete steps taken in this regard.

The Committee notes the Government's indication that the NPA on Trafficking and SEC 2009–14 was adopted by virtue of Regulation of the Coordinating Minister for People's Welfare No. 25/KEP/MENKO/ KESRA/IX/2009. The Government also indicates that the Child Social Welfare Programme aims to protect children from trafficking, and that implementing partners have been provided with grants for trained social workers and to support the reintegration of children. Moreover, the Government indicates 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. In this regard, the Committee notes the Government's statement in its report to the HRC for the UPR of 7 March 2012 that 234 child victims of trafficking were treated at child social protection shelters in 2010 (A/HRC/WG.6/13/IDN/1, paragraph 120). ***The Committee requests the Government to continue to take measures, within the framework of the NPA on Trafficking and SEC 2009–14, to prevent the trafficking of children under 18 years of age, and provide for their removal and subsequent rehabilitation. The Committee requests the Government to continue to provide information on the results achieved, particularly the number of children reached through these initiatives.***

*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. 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.

The Committee notes the Government's statement that, through the NPA on Trafficking and SEC 2009–14, it has taken measures to eliminate the commercial sexual exploitation of children in the tourism sector through the development of child-friendly tourism sites. Regarding Regulation No. PM.30/HK.201/MKP/2010 on Guidelines on the Prevention of Sexual Exploitation of Children in Tourism, the Government indicates that it continues to disseminate prevention material on child sexual exploitation in the tourism sector, in cooperation with both private and public tourism stakeholders. ***Noting that there remain a significant number of child victims of commercial sexual exploitation, including in child-sex tourism, the Committee urges the Government to redouble its efforts to protect children under 18 years 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, including through the NPA on Trafficking and SEC 2009–14.***

*2. 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 in 2003. 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 drug 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 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, therefore, expressed its concern at the lack of progress in prosecuting perpetrators of this worst form of child labour.

The Committee notes the Government's statement that the Ministry of Manpower and Transmigration is currently 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 refers to the Act on Child Protection of 2002, section 89 of which provides penalties for persons who involve children in the production, sale and trafficking of drugs. However, the Committee notes an absence of information in the Government's report on the application of these provisions in practice. ***The Committee, therefore, requests 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 ongoing initiatives being implemented to prevent and remove children from being engaged in this hazardous form of work. The Government also indicated that the North Sumatra government had made efforts to monitor this sector and disseminated information about the dangers of working on fishing platforms. However, the Committee noted information of the report on the National Action Plan on the Worst Forms of Child Labour stages I and II (submitted with the Government's report) that offshore fishing platforms was an area where investigations and prosecutions for persons who employ children needed to be more effective. This report indicated that many cases of violations were closed just after the investigations and never brought to court because of the inadequate capacity of law enforcers.

The Committee notes the Government's statement that it 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 NGOs. The Government indicates that increased public awareness through education, aimed at preventing the engagement of children on fishing platforms, has been successful, with some fishing platforms no longer engaging children. The Government also indicates 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, which are in charge of coordinating the elimination of hazardous child labour on these platforms. The Committee further notes the Government's indication that, to date, data on prosecutions and sanctions for those who employ children on fishing platforms is not available, and that its efforts have focused on preventative education efforts. While noting the measures taken by the Government, the Committee once again reminds the Government 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 requests the Government to provide information on the measures taken in this regard in its next report.***

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

## Ireland

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously noted that the Child Trafficking and Pornography Act 1998 defined a child as a person under 17 years of age. In response to the request to indicate the measures taken or envisaged to prohibit the sale and trafficking of children under 18 years of age for the purposes of sexual or labour exploitation, and to prevent the use, procuring or offering of a child under 18 for the production of pornography or for pornographic performances, the Government provided information on the Criminal Law (Trafficking in Persons and Sexual Offences) Bill of 2006, which defined a "child" as a person under 18 years of age and contained provisions punishing the trafficking of persons, including children; the sale of children for purposes of sexual exploitation; and other offences related to the sexual exploitation of children.

The Committee notes with *satisfaction* the adoption of the Criminal Law (Human Trafficking) Act 2008, section 1 of which defines a "child" as a person under 18 years of age. The Committee notes the comprehensive provisions in the abovementioned Act prohibiting the sale and trafficking of children for the purposes of sexual (section 3) and labour exploitation (section 2). The Committee further notes the broad definition of sexual exploitation in relation to a child contained in section 3; which includes inter alia the inviting, inducing or coercing of a child to engage in prostitution or the production of child pornography and the prostitution or use of a child for the production of child pornography. By virtue of the Act, a person who traffics a child for labour (section 2(1)) or sexual exploitation (section 3 (a)(1)); sells a child, offers or exposes a child for sale or invites the making of an offer to purchase a child, or purchases or makes an offer to purchase a child (section 2(2)); sexually exploits a child or takes, detains or restricts the personal liberty of a child for the purpose of his or her sexual exploitation (section 3(a)(2)), is to be punished with imprisonment for life or a lesser

term and to a fine. The Committee, moreover, duly notes that section 7 of the Law provides for a broad jurisdiction for the Irish courts enabling the prosecution of an offence committed on Irish territory, by an Irish person or person ordinarily resident in Ireland for an offence committed abroad and the prosecution of an offence committed abroad against an Irish person or person ordinarily resident in Ireland.

*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 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.

The Committee notes the information in the Government's report that stakeholder consultations on the hazardous work list were undertaken within the framework of the Tackling Child Labour through Education (TACKLE) Project. The Committee also notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the list of hazardous work will be included in the regulations of the new Occupational Safety and Health Act (OSH Act), when adopted. **Noting 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 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 for the new OSH Act. This draft list of light work permitted for children included household chores, hair-braiding, work as a supermarket packer, clerical work and newspaper vending.

The Committee notes the Government's statement that the draft List of Light Work Permitted for Children was recently reviewed, for inclusion in the new OSH Act. The Government indicates that the draft OSH Act was recently reviewed in preparation for its submission to Parliament for debate. **The Committee once again requests 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 near future.**

*Article 9(1) and part III of the report form. 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 reviewed and that fines ranging from 250,000 Jamaican dollars (JMD) to JMD1,000,000 could be imposed under this Act, and a person could also be imprisoned for a period not exceeding three months if in default of such a fine.

The Committee notes the Government's indication that the new OSH Act will authorize labour inspectors to enforce the appropriate sanctions where a breach has been committed. The Committee also notes the Government's statement that, within the framework of the TACKLE Project, measures have been taken to sensitize the labour inspectorate on child labour issues, through local workshops and training at the International Training Centre of the ILO. However, the Committee notes the information in the document entitled "Child Labour Legislative Gap Analysis" of March 2012, submitted with the Government's report under Convention No. 182, that labour officers' powers of inspection are limited to commercial buildings and factories, which greatly restricts their capacity to monitor informal sectors of the economy for child labour practices. This report also indicates that while the reporting of cases of child labour has increased, arrests and prosecutions for the child labour offences have not necessarily resulted. **Recalling that, by virtue of Article 9(1), of the Convention, all necessary measures shall be taken by the competent authority, including the provision of**



*appropriate penalties, to ensure the effective enforcement of the provisions of the Convention, the Committee requests the Government to redouble its efforts to ensure that persons found to be in breach of the provisions giving effect to the Convention are prosecuted and that adequate penalties are imposed. In this regard, the Committee requests the Government to pursue its efforts to ensure the adoption of the provisions of the draft OSH Act which will enable labour inspectors to enforce appropriate sanctions. It further requests the Government to redouble its efforts to strengthen the capacity and expand the reach of the labour inspectorate, including the allocation of additional resources, in preparation for the labour inspectorate's expanded role, pursuant to the draft OSH Act, in monitoring 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.

Noting an absence of information on this point in the Government's report, the Committee reminds the Government that 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, in conformity with *Article 9(3)* of the Convention. ***The Committee once again requests the Government to take the necessary measures in the near future to ensure the adoption of provisions prescribing registers to be kept by employers, in conformity with Article 9(3) of the Convention.***

*Part V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted the information from UNICEF that 7 per cent of boys and 5 per cent of girls between the ages of 5 and 14 years worked in the years 1999–2006. The Committee noted the information from ILO–IPEC that the main areas of work for children are in agriculture, fishing and the informal sector (including selling goods and services and domestic work). The Committee also noted that the TACKLE Project was launched in Jamaica in 2009. It further noted the information from ILO–IPEC that reliable data and statistics on the number of child labourers in Jamaica was scarce.

The Committee notes the Government's statement that through the TACKLE Project, and in collaboration with non-governmental organizations, direct support has been provided to over 500 children, in the form of remedial education, skills training, awareness-raising, and help for children and their families in accessing social support mechanisms. The Government also indicates that the Ministry of Labour and Social Security has developed a Child Labour Policy, and that a Child Labour Handbook for Professionals has been developed. The Government further indicates that the social partners have taken measures to address child labour, such as the establishment of a Child Labour Steering Committee and the adoption of a child labour policy by the Jamaica Confederation of Trade Unions, and the development of a draft child labour policy by the Jamaica Employers Federation.

The Committee further notes the Government's statement, in its report submitted under Convention No. 182, that it is expected that a Child Labour Survey will be conducted to assist in assessing the impact of the various initiatives taken. In addition, the Committee notes the information in the document entitled "Child Labour Legislative Gap Analysis" of March 2012, that a Children's Registry has been established to receive, review and refer reports made under the Child Care and Protection Act. This report indicates that in 2008, the Office of the Children's Registry received 17 reports related to child labour, 22 such reports in 2009, 52 reports in 2010 and 38 reports between January and July 2011. ***The Committee requests the Government to pursue its efforts to combat child labour, and to continue 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.***

### **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 the adoption of the Sexual Offences Act, which addresses sexual offences against children. The Committee observed 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.

The Committee notes the Government's statement that it is an offence to procure any person for the purpose of prostitution. The Committee also notes the Government's indication that there are two bills currently being debated by Parliament relating to sexual offences, although the Committee observes that these bills do not appear to relate to the prostitution of children, and particularly the *use* of children under 18 years for prostitution, i.e. by a client. ***Accordingly, the Committee once again requests the Government to provide information on whether there are any legislative provisions which prohibit particularly the use of a child for the purpose of prostitution. If no such provisions exist, the Committee requests the Government to take the necessary measures to ensure the adoption of such a prohibition in the near future.***

*Clause (c). Use, procuring or offering 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 notes the Government's indication that the draft of the list of hazardous work prohibited for children has not yet been adopted. However, the Government indicates that one of the reported cases of human trafficking concerned the use of a child in drug-related activities. The Committee also notes the information from the International Trade Union Confederation in a report entitled "Internationally Recognized Core Labour Standards in Jamaica" of January 2011 that in the country, boys are used as drug couriers and dealers. ***The Committee, therefore, once again urges the Government to take the necessary measures to ensure the adoption of the provisions (in the list of hazardous work prohibited for children) prohibiting the involvement of children in illicit activities and the drug industry, in the near future. 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.* The Committee previously noted the Government's indication that a tripartite workshop was held to identify hazardous types of work, and that a list of types of hazardous work would be contained in the new Occupational Safety and Health Act (OSH Act) or its regulations. The Committee noted that the draft hazardous work list contained 45 types of prohibited work.

The Committee notes the Government's indication that the list of hazardous work will be included in the regulations of the new OSH Act, when adopted. The Government indicates that the OSH Act has been reviewed and placed on the Ministry of Labour and Social Security's legislative agenda for 2012–13. Observing that the Government has been developing this list since 2006, the Committee reminds the Government that, in accordance with *Article 1* of the Convention, it is under the obligation to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***It, therefore, once again urges the Government to take the necessary measures, as a matter of urgency, to ensure that the OSH Act, and the regulations containing the list of types of hazardous work prohibited for children, is adopted in the near future. It requests the Government to provide a final copy of the list, once it has been adopted.***

*Articles 5 and 7(1) and Part V of the report form. 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 also noted that more vigorous investigations of trafficking offences was necessary. In this regard, the Government indicated that the Child Labour Unit collaborated with the Trafficking in Persons Unit in the Jamaica Constabulary Force. However, the Government also indicated that an assessment on the enforcement machinery to combat child labour in Jamaica indicated that much more needed to be done on the ground to facilitate greater cooperation between agencies.

The Committee notes the Government's statement that a Plan of Action to Combat Trafficking in Persons was developed in May 2012, which is to be endorsed by the Cabinet. The Committee also notes the information in the Government's report submitted under the Forced Labour Convention, 1930 (No. 29), that the National Task Force Against Trafficking in Persons is responsible for the implementation of the Plan of Action, and that this plan includes an emphasis on the suppression of trafficking in persons and prosecution policies for offenders. The Committee further notes the Government's indication that the Trafficking in Persons Act 2009 is to be reviewed to allow for stiffer penalties for offenders, mandatory reporting responsibilities to bring known or suspected cases to the relevant authorities and sentencing guidelines.

The Committee notes the information in the report of the Office of the Children's Registry, submitted with the Government's report, that between 2007 and the first seven months of 2011, this Office had received eight reports concerning the trafficking of children for the purpose of sexual exploitation and 23 reports of the trafficking of children for the purpose of labour exploitation. The Government states that, despite increases in reports related to child labour and child trafficking, this is not reflected in the number of cases brought before courts. In this regard, the Committee notes the Government's statement in its report submitted under Convention No. 29 that since 2007, eight suspected cases of human trafficking have been investigated, but police have encountered problems pursuing investigations. The Committee, therefore, observes that the number of reported cases of child trafficking appears to be significantly higher than the total number of cases of trafficking that were investigated. Moreover, the Committee notes that the Human Rights Committee, in its concluding observations of 17 November 2011, expressed concern at the prevalence of trafficking in persons for sexual exploitation and forced labour, particularly with regard to the low level of investigations, prosecutions and convictions in this area (CCPR/C/JAM/CO/3, paragraph 22). ***The Committee, therefore, urges the Government to take immediate and effective 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 or 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 Plan of Action to Combat Trafficking in Persons, 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.* The Committee previously noted that child trafficking and commercial sexual exploitation were present in Jamaica. It observed that the Government was taking some measures to provide assistance to child victims of these worst forms of child labour and, in this regard, noted that a shelter for trafficking victims would soon become operational.

The Committee notes the Government's statement that efforts are still being made to have the government shelters become operational, but that this will be included in the new Plan of Action to Combat Trafficking in Persons 2012–15. The Committee also notes the Government's indication that the Trafficking in Persons Act 2009 is to be reviewed to allow for, among others, restitution for victims. The Government further indicates that the Ministry of Justice is launching a Children in Court Programme, which will train staff to address the unique needs of children as they go through the court process, including counselling. Nonetheless, the Committee notes that the Human Rights Committee, in its concluding observations of 17 November 2011, expressed concern at the lack of protection mechanisms for victims of trafficking, including rehabilitation schemes (CCPR/C/JAM/CO/3, paragraph 28). ***The Committee, therefore, requests the Government 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 reintegration. 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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (b). 1. Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee noted that the Penal Code prohibits certain acts associated with the prostitution of women, including those under 18, but does not do so in respect of boys under the age of 18.

The Committee once again notes the Penal Code provisions referenced in the Government's report, but observes that these provisions do not appear to prohibit the use, procuring or offering of a boy under 18 for the purpose of prostitution. The Committee also notes the Government's reference to the Human Trafficking Act of 2009. The Committee notes that section 3(a) of the Human Trafficking Act prohibits leading, transferring, sheltering or receiving any person under the age of 18 years of age for their exploitation, even if that exploitation is not accompanied by the threat of force, or its use, deception, misuse of power or the exploitation of a state of weakness. Section 3(b) specifies that exploitation includes prostitution or any form of sexual exploitation.

Referring to paragraph 506 of its General Survey of 2012 on the fundamental Conventions concerning rights at work, the Committee recalls the importance of ensuring that both boys and girls are provided protection against commercial sexual exploitation. ***In this regard, the Committee requests the Government to indicate whether the prohibition contained in section 3 of the Human Trafficking Act covers the use, procuring or offering of boys under 18 years for the purpose of prostitution in situations not linked to trafficking, in its next report.***

*2. Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously observed that while the Penal Code prohibited subjecting a boy or girl under 15 to an act that is contrary to morals, as well as prohibiting the utterance of indecent words to them, the legislation did not appear to contain provisions prohibiting the use, procuring or offering of all persons under 18 for the production of pornography.

The Committee notes the Government's indication that the Human Trafficking Act prohibits the trafficking of persons under 18 years for the purpose of sexual exploitation. However, the Committee notes that these provisions do not appear to specifically address the use of children for the production of pornography. ***The Committee, therefore, urges the Government to take immediate and effective measures to prohibit the use, procuring or offering of all persons under 18 for the production of pornography and pornographic performances, in conformity with Article 3(b) of the Convention.***

*Article 4(3). Periodic examination of the list of hazardous work.* The Committee previously noted that the Order on dangerous, tiring or health endangering tasks for young persons of 1997 provides for a list of types of hazardous work, and that this list was amended in 2004.

The Committee notes the Government's indication that a technical committee was established by the Ministry of Labour to examine the list of types of hazardous work in light of the specific hazards affecting young persons. In this regard, the Committee notes with *satisfaction* that the list of hazardous, tiring or health jeopardizing tasks for young persons was amended on 16 July 2011, and that this revised list is much more comprehensive than the previous list, particularly as it focuses on the types of hazards rather than jobs. The Committee notes that this revised list is divided into



eight categories of work: physical hazards; tasks with psychological and social hazards; tasks with moral hazards; tasks with chemical hazard; tasks with physiological hazards; work with biological hazards; tasks with ergonomic hazards; and other hazards.

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

## Kazakhstan

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

*Parts III and V of the report form. Labour inspection and the application of the Convention in practice.*

1. *General application.* The Committee previously noted that, according to the 2006 Multiple Clusters Indicator Survey approximately 3.2 per cent of all children aged 5–14 (approximately 79,515 children) engage in some form of economic activity. The Committee also noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 19 June 2007, expressed concern at the large number of socially vulnerable children engaged in labour (CRC/C/KAZ/CO/3, paragraph 63).

The Committee notes the Government's indication that, as part of a nationwide campaign against child labour, planned and comprehensive investigations of cases of child labour were carried out in various sectors of the economy. The Government indicates that these inspections 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 notes 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). Lastly, the Committee notes the information from the ILO–IPEC that Kazakhstan is one of the countries participating in a project to collect national child labour statistics through the ILO–IPEC's Statistical information and monitoring programme on child labour (SIMPOC). Through this project, a child labour survey is planned for the spring of 2013 by the Ministry of Labour and Social Welfare, the Agency of Statistics and SIMPOC. ***The Committee strongly encourages the Government to pursue its efforts, in collaboration with the ILO–IPEC, to ensure that sufficient data on the situation of working children in Kazakhstan is made available. It requests the Government to provide a copy of the child labour survey planned for 2013, once completed. The Committee also urges the Government to strengthen its efforts to effectively monitor and combat child labour in the country, and requests the Government to provide information on the number of inspections carried out, violations detected and penalties imposed in this regard.***

2. *Tobacco and cotton plantations.* The Committee previously noted the Government's statement that it is prohibited to employ minors on tobacco and cotton plantations, and that the List of Works in which it is prohibited to employ workers under the age of 18 (of June 2007) includes both work in cotton and tobacco. However, the Committee noted that the CRC, in its concluding observations of 19 June 2007, expressed concern at the large number of children engaged in labour within the tobacco and cotton industries (CRC/C/KAZ/CO/3, paragraph 63).

The Committee notes the information in the Government's report that, in the course of inspections carried out within the framework of the national campaign against child labour, child labour was identified in the agriculture sector, particularly in the cultivation of tobacco and cotton. The Committee also notes the information in the Government's report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that, following the fifth session of the Government's Inter-departmental Commission for Juvenile Affairs and the Protection of Minors' Rights, recommendations were adopted to address the socio-economic problems faced by rural households engaged in cotton growing and the elimination of child labour in South Kazakhstan province. The Government also indicates that the Department on the Protection of Children's Rights in the Almaty province, in cooperation with a private tobacco enterprise, carried out a "Prevention of Child Labour Programme".

The Committee notes, however, 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 notes 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 must therefore, once again, express its **concern** at reports of a large number of children working in the cotton and tobacco industries, despite legislative prohibitions. ***The Committee urges the Government to intensify its efforts to ensure the effective enforcement of the relevant legislation in these sectors, including through the strengthening of labour inspection in cotton and tobacco plantations. The Committee requests the Government to continue to provide information on measures taken in this regard, and on the results achieved.***

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 2013.]***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Part V of the report form. Application of the Convention in practice.* The Committee previously that noted that studies on child labour in Kazakhstan revealed that children are 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 also noted the Government's indication that investigations in the Almaty province revealed that children from Kyrgyzstan (aged 6–15) were working in tobacco fields for approximately 75 hours a week, and that Uzbekistani children had been discovered working in cotton fields in the Makhtaaral district of South Kazakhstan.

The Committee notes the information in the Government's report that, following the 2011 round table on "Working conditions of persons employed in agricultural work", a resolution was adopted to extend the Programme to Prevent Child Labour in the Almaty province. The Government states that these ongoing efforts aim to eliminate the violations identified in a report entitled "Hellish Work Exploitation of Migrant Tobacco Workers in Kazakhstan". This report outlines that many children of migrant workers engage in tobacco cultivation and that this work is hazardous, posing significant health risks, including musculoskeletal disorders, exposure to high temperatures, exposure to pesticides and fumes from tobacco plants, and is performed under poor sanitary and hygiene conditions, often for long hours. The Committee also notes 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). Therefore, while noting the measures taken by the Government, the Committee expresses its *concern* at reports of a large number of children working in the cotton and tobacco industries under hazardous conditions, despite legislative provisions prohibiting this practice. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the prohibition on employing children under 18 in both cotton and tobacco harvesting is strictly enforced in practice, including for the children of migrant workers. It requests the Government to continue to provide information on measures taken in this regard, including measures to strengthen the capacity of the labour inspectorate to protect children from this hazardous work. It also requests the Government to provide information on the number of inspections carried out, violations detected and penalties applied, related to work performed by children under 18 in cotton and tobacco harvesting.***

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

## **Kenya**

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1979)**

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* The Committee had previously noted that according to the ILO–IPEC TACKLE project report, four action programmes had been implemented in Kenya under this project which resulted in the withdrawal of about 1,050 children from child labour who were enrolled back in schools or placed in skills training through apprenticeship, in addition to 351 children who have been prevented from dropping out of school and from entering into child labour. It had also noted from the ILO–IPEC TACKLE project report that following the implementation of the Kenya Education Sector Programme (KESSP), the net enrolment rates at the primary level increased from 83.2 per cent in 2005 to 92.5 per cent in 2008. The Committee had noted, however, that about 20 per cent of all primary school children did not complete the primary school cycle. It further noted from the ILO–IPEC TACKLE project report that according to the 2009 National Census, nearly 4 million children of school-going age were out of school, which implies that the number of children in or at risk of child labour could be higher than the 756,000 reported in the 2008 Child Labour Analytical Report.

The Committee notes the Government's statement that it is making efforts through the county administration to ensure that children are kept in school and that the Ministry of Labour has been provided with extra budget for the purpose of strengthening the County Child Labour Committees (CCLCs) and carrying out child labour inspections. The Committee further notes the Government's information that it is currently being engaged in consultations with ILO–IPEC to undertake a child labour survey in Kenya which is expected to be carried out in October 2012. The Committee notes from the Labour Commissioner's annual report of 2011, (available on the Government website) that through the activities undertaken by the CCLCs, 788 children were found involved in child labour and its worst forms, 176 children were withdrawn from work and sent to school, 290 children were withdrawn from work and placed in youth polytechnics and vocational training centres. Furthermore, 880 children are being provided with school uniforms and school fees to ensure that they do not drop out of school and engage in child labour.

The Committee further notes that according to the information available from the ILO–IPEC (SNAP project report), the net enrolment rate at primary level increased to 96 per cent in 2011 and the transition rate from primary to secondary school reached 72 per cent. It also notes that within the framework of the SNAP project, a total of 1,951 children (893 girls and 1058 boys) were withdrawn or prevented from child labour through the provision of educational services or training opportunities. In addition, the Committee notes the information from ILO–IPEC that the TACKLE project supported a rapid assessment on child labour in salt mines located in Coast Province. The project also supported the National Council for Children Services to develop a national children database that will help the Government collect data on key child protection indicators which will be used for planning and reporting purposes. While noting the measures taken by the

Government, the Committee must once again express its *deep concern* at the high number of children who are not attending school and are involved or are at risk of being involved in child labour. ***It therefore urges the Government to continue its efforts to improve the situation of child labour in the country. It requests the Government to provide information on the findings of the rapid assessment survey on child labour in salt mines in Coast Province. The Committee also encourages the Government to pursue its efforts to undertake a child labour survey, and to provide any up-to-date statistical information obtained in this regard.***

*Article 2(3). Age of completion of compulsory schooling.* The Committee had previously noted that, under section 7(2) of the Children's Act, every child shall be entitled to free basic education which shall be compulsory. It had also noted the Government's statement that in order to address the gap between the minimum age for admission to employment (16 years) and the age of completion of compulsory schooling (14 years), the Government had waived the tuition fees for the first two years in secondary schooling. It had further noted the Government's indication that it has not envisaged adopting any legislation fixing the age of completion of compulsory education. In this regard, the Committee had noted the information provided by the Government representative of Kenya to the Conference Committee on the Application of Standards in June 2006 concerning the application of Convention No. 138 that it had appointed a committee to review the Education Act with a view to modifying, inter alia, the age of completion of compulsory schooling. Recalling that this Convention had been ratified by Kenya more than 25 years ago, the Conference Committee had urged the Government to ensure that legislation addressing the gap between the age of completion of compulsory schooling and the minimum age for admission to employment or work would be adopted shortly. The Committee had noted with regret that despite the request which it has repeatedly made since 2002, no measures have yet been taken to give effect to the Convention. It had therefore urged the Government to take the necessary measures, without delay, to extend compulsory schooling up to 16 years which is the minimum age for employment in Kenya.

The Committee notes the Government's statement that in the reviewed Education Bill which is currently before the cabinet for approval, it has been proposed that the compulsory schooling be extended to 18 years. In this regard, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). It also recalls that according to *Article 2(3)* of the Convention the specified minimum age shall not be less than the age of completion of compulsory schooling. 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 General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 370). ***Noting that the Education Bill proposes to extend the compulsory schooling age up to 18 years which is higher than the minimum age for admission to work (16 years), the Committee urges the Government to take the necessary measures to ensure that the revision of the Education Bill does not fail to take into account the principle laid down under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). The Committee expresses the firm hope that the Education Bill respecting the provisions of Article 2(3) of the Convention will be formulated and adopted in the near future.***

*Article 3(2). Determination of hazardous work.* The Committee had previously noted the Government's statement that the list of types of hazardous work prohibited to children under 18 years had been approved by the National Labour Board and was awaiting to be published in the Gazette by the Ministry of Labour. It had noted that the draft document entitled "Determining Hazardous Child Labour in Kenya: July 2008" prepared by the Ministry of Labour and Human Resources Development in consultation with the Central Organization of Trade Unions and the Federation of Kenya Employers, contained a comprehensive list of 18 types of hazardous occupations/sectors including: work in domestic households; transport; internal conflicts; mining and stone crushing; sand harvesting; miraa picking; herding of animals; brick making; agriculture; work in industrial undertakings; carpet/basket weaving; building construction; tannery; deep lake and sea fishing; glass factory; matches and fireworks factory; urban informal sector; and scavenging with each sector further providing a list of various activities that are prohibited to children.

The Committee notes the Government's information that the List of Hazardous Work, 2008 is currently being reviewed and a consultant has been appointed with the assistance of ILO-IPEC to enable the normal process of adoption. ***Noting with regret that the Government has been referring to the adoption of this draft regulation on the list of types of hazardous work since 2005, the Committee once again urges the Government to take the necessary measures to ensure that this regulation is adopted in the very near future. It requests the Government to supply a copy thereof once it has been adopted.***

*Article 3(3). Admission to hazardous work as from 16 years of age.* The Committee had previously noted the Government's indication that the competent Minister had issued regulations in respect of periods of work and establishments where children aged at least 16 years may work, including hazardous work, referred to in section 10(4) of the Children's Act. It had also noted the Government's statement that the Children's Act was being reviewed and that a copy thereof would be sent after adoption by the Parliament. It had further noted the Government's statement that the regulations under section 10(4) of the Children's Act were adopted, and that a copy would be provided. The Committee had observed that the Government had been stating since 2005 that this regulation under section 10(4) of the Children's Act had been issued by the Minister, and had strongly urged the Government to supply a copy thereof along with its next report.



The Committee notes the Government's statement that the matter has been taken up with the relevant department and that it will ensure that information on the progress made in the discussions will be supplied as soon as possible. **Observing that Kenya ratified the Convention over 30 years ago and that the question of revision of the Children's Act and the adoption of the regulation under section 10(4) of the Children's Act has been raised for a number of years, the Committee once again urges the Government to take the necessary measures to ensure the adoption of regulations in respect of periods of work and establishments where children aged at least 16 years may work, including hazardous work, referred to in section 10(4) of the Children's Act.**

*Article 7(3). Determination of light work.* The Committee had previously noted that, according to section 56(3) of the Employment Act, the minister may make rules prescribing light work in which a child of 13 years may be employed and the terms and conditions of that employment. It had noted the Government's statement that the rules and regulations which stipulate the types of light work activities permitted to children of 13 years, and which prescribe the hours and conditions of such employment had not yet been completed.

The Committee notes the information in the Government's report that the rules prescribing the light work in which a child of 13 years and above may be employed has been developed and discussed by stakeholders and is currently at the Attorney General's Office for adoption. **The Committee once again expresses the firm hope that the regulations determining the light work activities that may be undertaken by children of 13 years of age and above and the number of hours during which and the conditions in which, such work may be undertaken, will be adopted soon. It requests the Government to provide a copy once they have been adopted.**

*Article 8. Artistic performances.* The Committee had previously taken note of 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 had also noted that the national legislation does not provide for permits to be granted to children participating in cultural artistic performances. The Committee had noted with regret that despite its reiterated comments for many years, no measures had yet been taken by the Government to this effect.

The Committee notes the Government's information that the matter to establish the provisions for granting permits for young persons under the age of 16 years has been taken up by the relevant ministries and the outcome of the discussions will be supplied soon. **The Committee expresses the firm hope that the provisions allowing for young persons below 16 years of age to take part in artistic activities through permits granted in individual cases and which prescribe the number and hours during which, and the conditions in which, such employment or work is allowed, will be formulated and adopted in the near future. It requests the Government to supply information on any progress made in this regard.**

The Committee 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 102nd Session and to reply in detail to the present comments in 2013.]**

## Kyrgyzstan

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2004)**

*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 points in a request addressed directly to the Government.

## Lebanon

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2003)***

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

*Article 2(1) of the Convention. Scope of application.* 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. It requested the Government to provide information on the manner in which children who are not bound by an employment relationship are covered by the protection provided for in the Convention. The Committee noted the information in the Government's report 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 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). 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 the Government's information that it intended to amend the Labour Code, to prohibit the employment or work of young persons before they complete 14 years (*i.e. beginning of 15 years*). The Committee noted the information in the Government's report 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 International Labour Office by means of a further declaration. This enables the age fixed by the national legislation to be aligned to that provided for at international level. ***The Committee requests the Government to provide information on any progress made in the adoption of the draft amendments to the Labour Code.***

*Article 2(3). Compulsory education.* The Committee previously noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 2002 (CRC/C/15/Add.169), while noting that basic education was free and compulsory until the age of 12, expressed concern about its implementation in practice. It noted the Government's indication that Act No. 686/1998 relating to free and compulsory education in the primary phase has not so far been applied, due to the economic conditions of the country and the insufficient educational facilities. The Committee also noted that, according to the 2004 ILO–IPEC survey that in Lebanon, 18.9 per cent of children drop out of school at the elementary level (6–11 years), 22.8 per cent at the intermediate level (12–15 years) and 10.6 per cent at the secondary level. According to this survey, dropping out of school was a major contributing factor to the early participation of boys and girls in the labour market.

The Committee noted the information in the Government's report that 250 children (in three schools), who were at risk of dropping out, were assisted and given additional lessons through a programme entitled "Strengthening courses in basic subjects". The Committee also 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 intends to raise the age at which compulsory education ends, from the current 12 years to 15 years of age. The Committee further noted that the CRC, in its concluding observations of 8 June 2006 expressed concern that in primary education, parents are still charged for some costs of education despite the legal guarantee of free education, and that dropout rates have increased at this level while enrolment in secondary education declined (CRC/C/LBN/CO/3, paragraph 63).

The Committee was of the view that compulsory education is one of the most effective means of combating child labour and it is important to emphasize 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 compulsory schooling comes to an end before the young persons are legally entitled to work, there may be a period of enforced idleness. However, if young persons are legally entitled to work before the end of completion of compulsory schooling, children from poor families might be tempted to drop out of education and work in order to earn money (see ILO: *Minimum Age*, General Survey of the reports relating to Convention No. 138 and Recommendation No. 146 concerning minimum age, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4(B)), ILC, 67th Session, Geneva, 1981, paragraph 140). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee reminded 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 provide for compulsory education up until the minimum age for admission to work (which is currently 14 years, and will be 15 years with the adoption of the draft amendments to the Labour Code). The Committee requests the Government to provide information on any new developments on this point.**

*Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work.* The Committee previously noted that section 1 of Decree No. 700 of 1999 prohibits the employment of young persons before they complete 17 years of age (*i.e. beginning of 18 years*). The Committee also noted that Decree No. 700 of 1999 provides for a detailed list of the types of hazardous work in which it is prohibited to employ young persons. The Committee further noted the information in the Government's report that the National Committee to Combat Child Labour (NCCL) was formulating a statute on the worst forms of child labour which, in accordance with *Article 3(1) and (2)* of the Convention, prohibits the employment of children under 18 years in work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children.

The Committee noted that section 20 of the draft amendments to the Labour Code prohibits the employment or labour of children before they reach 18 years in work which, by its nature or the conditions in which it is carried out, is likely to expose them to danger. The Committee also noted that the "Draft Decree on the prohibition of employing children before they complete 18 years of age in work which is likely to jeopardize their health, safety or morals" (Draft Decree Prohibiting Hazardous Work), was issued by Advisory Opinion No. 239 of the State Council on 26 May 2009 and will be promulgated following approval by the Council of Ministers. The Committee noted the Government's statement that the Draft Decree Prohibiting Hazardous Work was formulated by the NCCL following the study entitled "Worst Forms of Child Labour – under 18 years old in Lebanon". The Committee further noted that section one of the Draft Decree Prohibiting Hazardous Work provides for the annulment of Decree No. 700 of 1999, and that section two contains a list of the worst forms of child labour prohibited for children under 18, including work with physical, psychological and moral hazards, and work that would limit the young persons' access to education and training. **The Committee urges the Government to take the necessary measures to ensure the adoption by the Council of Ministers of the Draft Decree Prohibiting Hazardous Work (as issued by Advisory Opinion No. 239 of the State Council on 26 May 2009).**

*Article 3(3). Authorization to undertake hazardous work from 16 years.* The Committee previously noted that section 23(1) of the Labour Code prohibits the employment of young persons under 15 years of age in industrial projects and activities which are physically demanding or detrimental to their health, as set out in Annexes 1 and 2. The Committee observed that section 23(1) of the Labour Code was not in conformity with *Article 3(3)* of the Convention, to the extent that it appeared to allow young persons from 15 to 16 years to perform hazardous work. The Committee noted the information in the Government's report that the draft amendment to the Labour Code includes the principles specified in *Article 3(3)* of the Convention.

The Committee noted the information in the Government's report that, by virtue of an order of the Ministry of Labour, section 20(3) of the draft amendments to the Labour Code authorizes employment or work in hazardous types of employment as of 16 years of age, under certain conditions. The Committee also noted that section 3 of the Draft Decree Prohibiting Hazardous Work contains a list of activities which may be authorized as of 16 years of age, on the condition that the health, safety and morals of young persons are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. The Committee observed that this list prohibits the employment of children under 16 years in work with chemical hazards, physical hazards, intellectual or social hazards, safety hazards (such as heights), some types of agricultural work, work in slaughterhouses, work in construction, work in transport, work in horse races, work in restaurants or hotels, or work in factories with more than 20 employees. **The Committee expresses the firm hope that section 3 of the Draft Decree Prohibiting Hazardous Work, concerning the authorization of some types of hazardous work for persons between the ages of 16 and 18, will be adopted shortly and requests the Government to provide information on any developments in this regard.**

*Article 4. Exclusion from the application of the Convention of limited categories of employment or work.* In its previous comments, the Committee noted the Government's indication that section 7 of the Labour Code excludes from its application, and consequently from the scope of application of the Convention, the following categories of work: (a) workers in households in Beirut; (b) agricultural undertakings which are unrelated to trade and industry and which shall have their own legislation; (c) undertakings which only employ family members under the management of the father, mother or guardian; and (d) Government departments and municipal bodies with respect to daily and temporary workers not covered by the regulations governing officials. The Committee also noted the Government's reference to the draft amendments to the Labour Code which would regulate the first three of the abovementioned four excluded categories, by a decree issued by the Council of Ministers.

The Committee noted that section 2(2) of the Draft Decree Prohibiting Hazardous Work, submitted with the Government's report, prohibits, for persons under the age of 18, work with psychological hazards, including domestic work and work where the young person sleeps outside of the home. The Committee also noted that section 3(2) of the Draft Decree Prohibiting Hazardous Work, concerning work prohibited for children under the age of 16, prohibits the employment of a young person in agricultural work (including family undertakings) which requires a tractor, work involving sharp equipment, work involving high ladders or trees or the mixing or dispersal of pesticides and fertilizers and the picking or handling of poisonous plants (including tobacco). The Committee observed that, by virtue of these provisions in the Draft Decree Prohibiting Hazardous Work, effect is given to the Convention with regard to the previously excluded categories of employment. **The Committee expresses the firm hope that the provisions of the Draft Decree Prohibiting Hazardous Work relating to domestic workers and children employed in agricultural work (including family undertakings) will be adopted shortly and requests the Government to provide information on any developments in this regard.**

*Article 6. Vocational training and apprenticeship.* The Committee previously noted the information in the Government's report that section 16 of the draft amendment 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 noted the Government's statement

that amendments are still ongoing to the proposed draft amendments. *It requests the Government to provide information on any progress made in adopting 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.*

*Article 7. Light work.* Following its previous comments, the Committee noted the information in the Government's report 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 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 shall 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. In addition, the Committee noted the Government's indication that the Ministry of Labour, in coordination with ILO-IPEC, is preparing a study on the classification of occupations undertaken by working children, within the framework of the ILO-IPEC programme "Supporting the national strategy for the elimination of child labour in Lebanon, third phase", so as to formulate this statute on light work. *The Committee 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.*

The Committee noted the Government's statement that the draft amendments to the Labour Code have reached an advanced stage and will be referred to the competent authority for its adoption in the shortest delay. The Committee also noted the Government's statement that some amendments are still ongoing to the draft amendments, to achieve additional conformity between its provisions and the provisions of Arab and international labour Conventions. *Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments are adopted in the near future. Furthermore, the Committee 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 and invites it to consider technical assistance from the ILO.*

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

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar to slavery. Trafficking.* The Committee previously noted that the relevant Lebanese legislation does not specifically prohibit the trafficking of women and children. The Committee noted that the cooperation project, the "Anti-trafficking project", had been agreed upon by the United Nations Office on Drugs and Crime (UNODC) and the Ministry of Justice (MoJ) to ensure the conformity of national legislation with the Protocol against the Smuggling of Migrants by Land, Sea and Air and with the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children. According to the project document annexed to the Government's report, the existing Lebanese legislation was reviewed to identify gaps and formulate specific recommendations regarding necessary amendments and adoption of specific anti-trafficking legislation. The Committee noted that this legal review was sent to the MoJ for comments and clearance.

The Committee noted the information in the Government's report that the amendments to the Labour Code, prepared by a tripartite committee (which was set up by virtue of Order No. 210/1 of 20 December 2000), include provisions relating to the sale and trafficking of children. The Committee noted the information in the Government's report that section 33(a) of these amendments penalizes any person who participates, encourages or facilitates all forms of slavery or practices similar to slavery, such as the sale and trafficking of children. The Committee observed that it has drawn the Government's attention to the lack of legislation prohibiting the sale and trafficking of children since 2005. *The Committee therefore urges the Government to take the necessary measures to ensure the adoption of the draft amendments to the Labour Code relating to the prohibition of the sale and trafficking of all persons under the age of 18, as a matter of urgency.*

*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 the Government's information 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 penal crime under the Penal Code.

The Committee noted the Government's statement that the amendments to the Labour Code are in their last stages and they shall be referred to the competent authorities for adoption within the shortest delay. However, the Committee also noted the Government's statement in its report submitted under Convention No. 138 that further revision to the draft amendment to the Labour Code are still necessary. *The Committee requests the Government to take the necessary measures to ensure the adoption of the draft amendments to the Labour Code 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.*

*Clause (d). Hazardous work.* The Committee previously noted the Government's information that Decree No. 700/1999 prohibits the employment of young persons before they complete 17 years of age (i.e. beginning of 18 years) in dangerous activities enumerated according to their nature. The Committee also noted the Government's indication that the National

Committee to Combat Child Labour (NCCL) was formulating a statute on the worst forms of child labour to amend Decree No. 700 of 1999 and supplement section 23(1) of the Labour Code.

The Committee noted that section 20 of the draft amendments to the Labour Code prohibits the employment of children under 18 years in work which, by its nature or the conditions in which it is carried out, is likely to expose them to danger. The Committee also noted that the “Draft Decree on the prohibition of employing children before they complete 18 years old in work which is likely to jeopardize their health, safety or morals” (Draft Decree Prohibiting Hazardous Work), was approved by Advisory Opinion No. 239 of the *shura* on 26 May 2009, and will be promulgated following approval by the Council of Ministers. The Committee further noted the Government’s statement that the Draft Decree Prohibiting Hazardous Work was formulated by the NCCL following the study entitled “Worst Forms of Child Labour under 18 years old in Lebanon”.

The Committee noted that section 1 of the Draft Decree Prohibiting Hazardous Work provides for the annulment of Decree No. 700/1999, and that section 2 provides a list of the worst forms of child labour prohibited for children under 18, including work with physical, psychological and moral hazards, and work that would limit the young persons’ access to education and training. **The Committee requests the Government to take the necessary measures to ensure the adoption by the Council of Ministers of the Draft Decree Prohibiting Hazardous Work for children under 18 as a matter of urgency and requests it to provide information on developments in this regard.**

**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 expresses the firm hope that the Government will take the necessary measures to ensure that the amendments are adopted as a matter of urgency. Furthermore, the Committee 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 and invites it to consider technical assistance from the ILO.**

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.**

## Lesotho

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

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

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour.* The Committee previously noted that the Programme Advisory Committee on Child Labour had endorsed the Action Plan for the Elimination of Child Labour (APEC) in 2008. The Government indicated that the APEC had been submitted to Cabinet for approval. The Committee also noted that the Children’s Protection and Welfare Bill had yet to be adopted, and had urged the Government to take measures in this regard.

The Committee notes with satisfaction that the Children’s Protection and Welfare Act was adopted on 8 June 2011. However, the Committee also notes the Government’s indication that the APEC has not yet been submitted to Cabinet. The Government indicates that a review of the APEC is necessary to ensure that the recommendations are still relevant and that a tripartite stakeholder workshop will be convened by September 2011 in this regard. **Observing that the APEC has been awaiting Cabinet approval since 2008, the Committee urges the Government to strengthen its efforts to ensure the appropriate review, adoption and implementation of the APEC in the near future.**

*Article 2(1). Scope of application. Self-employment and domestic work.* In its previous comments, the Committee noted that the provisions of the Labour Code excluded self-employment from its application. However, the Committee subsequently noted that the draft revision of the Labour Code contained a provision to apply the Labour Code’s sections on the minimum age and related issues to self-employed children and children working in the domestic sector. While the Government indicated that efforts were being made towards the adoption of the draft revision, the Committee observed that the Government had been referring to the impending adoption of the draft revision to the Labour Code since 2006.

The Committee notes the Government’s indication that, pursuant to tripartite discussion at the National Advisory Committee on Labour, separate regulations will be promulgated on domestic work, and that this sector will not be regulated through the revised Labour Code. Moreover, the Committee notes that the revised Labour Code has been given to the Government’s legal draftsmen in preparation for submission to Parliament. In this regard, the Committee notes the Government’s indication that the law does not currently provide for inspections to be carried out in the informal economy, hindering the detection of child labour. **Therefore, the Committee urges the Government to take the necessary measures to ensure that the revised Labour Code provides the protection guaranteed in the Convention to children working on a self-employed basis and in the informal economy, and to ensure the adoption of the revised Code without delay. In addition, the Committee requests the Government to take the necessary measures to ensure that the regulations developed on domestic work are consistent with the Convention with regard to the minimum age for admission to work, hazardous work and light work.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted that primary education is not compulsory and that many children do not have adequate access to education. Additionally, the Committee noted the information from UNESCO’s *Education for All: Global Monitoring Report* of 2010 that there were approximately 101,000 out-of-school children between the ages of 6 and 12. However, the Committee noted that a Bill introducing free and compulsory education (and including sanctions for parents if they did not send their children to school) was before Parliament. Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requested the Government to take the necessary measures to ensure the adoption of the Bill.

The Committee notes with interest that the Education Act was adopted in 2010. The Committee notes that, pursuant to the Education Act, primary school is free and compulsory. However, the Committee observes that primary school is generally completed at the age of 13 years in Lesotho. Nonetheless, the Government indicates that the issue of linking the age of completion of compulsory schooling with the age of admission to work will be discussed with the Ministry of Education and Training. In this regard, the Committee once again draws the Government’s attention to the importance of linking the age of admission to employment to the age limit for compulsory education; if compulsory schooling comes to an end before young persons are legally entitled to work, there may be a period of enforced inactivity or the early or premature entry into employment



or work. **The Committee encourages the Government to pursue its efforts to ensure compulsory education up to the minimum age of employment (of 15 years), and urges the Government to collaborate with the Ministry of Education and Training in this regard. The Committee also requests the Government to provide a copy of the Education Act, with its next report.**

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously noted the Government's indication that, during the revision of the Labour Code, due consideration would be given to bringing the Labour Code into line with the requirements of *Article 6* of the Convention. However, the Government also indicated that there was no regularized system of vocational and technical education, that no consultations had been held on this matter and that there was no minimum age for admission to apprenticeships.

The Committee notes the Government's statement that this matter will be taken up with the Ministry of Education and Training. 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 is 14 years. **It therefore urges the Government to take the necessary measures, within the context of the draft revision of the Labour Code, to ensure that no child under 14 years of age is permitted to undertake an apprenticeship in an enterprise, in conformity with Article 6 of the Convention.**

*Article 7. Light work.* The Committee previously noted that section 124(2) of the Labour Code permits the employment of children between the ages of 13 and 15 for light work in technical schools and similar institutions, provided that the work has been approved by the Department of Education. Subsequently, the Committee noted the Government's indication that the draft revision of the Labour Code includes a provision (proposed section 124(6)) which defines light work as work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance in, or the child's capacity to benefit from, school.

The Committee notes the Government's statement that the proposed section 124(6) of the revised Labour Code will only permit the performance of light work in technical schools and similar institutions. However, observing the significant number of children under the minimum age who are, in practice, engaged in economic activity (36 per cent of children aged 13 years and 38 per cent of children aged 14 years according to the most recent Multiple Indicator Cluster Survey), the Committee encourages the Government to consider regulating light work *outside* of technical schools to ensure that these children benefit from the protection of the Convention. If the Government decides to permit light work for children between the ages of 13 and 15 outside of technical schools, the Committee draws the Government's attention to *Article 7(3)* of the Convention, which states that the competent authority shall determine what is light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. **The Committee requests the Government to provide information on any developments with regard to the regulation of light work activities, particularly with regard to providing legal protection to children between the ages of 13 and 15 who are, in practice, engaged in light work outside of technical schools.**

*Parts III and V of the report form. Labour inspectorate and application of the Convention in practice.* The Committee previously noted that, according to the 2004 Lesotho Child Labour Survey, 23 per cent of the children in Lesotho are child labourers. The survey also indicated that children mainly work in agricultural activities followed by those who work as domestic workers. The Government indicated that the office of the Labour Commissioner carries out inspections in all commercial enterprises but not in the informal economy and private residences, which is where most child labour occurs.

The Committee notes the Government's indication that it is making efforts to conduct a new child labour survey, and that consultations were held with ILO-IPEC in June 2011 regarding technical assistance for this purpose. The Committee also notes the Government's statement that it is facing considerable capacity constraints which makes it difficult to extend inspection services to the informal economy, and that this is exacerbated by the lack of a legal basis to perform inspections in the informal economy. The Government indicates that inspection reports therefore only relate to commercial and industrial undertakings, and do not contain information on the number and nature of violations related to child labour. **Noting the Government's indication under Article 2(1) that the adoption of the revised Labour Code is imminent, thereby providing the legal basis for carrying out inspections in the informal economy, the Committee urges the Government to strengthen the capacity and expand the reach of the labour inspectorate to areas in which children work, particularly the informal economy. Furthermore, the Committee urges the Government to pursue its efforts to undertake a child labour survey, and to provide any up-to-date statistical information obtained in this regard.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

*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 urged the Government to take immediate measures to ensure the adoption of legislation prohibiting the sale and trafficking of children.

The Committee notes with satisfaction that the Anti-Trafficking in Persons Act was enacted into law on 11 January 2011, and that section 5(1) and (2) of this Act prohibits the trafficking of children. Section 5(2) of this Act provides for a maximum penalty of life imprisonment or a fine of up to 2,000,000 Lesotho malotis (LSL) for this offence (approximately US\$253,453). In addition, the Committee notes that section 2 of the Anti-Trafficking in Persons Act defines a child as a person who is under 18 years of age and defines trafficking to include the recruitment, transportation, transfer, harbouring, sale, supply or receipt of persons, within and across the borders of Lesotho by means of the use of threat, force or other means of coercion, abduction, kidnapping, fraud or deception, the abuse of power, law or legal process or a position of vulnerability or debt bondage or the giving or receiving of payment to obtain the consent of a person having control over another person, for the purpose of exploitation. Moreover, the Committee notes with interest that the Children's Protection and Welfare Act was adopted on 31 March 2011 and that section 67 thereof prohibits the trafficking of children (defined as all person under the age of 18, pursuant to section 3 of the Act).

*Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.* In its previous comments, the Committee noted that street children were used by adults in illegal activities, such as housebreaking and petty theft. It also noted the Government's indication that there is no legislation that specifically prohibits the use, procuring or offering of a child under the age of 18 for illicit activities. However, it noted that the section 129A(3)(c) of the

draft revision of the Labour Code prohibited the worst forms of child labour, including the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

The Committee notes that section 18 of the Children's Protection and Welfare Act states that a child has the right to be protected from, inter alia, being involved in the production, trafficking or distribution of drugs. However, the Committee observes that this provision does not appear to explicitly prohibit the use, procuring or offering of a child for other illicit activities, nor does it provide for penalties for adults who engage in this practice. Regarding the draft revision of the Labour Code, the Committee notes the Government's statement that the Code is currently being prepared for presentation to Parliament and that it hopes that the draft revision of the Labour Code will be adopted early next year. **Observing that the Government has been referring to the impending adoption of the draft revision of the Labour Code since 2006, the Committee urges the Government to take the necessary measures to ensure its adoption in the near future, to prohibit the use, procuring or offering of a child under 18 for illicit activities.**

*Clause (d). Hazardous work. Child domestic work.* The Committee previously noted that, according to the 2004 Lesotho Child Labour Survey, girls performing domestic work face verbal, physical and, in some cases, sexual abuse from their employers, and that these children generally do not attend school. This survey also indicated that 17.4 per cent of all working children were paid domestic workers. The Committee further noted the Government's reference to the provision inserted in the draft revision of the Labour Code which provides for the protection of children engaged in domestic work. In addition, the Committee noted the information in the joint document produced by ILO-IPEC and the Ministry of Employment and Labour in 2006 entitled "Implementation Plan of the Programme towards the elimination of the worst forms of child labour in Lesotho" that girls as young as 12 years work as domestic workers, and that these children often work long exhausting days for low pay.

The Committee notes the Government's statement in its report submitted under the Minimum Age Convention, 1973 (No. 138), that, pursuant to tripartite discussions at the National Advisory Committee on Labour, separate regulations will be promulgated on domestic work, instead of regulating domestic work through the Labour Code. The Committee also notes the Government's statement in its report to the Committee on the Elimination of Discrimination Against Women of 26 August 2010 that domestic work is an unregulated sector and the rights of these workers are open to abuse (CEDAW/C/LSO/1-4, paragraph 68). **The Committee accordingly 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 measures to ensure that the regulations promulgated on domestic work prohibit hazardous work in this sector to all children under 18 years of age. It further requests the Government to provide a copy of these regulations, once adopted.**

*Part V of the report form. Application of the Convention in practice.* The Committee noted the comments of the Commissioner of Labour of 2 March 2008 indicating that child labour continues to be a problem in Lesotho, particularly with regard to under-age domestic workers and herders. The Committee also noted the information in the joint document produced by ILO-IPEC and the Ministry of Employment and Labour of 2006 indicating that the trafficking of children, commercial sexual exploitation, the use of children by adults in illegal activities and hazardous street work are all present in Lesotho. The Committee requested the Government to provide information on the nature, extent and trends of the worst forms of child labour.

The Committee notes the information in the Government's report that a child labour survey needs to be carried out in order to determine the nature, extent and trends of child labour in Lesotho, as the last such survey was carried out in 2004. The Government indicates that meetings were held with ILO-IPEC in June 2011 regarding technical assistance for this purpose. **The Committee strongly encourages the Government to pursue its efforts to undertake a survey on child labour and its worst forms, to ensure that up-to-date statistical information on this subject is made available. It also requests the Government to provide, along with its next report, information on the number and nature of infringements reported, investigations, prosecutions, convictions and penalties imposed with regard to the worst forms of child labour. To the extent possible, all information provided should be disaggregated by sex and age.**

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

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

## Madagascar

### **Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1967)**

The Committee takes note of the Government's report and the communication of 27 August 2012 from the General Confederation of Workers' Unions of Madagascar (CGSTM).

*Article 2(1) of the Convention and Part V of the report form. Medical examination of persons under 21 years of age prior to underground work in mines and application of the Convention in practice.* The Committee noted previously that section 82 of Decision No. 58-AR of 8 May 1958 setting forth the safety rules applying to mines and quarries provides that no worker may be assigned to underground work without first undergoing a medical examination finding him to be fit for such employment. The Committee also noted that sections 7, 8 and 9 of Order No. 2806 of 8 July 1968 to organize occupational medical services provide in particular that employers must have regular visits organized for periodic medical examinations and that all workers are required to undergo a medical examination that includes an x-ray film of the lungs prior to taking up employment or in the month following at the latest. Furthermore, the Committee noted with interest that by virtue of section 8 of Decree No. 2003-1162 of 17 December 2003 to organize occupational medicine, every worker, before being hired or at the latest in the month after being hired, "shall undergo a medical examination consisting of at least an x-ray film of the lungs". Pursuant to sections 7 and 9 of the Decree, periodical medical examinations are also compulsory and include "special medical examinations for workers exposed to the risk of occupational diseases".

The Committee notes the CGSTM's assertion that to its knowledge, there are no longer any mining companies in Madagascar's formal sector that carry on underground work and employ young persons within the meaning of the

Convention. The problem does arise, however, in family undertakings in the informal sector, for example in the sapphire mines of the Ilakaka region, in which minors work up to 50 meters underground without proper safety precautions or ventilation. The CGSTM reports that the absence of adequate legislation means that these young people undergo neither a pre-employment medical examination to ascertain their fitness nor any regular medical checks. Lastly, the CGSTM states that the Government has not as yet undertaken any action to resolve the problem.

The Committee observes that children working in family undertakings on an informal basis appear not to be covered by the legislation regarding medical examinations. The Committee points out that according to *Article 2* of the Convention, a thorough medical examination for fitness for employment and periodic re-examinations at intervals of not more than one year shall be required for the employment or work underground in mines of persons under 21 years of age, regardless of whether the work is performed in the formal sector or the informal economy and whether or not it is based on an employment relationship. ***The Committee asks the Government to take steps to ensure that all children and young persons under 21 years of age enjoy the protection afforded by the Convention, particularly those who work in family undertakings in mining and quarrying in the informal sector. It asks the Government to provide information on these matters in its next report, and particularly on the effect given in practice to the provisions requiring a pre-employment medical examination and subsequent periodic re-examinations for young persons under 21 years of age working underground in family undertakings in the informal sector.***

*Article 5(4) and (5). Records pertaining to employees under 21 years of age.* In its previous comments the Committee noted that according to the Government, a record must be kept by the employer and must consist of three parts: personal particulars, data concerning the worker's position within the undertaking and a separate section for visas, observations and warnings issued by the labour inspector to the undertaking. The Committee noted that although the sample record provided by the Government in its report clearly indicates the employee's date of birth, it contains no indication of the nature of the work and does not include a certificate attesting fitness for employment, as required by *Article 4(4)* of the Convention. The Committee nonetheless noted that by virtue of section 6 of Decree No. 2007-563 on child labour, the employer must keep a record showing the full identity, the type of work, the wage, the number of hours of work, the state of health, the schooling and the situation of the parents of each child employee under the age of 18 years.

The Committee notes the information supplied by the Government to the effect that Order No. 129-IGT of 5 August 1957 establishing a standard employer's register, pursuant to section 252 of the Labour Code, is still in force. The Government states that the Order needs revision in order to adapt it to present circumstances and that the Committee's recommendations will be forwarded to the National Labour Council, a body for tripartite consultation. The Committee accordingly observes that it would appear that there is still no requirement for employers' records to contain a certificate of fitness for employment in respect of young persons aged from 18 to 21 years engaged in underground work. ***The Committee again asks the Government to take the necessary steps to ensure that employers are required to keep a record showing the date of birth, duly certified wherever possible, an indication of the nature of the occupation and a certificate attesting fitness for employment, for all persons between 18 and 21 years of age who are employed or work underground, and to make these records available to the workers' representatives at their request. It asks the Government to supply information on progress made in this regard in its next report.***

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

The Committee notes the communication of the General Confederation of Workers' Unions of Madagascar (CGSTM) of 27 August 2012, and the Government's report.

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that, according to the National Survey on Child Labour (ENTE) of 2007, conducted by the National Bureau of Statistics in conjunction with ILO/IPEC/SIMPOC, more than one child out of four in Madagascar between 5 and 17 years of age (28 per cent) is economically active, that is 1,870,000 children. The participation rate in economic activity increases with age: while 12 to 15 per cent of children between 5 and 9 years of age are economically active, the rate rises to over 30 per cent in the 10–14 year age group, and to 55 per cent in the case of children between 15 and 17 years. The problem is more acute in rural areas, where 31 per cent of children are engaged in an economic activity, compared with 19 per cent in urban areas. Most economically active children are in the agricultural and fishing sector, where most of them (two out of three) help families. In the case of children between 5 and 14 years of age, 22 per cent are engaged regularly in an economic activity and 70 per cent attend school. The Committee notes the allegations of the CGSTM that many underage children from rural areas are sent to large towns by their parents to work in the domestic sector. These children are exposed to household work, which can be exhausting and they sometimes do not have leave or fixed hours of work. Moreover, these children have not necessarily completed their compulsory schooling.

The Committee noted previously the adoption of the National Plan of Action to Combat Child Labour in Madagascar (PNA), and the six plans of action covering the rural sector, mining and quarrying, manufacturing, domestic work, catering and trade, and miscellaneous activities. It noted the Government's indication that the first phase of the PNA lasted five years and ended in 2009. The PNA was in an extension phase, and a policy plan for the second phase of the



PNA had been drawn up. The Government also indicated that before the end of 2011 certain activities would be undertaken to support the implementation and extension of the PNA strategies.

The Committee notes the CGSTM's indication that it reiterates the observations made in its previous communication.

The Committee notes the Government's indications concerning the activities to combat child labour. The Government indicates in particular that the workplan of the National Committee to Combat Child Labour (CNLTE) for 2012–13 has been adopted. The Government also reports several projects that are currently being implemented: the AMAV project against child domestic labour; the workplan against child labour in vanilla plantations in the Sava region; the workplan to combat the commercial sexual exploitation of children; and the plan of action concerning child labour in mines and stone quarries in the Atsimo Andrefana region, implemented in the context of the ILO/IPEC TACKLE project. While taking due note of the measures taken by the Government to combat child labour, the Committee observes that the Government has not provided any information on the impact of the measures adopted on the progressive elimination of child labour. The Committee notes that the Committee on the Rights of the Child, in its concluding observations of 8 March 2012 (CRC/C/MDG/CO/3–4, paragraph 59), while noting that Madagascar has adopted programmes and policies to combat child labour, also notes with concern the lack of information on any investigations and prosecution of persons responsible for child labour. The Committee of Experts is therefore bound once again to express its *deep concern* at the considerable number of children under the minimum age obliged to work, as well as the conditions under which these children are exploited. ***The Committee firmly requests the Government to redouble its efforts to combat child labour and urges it to provide information on the results achieved for the implementation of the PNA and other programmes of action in terms of the progressive abolition of child labour.***

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted that, according to a document published by the UNESCO International Bureau of Education, the age of completion of compulsory schooling is lower than the minimum age for admission to employment or work. The Committee observed that, according to this document, 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. The Committee noted the Government's indications that it is fully aware of the importance of compulsory schooling as a means of combating child labour. The Government indicated that several meetings had been held on this subject with a view to giving the issue of national education the importance that it deserves, but that much remains to be done, particularly in light of the political crisis affecting the country. 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 notes the Government's indication that the Ministry of Education is currently 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 reminds the Government that compulsory schooling is one of the most effective means of combating child labour and emphasizes how necessary it is to link the age for admission to employment or work with the age at which compulsory education ends, as envisaged in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). The Committee observes that if compulsory schooling ends before young persons are legally authorized to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see the General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). ***The Committee therefore once again expresses the firm hope that the Government will take measures 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 apprenticeship.* In its previous comments, the Committee noted the Government's indication that a decree determining the conditions of work with respect to vocational training and apprenticeships would be examined by the National Labour Council (CNT), which is a tripartite body. It also noted the Government's indication that the Ministry of Employment and Vocational Training was preparing various regulations on vocational training which were to be examined in 2006. The Committee also noted that the Ministry of Employment and Vocational Training was planning to submit to Parliament a Bill on the national employment policy, in which further vocational training and apprenticeships were a priority objective. The Committee noted the Government's indications that the draft legislative texts on vocational training and apprenticeship had been examined by the CNT, but that, in view of the political crisis and the closure of many enterprises, the CNT was not yet in a position to take final decisions and that several of its members want to re-examine the issue once the crisis is over.

The Committee notes the Government's indication that it recognizes the current blockage in Madagascar since the crisis and that full information on progress relating to the legislation on vocational training and apprenticeship will be provided in due time. ***The Committee once again firmly encourages the Government to intensify its efforts and to take the necessary measures to ensure that the draft texts on apprenticeship and vocational training are adopted in the very near future. It once again requests the Government to provide copies of these texts once they have been adopted.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the communication of the General Confederation of Workers' Unions of Madagascar (CGSTM) of 27 August 2012, and the Government's report.

*Articles 3(a) and (b) and 7(1) of the Convention. Worst forms of child labour. All forms of slavery or practices similar to slavery, use, procuring or offering of a child for prostitution, and sanctions. Sale and trafficking and the sexual exploitation of children.* In its previous comments, the Committee noted that section 15 of Decree No. 2007-563 of 3 July 2007 concerning child labour (Decree No. 2007-563) prohibits all forms of forced or compulsory labour, including the sale and trafficking of young persons under 18 years of age. The Committee also noted that section 13 of Decree No. 2007-563 categorically prohibits the procuring, use, offering and employment of children of either sex for prostitution. The Committee noted that section 261 of the Labour Code and sections 334, 335 and 354–357 of the Penal Code, to which reference is made in Decree No. 2007-563, establish effective and dissuasive sanctions prohibiting, among other offences, the sale and trafficking of children and the procuring or offering of a child for prostitution.

The Committee notes the adoption of Act No. 2007-038 of 14 January 2008 amending and supplementing certain provisions of the Penal Code to combat trafficking in persons and sex tourism. Under the terms of section 5 of the Act, a section 331bis has now been inserted into the Penal Code and prohibits the debauchery, corruption or prostitution of children of either sex. Section 6 of the Act inserts sections 33ter, quarter and quinto, containing detailed provisions prohibiting all forms of trafficking of children under 18 years of age for exploitation, as well as the sale of children for any purpose, including sexual exploitation, forced labour, slavery or practices similar to slavery. Act No. 2007-038 also establishes effective and dissuasive sanctions for the engagement, abduction or deception of a person with a view to their engagement in prostitution, sexual exploitation or sex tourism.

However, the Committee notes that, while recognizing that Madagascar has adopted relevant legislative provisions to prevent and prohibit sexual exploitation, the Committee on the Rights of the Child (CRC), in its concluding observations of 8 March 2012 (CRC/C/MDG/CO/3-4, paragraphs 61–63), notes with serious concern that child prostitution and sex tourism are on the rise in the country, with orphans being particularly vulnerable. Referring to the State party report (CRC/C/MDG/3-4, paragraph 787), the Committee on the Rights of the Child notes that a quarter of children aged 6–17 years who were working in Antsiranana in 2006 were victims of sexual exploitation and expresses concern at the low number of investigations into and prosecutions for child prostitution. The CRC is also greatly concerned at the high level of trafficking in persons, including children, from Madagascar to neighbouring countries and the Middle East for purposes of domestic servitude and sexual exploitation. While noting the adoption of Act No. 2007-038 of 2008, the CRC expresses concern that the law is not sufficiently implemented and, in particular, has not resulted in any convictions to date.

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 the application of sufficiently effective and dissuasive penal sanctions. ***The Committee requests the Government to take the necessary measures to ensure that the sanctions against persons found guilty of trafficking in children under 18 years of age or their use, procuring or offering for sexual exploitation, are applied in practice. The Committee also requests the Government to provide statistical data on the number and nature of the violations reported, investigations, prosecutions, convictions and the penal sanctions applied.***

*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 attendance and training for street children in the context of the Public Investment Programme for Social Action (PIP). It noted that the action of the PIP was extended to the regional level, under the direction of the labour and social legislation services in each region, and that the "Manjary Soa" centre, financed by the PIP, supports child victims of labour, and particularly of the worst forms of child labour, and offers them remedial teaching or vocational training. The Committee noted the CGSTM's allegation that the number of street children has increased in recent years. The CGSTM added that the action taken by the Government to help them was still minimal. In reply, the Government indicated that the programmes financed in the context of the PIP aim to remove 40 children a year from the worst forms of child labour, or 120 children over three years.

The Committee notes the Government's indication that the political and economic crisis currently faced by Madagascar has resulted in the loss of many jobs and the impoverishment of households, contributing to an increase in the number of children compelled to work. The Government adds that, in the context of the PIP, it is continuing to implement programmes for the social reintegration of victims of the worst forms of child labour, but that the crisis has had a direct effect on the financing of these programmes by the State. The Government, nevertheless, indicates that in 2012 the programme is providing support for 40 children engaged in the worst forms of child labour, such as prostitution, hazardous types of work and domestic work. ***While noting the measures taken by the Government, the Committee is bound to express its concern at the fact that the number of street children has recently increased and that the 2009 crisis appears to be affecting the implementation of PIP programmes and it, therefore, requests the Government to intensify its efforts to ensure that street children are protected from the worst forms of child labour, and are provided***

*with support for their rehabilitation and social integration. It once again requests the Government to provide information in its next report on the results achieved in this respect.*

*Parts IV and V of the report form. Application of the Convention in practice.* The Committee noted previously that, according to the National Survey on Child Labour (ENTE) of 2007, conducted by the National Statistical Institute in collaboration with ILO/IPEC/SIMPOC, more than one in four Malagasy children aged between 5 and 17 years (28 per cent) are economically active, or 1,870,000 children. The participation rate of children between the ages of 15 and 17 years in economic activities is 55 per cent, which may partly be explained by the fact that schooling is no longer compulsory for this age group. Furthermore, the majority of economically active children (82 per cent) are engaged in harmful work. In total, nearly 1,534,000 children are engaged in such activities. Among children aged 15 and over, approximately one economically active child out of two (49 per cent), or 328,000 children, are engaged in harmful work, that is in one of the worst forms of child labour. The ENTE also indicates that in Madagascar 23 per cent of economically active children between the ages of 5 and 17 years are engaged in hazardous types of work, or 438,000 children. The agricultural, stock-raising and fishing sectors account for most harmful types of work performed by children, in both rural and urban areas (88 and 72 per cent, respectively). In contrast with rural areas, child labour in urban areas is characterized by the importance of domestic work (11 per cent) and work in commerce and catering (10 per cent). Girls are often engaged in domestic work (17 per cent of girls between the ages of 15 and 17 years, compared with 9 per cent of boys in the same age group), or an activity in the commerce and catering sectors (5 and 7 per cent of girls aged between 10 and 14 and between 15 and 17 years of age, respectively).

The Committee previously noted the CGSTM's allegations that the political and economic crisis in Madagascar resulted in even more under-age children entering labour and employment. With regard to the worst forms of child labour, the most affected sectors are mining, agriculture and manufacturing. The CGSTM indicated that children work in mines (Llakaka) and in stone quarries under precarious and sometimes dangerous conditions. Furthermore, the worst forms of child labour exist in the informal economy and in rural areas, which are not covered by the labour administration.

The Committee notes the CGSTM's recent indication that it reiterates the allegations made in its previous communication.

The Committee notes the Government's indications that the second phase of the National Plan of Action to Combat Child Labour in Madagascar (PNA) is intended, inter alia, to improve legal frameworks, step up awareness-raising campaigns, mobilize funds to extend action against child labour and the worst forms of child labour, and update databases on child labour as the campaign advances to combat child labour. *While noting the measures taken by the Government to combat child labour and the worst forms of child labour in the context of the PNA, the Committee is bound to express its concern at the situation and number of children under 18 years of age forced to undertake hazardous work, and it urges the Government to intensify its efforts to eliminate these worst forms of child labour. It requests the Government to continue providing information on any progress achieved in this respect and on the results achieved. The Committee also requests the Government to continue to provide information on the worst forms of child labour including, for example, studies and inquiries 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 infringements reported, investigations, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by age and sex.*

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

## Malawi

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1999)**

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

*Article 1 of the Convention and Part V of the report form. National policy and practical application of the Convention.* In its previous comments, the Committee noted that, while many measures were being implemented by the Government to combat child labour through the ILO-IPEC project "Support to the National Action Plan to Combat Child Labour in Malawi", the Government was moving slowly in the final adoption of the national policy and National Action Programme (NAP), even though these had been adopted at ministerial level. The Committee also noted that the Malawi Multiple Indicator Cluster Survey of 2006 indicates that approximately 33.6 per cent of all persons between the ages of 5 and 14 (1.4 million children) are involved in economic activity in Malawi.

The Committee takes due note of the Government's information that its National Child Labour Policy was finalized and that it has launched the NAP on Child Labour for Malawi (2010-16), in which the responsibilities of all stakeholders in the fight against child labour are well articulated. The priorities of the NAP include developing and improving the policy and legislative framework; building the capacity of the education sector; creating awareness and bridging the information gap on child labour; and building the institutional and technical capacity of service providers. Considering that the last comprehensive survey on child labour in Malawi was undertaken in 2002 and that no follow-up survey was done, it is also envisaged to conduct a national child labour survey and regularly update national child labour statistics in order to determine their trends and prevalence. *Expressing its concern at the considerable number of children under 14 who are engaged in economic activity in Malawi, 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 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. Lastly, the Committee requests the Government to provide a copy of the results of the national child labour survey when they are available.

*Article 2(1). Scope of application.* In its previous comments, the Committee noted that the Employment Act is applicable only where there is an employment contract or labour relationship and does not cover self-employment. The Committee therefore drew the Government's attention to possibilities for providing self-employed children the protection of the Convention, including the elaboration of legislation specifically to ensure children's rights or by strengthening the labour inspectorate in sectors where children are often self-employed, such as the commercial agricultural sector. Indeed, the Committee had 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 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). In this regard, the Committee had noted that the Tenancy Labour 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). Nonetheless, the Government had indicated that it has a considerable backlog of legislation to deal with.

The Committee observes that, within the framework of the NAP on Child Labour in Malawi, it is envisaged to vigorously promote the Tenancy Labour Bill for enactment. In this regard, the Government indicates that the forthcoming parliamentary sitting will likely discuss the Bill and adopt it, at which point a copy of the Tenancy Labour Act will be forwarded to the Committee. ***The Committee once again expresses its concern that the Tenancy Labour Bill has yet to be adopted and urges the Government to take the necessary measures to ensure the adoption of the Bill at the next parliamentary sitting. It expresses the firm hope that, in adopting the Tenancy Labour 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.***

*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 notes that the Government provides no information on that point in its report. Yet, 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 urges the Government to take the necessary measures, within the framework of the NAP on Child Labour or otherwise, to ensure that the recommended amendment to article 23 of the Constitution is adopted in the very near future, in conformity with Article 3(1) of the Convention.***

*Article 3(2). Determination of types of hazardous work.* Following its previous comments, the Committee notes the Government's information that a List of Hazardous Work for children has been finalized and that it is currently being processed for gazetting. ***Observing that the Government has been referring to the List of Hazardous Work since 2006, the Committee once again urges the Government to take the necessary measures to ensure that the draft list of types of hazardous work is adopted without delay. It requests the Government to provide a copy of this list as soon as it is adopted.***

*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 indication that labour inspectors have demanded labour registers when inspecting any workplace and, where no such register exists, the owner is advised to purchase one which is available at the government press or any bookshop. The Government also indicated that the applicable parliamentary Act still did not have a model register, that the registers available at the government press are general and that employers use different formats. Nonetheless, the Government indicated that following discussions with the social partners, it was resolved to develop standard templates for various legislative prescriptions, including a model for a labour register. 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 will be submitted to the Tripartite Labour Advisory Council for adoption.

The Government indicates that the modern register of employment will be in conformity with *Article 9(3)* of the Convention and will be submitted to the Committee as soon as it is produced. In this regard, the Committee once again reminds 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. ***Observing that the Government has been referring to the model register of employment since 2006, the Committee 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 must therefore repeat its previous observation which reads as follows:

*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, although various penal provisions relate to the offences of abduction and trafficking, these provisions are not comprehensive. However, the Committee noted that the Child Care, Protection and Justice Bill, which was adopted on 28 June 2010, contains a definition of child trafficking and imposes a penalty of life imprisonment for convicted traffickers, and expressed the firm hope that the adopted version of the Child Care, Protection and Justice Bill prohibits the sale and trafficking (both internal and cross-border) of all persons under 18 years of age for the purposes of labour and sexual exploitation.

The Committee notes 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. According to section 179(2), child trafficking means the recruitment, transaction, transfer, harbouring or receipt of a child for the purposes of exploitation. The Committee observes, however, that according to section 2(d) of the same Act, a “child” means a person below the age of 16 years. The Committee reminds 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 accordingly 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. The Committee also requests the Government to provide information on the application in practice of this Act, 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 observed that the use, procuring or offering of young persons under 18 years of age for prostitution, for the production of pornography or for pornographic performances existed in Malawi and that national legislation did not appear to prohibit these worst forms of child labour. 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). However, the Committee noted the Government’s indication that it endeavoured to include such a prohibition in the ongoing review of labour laws, including the Employment (Amendment) Bill, which was going through a final round of examination prior to submission to the Ministry of Justice.

The Committee notes that the Government’s report contains no new information on the adoption of the Employment (Amendment) Bill. It notes, however, the Government’s statement that the Child Care, Protection and Justice Act prohibits the procuring or offering of boys and girls under the age of 16 years for the purpose of prostitution, for the production of pornography or for pornographic performances. In this regard, the Committee observes that section 84(1)(d) 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 reminds 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 expresses 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. **The Committee accordingly 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.**

*Article 4(1). Determination of types of hazardous work.* Following its previous comments, the Committee notes the Government’s information that a list of hazardous work for children is in the process of being finalized. **Observing that the Government has been referring to the List of Hazardous Work since 2006, the Committee urges the Government to take the necessary measures to ensure that the draft list of types of hazardous work is adopted as a matter of urgency. It requests the Government to provide a copy of this list as soon as it is adopted.**

*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, according to the summary outline for the ILO–IPEC Action Programme of 2007, entitled “Mzimba Project on Elimination of Child Labour”, there were 734,845 child labourers working in the agricultural sector in Malawi, out of which 288,341 were working in hazardous occupations. It also 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 that ILO–IPEC was implementing several action programmes in the tobacco sector, which sought to withdraw children from hazardous work and reintegrate these children into formal and non-formal educational programmes, as well as to raise awareness about child labour in agriculture.

The Committee notes the Government’s information that labour inspections have been undertaken in the tobacco sector, to help withdraw children from this sector, to rehabilitate and then to send them back to school. It further notes that, within the framework of the National Action Plan (NAP) on Child Labour, it is envisaged to improve awareness of child labour at all levels; prevent and withdraw children from such labour; and provide these children with educational opportunities. In this regard, the NAP on Child Labour indicates 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 urges the Government to strengthen its efforts to protect children from hazardous work in the tobacco sector through measures taken within the framework of the NAP on Child Labour. In this regard, it 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, 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 notes with regret that the Government provides no information on this point in its report. **It therefore 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. To the extent possible, all information provided should be disaggregated by age and sex.**

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

*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(1) and (2) of the Convention. Minimum age for admission to, and determination of, hazardous work.* In its previous comments, the Committee noted with satisfaction that, pursuant to section 2(1) of the Children and Young Persons (Employment) Act of 1966 (CYP Act), after amendment by the Children and Young Persons (Employment) (Amendment) Act of 2010 (CYP Amendment Act), no child or young person (i.e. all persons under 18 years) shall be required or permitted to engage in any hazardous employment. The Committee also noted that 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 requested the Government to provide information on the measures taken, 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.

The Committee notes the Government’s indication that, taking due note of its request, the Labour Department will further discuss the issue and hold consultations with the relevant authorities, such as the Department of Safety and Health, in order to determine the types of work which constitute hazardous work prohibited to persons under the age of 18. *The Committee requests 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 in its next report.*

*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 it has taken note of the Committee’s recommendation to establish a minimum age of 13 years for admission to light work, which would be taken into consideration during the current review of the CYP Act. *The Committee requests the Government to provide information on the progress made in this regard in its next report.*

*Parts III and V of the report form. Application of the Convention in practice.* The Committee previously noted that the Committee on the Rights of the Child, in its concluding observations of 25 June 2007, expressed concern that the enforcement of Convention No. 138 remained weak (CRC/C/MYS/CO/1, paragraph 90). It also noted that the CRC expressed its regret at the lack of a national data collection system and at the insufficient data on working children. However, the Committee noted the indication of the Government representative at the Conference Committee on the Application of Standards that the Malaysia peninsula alone has 300 labour inspectors, with every labour inspector carrying out between 25 and 30 inspections per month. The Government representative also indicated that, out of 30,084 complaints received on various labour issues, none of these cases related to child labour. Nonetheless, the Committee noted that the Worker members at the Conference Committee on the Application of Standards indicated that issues remained, particularly with regard to children working on palm oil plantations, in the agricultural sector, and also with regard to children working in towns and cities.

Moreover, the Committee noted the statement in the report of the International Trade Union Confederation (ITUC), for the World Trade Organization General Council on the Trade Policies of Malaysia of 18 and 20 January 2010, entitled “Internationally recognized core labour standards in Malaysia”, that child labour in Malaysia can 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 in this report that the Government does not collect statistical data on child labour. The Committee noted the Government’s statement that the Labour Department (under the Ministry of Human Resources) is taking the necessary measures to ensure that data on working children are collected. The Government indicated that it would like to consider engaging the technical assistance of the ILO to facilitate this data collection. Moreover, the Committee noted the Government’s indication in its report submitted under the Labour Inspection Convention, 1947 (No. 81), that labour departments have been engaged in consultations with the police and the Immigration Department in respect of the employment of child workers, including on awareness raising among employers on child labour and the related legislation.

The Committee notes the Government’s indication in its report that data on child employment were previously collected through data entry in the Annual Employment Return/National Employment Return (NER) survey, but that since 2005 the NER survey does not include statistics disaggregated by age. The Government indicates that further discussion



regarding data collection on the work of children and young persons will be taken into serious consideration, in line with support from the Institute of Labour Market Information Analysis and from the Information Management Division of the Ministry of Labour. The Government also indicates that it will work on data sharing with other agencies.

Furthermore, the Committee notes the Government's indication that it is in the midst of recruiting more labour officers in order to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children carrying out economic activities in the agricultural sector. In terms of capacity building, the Government indicates that it has an ongoing programme on training officers, in the framework of which more emphasis will be given to labour inspection in the agricultural sector. ***Taking due note of the efforts deployed by the Government, the Committee encourages it to pursue its efforts to ensure that up-to-date statistical data on the economic activities of children and young persons are collected and made available, including the number of children working under the minimum age of 15, and to provide this information in its next report. To the extent possible, this information should be disaggregated by sex and age. In addition, the Committee requests the Government to continue its efforts to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children carrying out economic activities in the agricultural sector, and to provide information on the results achieved. In this regard, the Committee requests the Government to provide information on the increased number of labour inspectors and on the training they received regarding children carrying out economic activities in the agricultural sector.***

### **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 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.***

*Clause (d). Hazardous work.* In its previous comments, the Committee noted that the relevant legislation did not contain any provisions prohibiting young people under 18 years of age from being engaged in hazardous types of work. The Committee urged the Government to take immediate measures to ensure that the prohibition of hazardous types of work applied to persons under 18 years of age, in accordance with *Article 3(d)* of the Convention.

The Committee notes that the Children and Young Persons (Employment) (Amendment) Act of 2010 (CYP Amendment Act) was adopted and has been in force since 1 March 2011. The Committee notes with *satisfaction* that, pursuant to the CYP Amendment Act, the term "child" is now defined in the CYP Act as a person under 15 years of age

and the term “young person” is defined as a person between 15 and 18 years of age (pursuant to section 1A), and that pursuant to section 2(1) of the CYP Act, no child or young person shall be required or permitted to engage in any hazardous employment. Moreover, pursuant to section 2(4), no child or young person may be engaged in work that is dangerous to life, limb, health, safety and morals. The Committee also notes that section 2(5) of the CYP Act has been amended to state that no child or young person may be engaged in work underground, or in any employment contrary to the provisions of the Factories and Machinery Act, the Occupational Safety and Health Act of 1994 or the Electricity Supply Act of 1990.

*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.***

*Part V of the report form. 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 points in a request addressed directly to the Government.

## Mali

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2002)**

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

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that, according to the report of the National Survey on Child Labour (ENTE), conducted in 2005 by the National Directorate of Statistics and Information, in collaboration with the National Directorate of Labour and ILO-IPEC-SIMPOC, around two children out of three between the ages of 5 and 17 years are economically active, or just over 3 million girls and boys throughout the country. Of these, nearly 2.4 million children between the ages of 5 and 14, or 65.4 per cent of children between 5 and 14 years of age, are engaged in work. This phenomenon affects both girls and boys, in rural areas and in towns. The Committee noted that the phenomenon is more widespread in rural areas (68 per cent of 5–14 year olds) than in urban areas (59 per cent of 5–14 year olds). The Committee also noted that in 2006 Mali launched a **Time-bound Programme (TBP)** on the worst forms of child labour in collaboration with ILO-IPEC. The Committee further noted that, in the framework of the **TBP**, a programme of action was launched in 2009 for the preparation and design of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) with a view to reinforcing the progress achieved over more than a decade of combating child labour and addressing the difficulties encountered.

The Committee takes due note of the technical validation of the PANETEM at the national level in April 2010 and its adoption by the Council of Ministers on 8 June 2011. The PANETEM covers a period of ten years divided into two phases: the first five-year phase (2011–15) focuses on the elimination of the worst forms of child labour (60 per cent of targeted children) and the second five-year phase (2016–20) on the abolition of all forms of unauthorized child labour (40 per cent of the targeted children). However, the Committee notes that, in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government indicates that, in view of the delay in the adoption of the PANETEM, its implementation is envisaged in 2012. **Observing with deep concern that a considerable number of children are engaged in work under the minimum age for admission to employment or work, the Committee strongly encourages the Government to intensify its efforts to combat child labour, and requests it to provide information on the implementation of the PANETEM and on the results achieved in terms of the elimination of child labour.**

*Article 2(1). 1. Scope of application.* In its previous comments, the Committee noted the information provided by the Government to the effect that children under 15 years of age working on their own account could be informed by the labour inspector covering their area of the risks involved in their work and the social security measures to be envisaged in the event of employment accidents. The Committee however noted the Government's indication that no specific measures have been adopted in Mali to allow labour inspectors to target more specifically children under 15 years of age engaged in an economic activity on their own account.

The Committee notes that absence of information in the Government's report on this subject. It once again reminds that Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is based on an employment relationship and whether or not it is paid. **The Committee urges the Government to take measures to ensure that children who are not bound by an employment relationship, such as those working on their own account or in the informal economy, benefit from the protection afforded by the Convention. In this respect, it requests the Government to envisage the possibility of taking measures to adapt and strengthen the labour inspection services with a view to ensuring such protection.**

*2. Minimum age for admission to employment or work.* In its previous comments, the Committee noted that under section 20(b) of the Child Protection Code, all children have the right to be employed *as from 15 years of age*, in accordance with the minimum age specified when ratifying the Convention. It noted, however, that pursuant to section L.187 of the Labour Code, the minimum age for the admission of children to employment in enterprises, even as apprentices, is *14 years*, except with a written waiver issued by the Minister of Labour. The Committee also noted that section D.189-23 of Decree No. 96-178/P-RM of 13 June 1996 issued under the Labour Code lists the loads that *children between the ages of 14 and 17 years* may not carry, drag or push, depending on the type of transport equipment, the weight of the load and the sex of the child. In this respect, the Committee noted the Government's indication that it undertook to take the necessary measures to amend section L.187 of the Labour Code, which will "lead to the raising of the minimum age for admission to employment".

The Committee notes that the Government has not provided any information on this subject in its report. However, it observes that one of the principal aims of the PANETEM is to reinforce the respective legal framework and regulations in relation to combating child labour. In this context, it is envisaged to organize a national workshop for the revision of the Labour Code and its implementing texts with a view to harmonizing them with the legislative provisions for the protection of children. **Expressing the firm hope that the relevant provisions of the Labour Code and of Decree No. 96-178/P-RM of 13 June 1996 will be brought into harmony with the Convention so as to prohibit work by children under 15 years of age, the Committee requests the Government to take measures with a view to finalizing this revision in the very near future. It requests the Government to provide information on the progress achieved in this respect.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee noted previously that Decree No. 314/PGRM of 26 November 1981 regulates school attendance and that the age of completion of compulsory schooling in Mali is 15 years. It noted the information provided by the Government according to which the implementation of phase II of the Sectoral Investment Programme for the Education Sector (PISE) would increase the number of classes and teachers in the poorest regions and improve the access to schooling for thousands of children, particularly in rural areas. The Committee also noted that Mali is one of 11 countries involved in the implementation of the ILO-IPEC project "Tackle child labour through education in 11 countries" (the TACKLE project), the overall objective of which is to contribute to the reduction of poverty in the least developed countries by providing equitable access to primary education and the development of knowledge amongst the most underprivileged members of society. Moreover, an integrated framework to cover the educational needs of the most vulnerable categories of children was being formulated with a view to the integration of these needs into phase III of the PISE. However, the Committee noted that, according to the Education for All Global Monitoring Report of 2008, published by UNESCO under the title *Education for All by 2015: Will we make it?*, although there has been substantial progress in the field of education, Mali is still far from achieving the objective of universal primary education by 2015, and will probably not achieve gender parity by 2015, or 2025. The Committee also noted the low school enrolment rate of children between 13 and 15 years of age, which shows that a



number of children drop out of school before reaching the minimum age for admission to employment and that they enter the labour market.

The Committee notes that the TACKLE project has been extended up to 2013 and that its objective is to strengthen links between educational policies and measures to combat child labour with a view to giving vulnerable children and victims of child labour the opportunity to benefit from training and education. It also notes the Government's indications that the third phase of PISE (PISE III) takes into account children with special educational needs. The Committee observes that, according to the table of data provided by the Government, the net school attendance rate in primary school rose from 56.6 per cent in 2005–06 to 60.9 per cent in 2007–08 and to 62.7 per cent in 2008–09. In secondary education, these rates are 23.5 per cent, 28.8 per cent and 30.7 per cent, respectively.

The Committee takes due note of the measures adopted by the Government in relation to education. However, it notes that the school attendance rates for primary education remain fairly low and that the low rates of school attendance in secondary education, compared with primary education, show that a significant number of children drop out of school after primary school. **Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee strongly encourages the Government to pursue its efforts to improve the functioning of the education system in the country, particularly by increasing school attendance rates. In this respect, it requests the Government to provide information on the progress achieved, particularly though the implementation of the TACKLE project and of PISE III, and the results obtained.**

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee noted previously that certain provisions of Decree No. 96-178/P-RM of 13 June 1996 allow children to be employed in hazardous types of work from the age of 16 years. It noted the Government's indication that the authorization of the labour inspector, which is required to employ young persons between 16 and 18 years of age, is a guarantee that these types of hazardous work are performed under healthy, safe and moral conditions. The Government indicated that section D.189-33 of Decree No. 96-178/P-RM establishes the requirement to ascertain that young persons between the ages of 16 and 18 years engaged in hazardous types of work have received adequate specific instruction or vocational training in the relevant branch of activity, in accordance with *Article 3(3)* of the Convention. However, the Committee noted that section D.189-33, which refers to the declaration that the employer has to make to the Employment Office for the recruitment of a child, does not make any reference to the instruction or vocational training that has to be followed by a young person over 16 years of age to be able to perform hazardous types of work. **Noting the absence of information in the Government's report on this subject, the Committee once again urges the Government to take measures to ensure compliance with the conditions set out in Article 3(3) of the Convention. It requests the Government to provide information in its next report on any developments in this respect.**

*Article 7. Light work.* In its previous comments, the Committee noted that section 189-35 of Decree No. 96-178/P-RM of 13 June 1996 allows exceptions from the minimum age for admission to employment in the case of boys and girls of at least 12 years of age for domestic work and light work of a seasonal nature. It noted the Government's indication that it undertook to raise the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years. It also noted that a draft order was being prepared to determine light work activities and the conditions for their performance.

The Committee notes that the Government has not provided any further information in its report on this subject. **The Committee urges the Government to take the necessary measures to harmonize the national legislation with the Convention and to regulate the employment of children on light work from the age of 13 years. To this end, it once again hopes that the order respecting light work will be formulated and adopted in the near future.**

**The Committee also urges the Government to renew its efforts and to take the necessary measures to ensure that the revision of the legislation envisaged in the context of the PANETEM does not fail to take into account the Committee's detailed comments on the divergences existing between the national legislation and the Convention, and that amendments will be made in this respect.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children.* In its previous comments, the Committee noted that, although the Government had taken several measures to combat the sale and trafficking of children for the exploitation of their labour, the trafficking of children still constituted a problem in practice, even though it is prohibited by section 244 of the Penal Code and section 63 of the Child Protection Code. It noted that, in the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 of 3 April 2008, the International Federation for Human Rights (FIDH) indicated that, even though no statistics are available, Mali is a transit country for the trafficking of women and children, and it therefore recommended that the Malian authorities strictly apply sections 240 et seq. of the Penal Code penalizing the trafficking of children, and that it improve the assistance provided to children who have been victims of trafficking (A/HRC/WG.6/2/MLI/3, paragraphs 13–14). The Committee requested the Government to provide information on the effect given in practice to the provisions respecting the sale and trafficking of children for the exploitation of their labour.

The Committee notes with regret that the Government has not provided any information on this matter in its report. **The Committee therefore urges the Government to take immediate measures to ensure in practice the protection of children under 18 years of age against sale and trafficking and to ensure that thorough investigations and robust prosecutions of offenders are carried out, and that effective and sufficiently dissuasive penalties are imposed. It once again requests the Government to provide information on the effect given in practice to the provisions respecting the sale and trafficking of children for the exploitation of their labour through the provision of statistics on the number of convictions and the penal sanctions imposed.**

*2. Forced or compulsory labour. Begging.* In its previous comments, the Committee noted that, according to the 2006 UNICEF report, talibés children originating from neighbouring countries, including Mali, are found on the streets of Dakar, who have been brought to the city by Koranic teachers (marabouts). These children are kept in conditions of servitude and are obliged to beg daily. The Committee also noted that the 2006 UNICEF report refers to the involvement of marabouts in the trafficking of children for the exploitation of young talibé workers from Burkina Faso in the rice fields of Mali. The Committee noted that the Committee on the Rights of the Child, in its concluding observations of May 2007, expressed concern at the vulnerability of

children living in the streets or who are engaged in begging, particularly to all forms of violence, sexual abuse and exploitation, as well as economic exploitation (CRC/C/MLI/CO/2, paragraph 62). The Committee noted that section 62 of the Child Protection Code defines begging as a sole or main activity of a dehumanizing nature and an obstacle to the rights of the child. It further noted that section 183 of the Penal Code provides that any person inciting a child to beg shall be liable to a sentence of imprisonment of from three months to one year. However, the Committee noted that, in the report of the Working Group on the Universal Periodic Review of Mali of 13 June 2008, the representative of Mali indicated that begging by children in Koranic schools is an infringement of the law (A/HRC/8/50, paragraph 55).

The Committee notes with regret the absence of information on this matter in the Government's report. The Committee once again observes that, although the legislation is in conformity with the Convention on this point, the phenomenon of child talibés remains a cause for concern in practice. The Committee once again expresses serious concern at the use of these children for purely economic purposes. The Committee once again reminds the Government that, under the terms of Article 1 of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency and, in accordance with Article 7(1) of the Convention, it shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive sanctions. **The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of marabouts who make use of children under 18 years of age for purely economic purposes are carried out and that sufficiently effective and dissuasive sanctions are imposed upon them. In this respect, the Committee requests the Government to take the necessary measures to reinforce the capacities of the law enforcement agencies. It also requests the Government to take effective and time-bound measures to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and to identify child talibés who are compelled to beg and remove them from these situations, while ensuring their rehabilitation and social integration.**

*Clause (b). Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee noted that section 229 of the Penal Code, under which inciting a girl or a woman, even with her consent, to debauchery or forcing her to engage in prostitution are punishable offences, applies only to female children. The Committee noted the Government's indication that it undertook to examine the question of bringing its legislation into conformity with the Convention and protecting boys from sexual exploitation, and particularly prostitution. The Government indicated that the measures taken in this respect consist of the adoption of Act No. 01-081 of 24 August 2001 concerning crimes related to minors and the appointment of magistrates to hear cases involving minors (Act No. 01-081). The Committee observed that not only do these provisions fail to prohibit the use, procuring or offering of a child for prostitution, but they also appear to punish the children concerned, making them criminally liable for their involvement in prostitution or illicit activities. The Committee observed that children who are used, procured or offered for prostitution are consequently not treated as victims and receive neither support nor protection.

The Committee notes with regret that the Government has not provided any information on this matter in its report. It once again reminds the Government that, under the terms of Article 3(b) of the Convention, the use, procuring or offering of a child under 18 years of age for prostitution is considered to be one of the worst forms of child labour and that, by virtue of Article 1 of the Convention, immediate and effective measures have to be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee urges the Government to take immediate measures to ensure that the national legislation prohibits the use, procuring or offering of boys under 18 years of age for prostitution.**

*Clause (c). Use, procuring or offering of a child for illicit activities.* The Committee noted previously that Act No. 1986/18 on the punishment of offences involving poisonous substances and narcotics prohibits the cultivation, production, offering and sale of drugs, but not the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Government indicated that the measures taken in this respect consisted of the adoption of Act No. 01-081. However, the Committee observed that these provisions do not prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

The Committee notes with regret that the Government has not provided any information on this matter in its report. It once again reminds the Government that, under the terms of Article 1 of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee, therefore, urges the Government to take immediate measures to ensure that the national legislation prohibits the use, procurement or offering of children under 18 years of age for illicit activities, in particular for the production, offering and sale of drugs. It requests the Government to provide information in its next report on any progress achieved in this respect.**

*Article 5. Monitoring mechanisms. 1. Monitoring committees.* In its previous comments, the Committee noted that local monitoring committees (CLV) to combat child labour had been established in the circles of Kangala, Bougouni, Kolondiéba and Koutiala, that 344 monitoring committees are now operational in Mali and that their principal role was to identify potential victims of child trafficking, and to indicate cases in which children are the victims of trafficking and collect and disseminate data on the trafficking of children. **Noting the absence of information on this subject in the Government's report, the Committee once again requests the Government to provide information on the number of children who are prevented from becoming victims of trafficking or are removed from trafficking for labour exploitation as a result of the activities of monitoring committees.**

*2. National Committee to follow-up programmes to combat the trafficking of children.* The Committee noted previously the Government's indications that the National Committee to follow-up programmes to combat the trafficking of children in Mali (CNS) is responsible for evaluating the action taken in the context of the implementation of programmes to combat the trafficking of children, for following the implementation of cooperation agreements signed by Mali to combat the trafficking of children and for learning from the experience acquired in this field in taking responsibility for child victims of trafficking. However, the Government indicated that, since it was established in 2006, the CNS was not operational, thereby creating a gap in the coordination of action to combat the trafficking of children in Mali. To overcome this problem, three meetings had been planned between September and November 2009, during which the programme and action of the CNS were to be determined and the annual work plan for 2010 adopted.

The Committee notes that the Government has not provided any information on this subject in its report. **The Committee once again requests the Government to provide information on the activities carried out by the CNS and their impact on the elimination of the trafficking of children for the exploitation of their labour.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assistance for their removal from these worst forms of child labour. Sale and trafficking of*

children. In its previous comments, the Committee noted that, in the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 of 3 April 2008, the FIDH indicated that there are no institutional facilities available in Mali to shelter, offer guidance to or assist young women who have been the victims of trafficking or sexual exploitation (A/HRC/WG.6/2/MLI/3, paragraphs 13–14). It therefore recommended the authorities of Mali to set up care and guidance facilities and to provide assistance for the return of girls who are victims of trafficking.

The Committee notes the Government's indication that one of the strategic focuses of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM), adopted in 2010, is the implementation of direct action to combat the worst forms of child labour, including trafficking. **The Committee requests the Government to provide information on the measures adopted within the framework of the PANETEM project to prevent children under 18 years of age from becoming victims of sale or trafficking and to remove child victims from this worst form of child labour. It also once again requests the Government to envisage the establishment of care and guidance facilities and the provision of assistance for the return of child victims of trafficking, as recommended by the FIDH, with a view to ensuring their rehabilitation and social integration. The Committee once again requests the Government to provide information on any progress achieved in this regard.**

**Article 8. Regional cooperation.** In its previous comments, the Committee noted that the Government had signed bilateral cooperation agreements on the cross-border trafficking of children with Burkina Faso, Côte d'Ivoire, Guinea and Senegal. It also noted that, in addition to the Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, signed in July 2005, Mali had also signed the Abuja Multilateral Cooperation Agreement in 2006. It further noted that, in the context of the ILO-IPEC project to combat the trafficking of children, it was planned to reinforce the application of the bilateral and multilateral treaties signed by Mali. However, the Government indicated that, although the countries which signed agreements with Mali met periodically, they were more dynamic in their activities within the national territory than in terms of mutual international assistance. Indeed, the Committee observed that, in the Report of the Working Group on the Universal Periodic Review of Mali of 13 June 2008, the representative of Mali noted that, with regard to trafficking in children, the main difficulties stemmed from the cross-border nature of the phenomenon (A/HRC/8/50, paragraph 54).

The Committee notes the Government's indication that the National Cell to Combat Child Labour (CNLTE) represented the Ministry of Labour at the follow-up meetings to the Cooperation Agreement to Combat Trans-border Child Trafficking between Mali and Burkina Faso, held in Ouagadougou in March 2009, as well as the meeting between Mali and Guinea, held in Bamako in September 2010. However, it observes that the Government has not provided any information on the number of child victims of trafficking for sexual exploitation or for labour who have been protected through the implementation of the multilateral agreements signed by Mali, or on the arrests that have been made as a result of the concerted action of the national border police. **In view of the importance of trans-border trafficking in the country, the Committee urges the Government to take practical and effective measures for the implementation of the multilateral agreements signed in 2005 and 2006, particularly through the establishment of a system for the exchange of information to facilitate the discovery of child trafficking networks and the arrest of persons working in these networks. It also requests the Government to provide information on the outcome of the follow-up meetings held in Ouagadougou in 2009 and Bamako in 2010.**

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

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

## Mauritania

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

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

The Committee takes note of the communication from the General Confederation of Workers of Mauritania (CGTM) dated 22 August 2011, and of the Government's report.

**Article 1 and Part V of the Convention. National policy and application of the Convention in practice.** In its previous comments, the Committee had 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 had noted that, according to the study undertaken by the Government in 2004 in collaboration with UNICEF, entitled "Child labour in Mauritania", around 90,000 children under 14 years of age worked in the country, signifying an increase of around one third over four years. The study showed that poverty was responsible for child labour.

The Committee notes the allegations of the CGTM that, despite this worrying situation, the Government is not conducting any coherent and concerted policy to redress the situation. There is a department specifically dealing with children's matters, but none of the programmes developed in this department tackle the problem of child labour. Furthermore, the trade union organizations are not involved in these programmes.

The Committee expresses its deep concern at the large number of young children working out of personal necessity in Mauritania. **The Committee urges the Government to take short or medium-term measures to bring about a gradual improvement in this situation, for instance by adopting a national policy aimed at abolishing child labour once and for all, in cooperation with the employers' and workers' associations concerned, and to provide information in this respect. The Committee also asks the Government to provide information on the way in which the Convention is applied in practice, by providing, for example, statistical data disaggregated by sex and age group on the nature, extent and trends of child labour and the employment of young persons working below the minimum age specified by the Government at the time of ratification, as well as extracts from the reports of the inspection services.**

**Article 2(3). Compulsory schooling.** The Committee had previously noted the information provided by the Government to the effect that one of the methods to ensure the abolition of child labour was the adoption of Act No. 2001-054 of 19 July 2001, making basic education compulsory for children of both sexes from 6 to 14 years of age, signifying a minimum duration of schooling of six years. It had also noted that the parents were henceforth required, subject to penalties, to send children aged between 6 and 14 years to school.



The Committee notes the allegations of the CGTM that thousands of school drop-outs contribute greatly to the phenomenon of child labour in Mauritania and that children are often forced to leave school because of pressure from their parents.

The Committee notes that, according to the Government, it is sparing no effort to improve the education system. In this respect the Government states that it is planning to organize a general education meeting (*états généraux de l'éducation*) in the near future. Furthermore, the Government indicates that the capacity of the labour inspections services has been strengthened and that they now have enough human resources to combat child labour effectively. A new labour inspectorate was also set up in 2010, which will help to cut child labour and help children enter economic and social life by providing training and apprenticeship programmes carried out in the formal and informal sectors.

While noting the efforts made by the Government, the Committee notes that, according to 2009 UNICEF statistics, 79 per cent of girls and 74 per cent of boys are in primary school, whereas only 15 per cent of girls and 17 per cent of boys are in secondary school. The Committee expresses once again its concern at the persistence of low school attendance rates, especially at the secondary school level. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee requests the Government to renew its efforts to improve the working of the education system, particularly by increasing the secondary school attendance rate, especially among girls. In this respect, it asks the Government to provide information on the outcome of the general education meeting, as well as on any improvements in the education system it might bring. It also requests the Government to provide information on the number of children working under the minimum age who have been identified by the labour inspection services and integrated into the school system or in apprenticeships or vocational training, on condition that the minimum age requirements are respected.***

*Article 3(3). Authorization to employ children in hazardous work as from the age of 16 years.* In its previous comments, the Committee had noted that section 1 of Order No. 239 of 17 September 1954 (Order No. 239), as amended by Order No. 10.300 of 2 June 1965 respecting child labour (the Child Labour Order), unequivocally provides that "it is prohibited to employ children of either sex under 18 years of age on work that exceeds their strength, involves risks of danger or which, by its nature or the conditions in which it is carried out, is likely to harm their morals". The Committee had nevertheless pointed out that this provision had established the general prohibition of employing young persons under 18 years of age on hazardous types of work, whereas other provisions, such as sections 15, 21, 24, 25, 26, 27 and 32 of Order No. 239 and section 1 of Order No. R-030 of 26 May 1992 (R-030), set forth exceptions to this prohibition for young persons between 16 and 18 years of age. The Committee had requested the Government to provide information on the measures taken to ensure that the performance of hazardous types of work by young persons aged between 16 and 18 was only permitted under strict conditions of protection and prior instruction in conformity with the provisions of *Article 3(3)* of the Convention.

The Committee notes the allegation of the CGTM that children are exploited in dangerous work in large cities, as apprentices, in the bus transport sector, as deliverers of large amounts of goods and as garage workers.

The Committee notes that, according to the Government, labour inspectors and supervisors ensure strict compliance of the provisions of the Orders in question. The Government also states that, if the need exists, measures are taken to guarantee that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized if their health, safety and morals are fully protected and if they have received adequate specific instruction or vocational training in the relevant branch of activity. While taking account of the Government's information, the Committee notes that the national legislation still does not stipulate that the two conditions provided for under *Article 3(3)* of the Convention are a prerequisite for allowing young people aged 16 years and over to perform hazardous work, despite the fact that there seems to be a problem in practice in this respect. ***The Committee therefore requests the Government to take the necessary measures to ensure that Orders Nos 239 and R-030 are amended so as to provide that hazardous types of work by young persons aged 16 to 18 years is only authorized in accordance with the provisions of Article 3(3) of the Convention.***

*Article 7(3). Determination of light work.* In its previous comments, the Committee noted that, under section 154 of the Labour Code regulating the employment of children between 12 and 14 years of age in light work, no child over 12 but under 14 years of age may be employed without the express permission of the Minister of Labour, and only under certain conditions restricting the hours of this employment. The Committee had reminded the Government that *Article 7(3)* provided that, in addition to the hours and conditions of work, the competent authority should determine the activities in which light employment might be permitted for children between 12 and 14 years of age. The Committee had noted the Government's indication that it would take the necessary measures to determine the activities in which light work or employment by children might be authorized.

The Committee notes the Government's indication that a copy of the provisions determining the activities in which light employment or work may be permitted for children will be sent to the Office as soon as they have been adopted. ***Observing that a significant number of children work under the minimum age for admission to employment in Mauritania, the Committee urges the Government to take the necessary measures to bring national legislation into line with the Convention and to regulate the employment of children engaged in light work from the age of 12 years. It expresses the firm hope that light work will be determined by the national legislation in the very near future.***

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

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

The Committee notes the communication of 22 August 2011 from the General Confederation of Workers of Mauritania (CGTM), and the Government's report.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery or practices similar to slavery. 1. Sale and trafficking of children.* In its previous comments, the Committee noted the adoption of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons. The Committee also noted that, according to a UNICEF report on trafficking in persons with particular reference to women and children in West and Central Africa, in the streets of Dakar there are boy *talibés* from neighbouring countries, including Mauritania, who have been brought to the city by their Koranique masters (*marabouts*). According to the same report, there is also child trafficking inside Mauritania in which *talibé* children from rural

areas beg on the streets of Nouakchott. The Committee observed that Mauritania appeared to be a country of origin for the trafficking of children for the purpose of exploiting their labour.

The Committee notes that in its concluding observations of 17 June 2009, the Committee on the Rights of the Child (CRC) expressed concern at reports of children being sold to work as jockeys in the Middle East (CRC/C/MRT/CO/2, paragraph 77). The CRC was also concerned to note that Mauritania's report contained no information on the extent of the trafficking or the measures taken to prevent such crimes. The Committee notes with regret the lack of information on this subject in the Government's report. **The Committee once again expresses concern at the situation of child victims of trafficking, and requests the Government to step up its efforts to ensure that, in practice, children under 18 years of age are protected against the sale and trafficking of children for the purposes of sexual exploitation or exploitation of their labour. The Committee again requests the Government to provide information on the application of Act No. 025/2003 of 17 July 2003 to suppress the trafficking of persons in practice, including statistics on the number and nature of offences reported, investigations held, prosecutions, convictions and penal sanctions applied.**

2. *Forced or compulsory labour. Begging.* In its previous comments the Committee noted that section 42(1) of Ordinance No. 2005-015 on the protection of children under penal law provides that the act of causing a child to beg or directly employing a child to beg is punishable by imprisonment of one to six months or a fine of 100,000 ouguiyas. The Committee nonetheless noted that a UNICEF study entitled "Child Labour in Mauritania" indicated that, according to a study of July 2003 by the National Children's Council (CNE), observations in the field suggested that street children tended to be beggars who give a daily account of their begging activities to their *marabouts*.

The Committee notes that, according to the CGTM, teachers in religious schools force children onto the streets to beg, exposing them to crime and the danger of assault on their integrity.

The Committee notes that in its concluding observations of 17 June 2009, the CRC expressed concern over the lack of protection for *talibé* children, who are forced by *marabouts* to beg in slavery-like conditions (CRC/C/MRT/CO/2, paragraph 73). The Committee also notes that in her report of 24 August 2010 to the Human Rights Council, the Special Rapporteur on contemporary forms of slavery stated that although she had been informed that the Government was working with religious leaders to put an end to this practice, many did not consider forced begging to be a form of slavery (A/HRC/15/20/Add.2, paragraph 46). The Minister of Families, Children and Social Affairs nonetheless informed the Special Rapporteur of the collaboration between her and the Ministry of the Interior to address the issue of street children, some of whom are *talibés* in Nouakchott. There appears to be a specialized police force which is trained to work with children, and the services of the Minister of the Interior monitor *madrassas* to ensure that children are not encouraged to go begging for their religious teachers (paragraph 75).

The Committee nevertheless notes with regret that the Government provides no information on this matter in its report. It again notes with deep concern that children are being used for *purely economic purposes*, in other words children are being exploited for their labour by certain *marabouts*. The Committee again points out to the Government that, according to *Article 1* of the Convention, immediate and effective measures must be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour and that, in conformity with *Article 7(1)* of the Convention, the Government must take all necessary steps to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of effective and sufficiently dissuasive sanctions. **The Committee urges the Government to take the necessary measures to ensure that thorough investigations are carried out and completed and that marabouts who use children under 18 years of age for purely economic purposes are effectively prosecuted and punished by effective and sufficiently dissuasive penalties. The Committee requests the Government to provide information on the number of talibé children identified by the special police unit and the services of the Minister of the Interior, and requests it to take the necessary steps to build the capacity of law enforcement bodies.**

*Article 7(2). Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour. Forced or compulsory labour. Begging.* In its previous comments the Committee noted that, according to information in the second periodic report submitted by Mauritania in July 2008 to the CRC (CRC/C/MRT/2, paragraph 88), a centre for the protection and social integration of children in difficult situations was established which targets street children, children forced to beg or children subject to economic exploitation.

The Committee notes that in her report, the Special Rapporteur on contemporary forms of slavery indicates that the Ministry of the Interior informed her that *talibé* children are offered education or vocational training and provided with shelter (A/HRC/15/20/Add.2, paragraph 75). The Committee nonetheless notes with regret that the Government provides no information on this matter in its report. It also observes that in its concluding observations of 17 June 2009, the CRC likewise expressed concern at the lack of information on the measures adopted by Mauritania to identify and protect children working or living in the street (CRC/C/MRT/CO/2, paragraph 73). **The Committee urges the Government to indicate the number of child victims of begging who have been removed from the street and rehabilitated and integrated into society, particularly by the centre for the protection and social integration of children in difficult situations or by the services of the Ministry of the Interior. The Committee also requests the Government to indicate any other effective time-bound measures taken to prevent children under 18 years of age from falling victim to forced or compulsory labour, such as begging, and to identify talibé children who are forced to beg, and to remove them from such situations, ensuring their rehabilitation and social integration.**

*Clause (e). Special situation of girls. Domestic employees.* In its previous comments the Committee noted the Government's statement that most girls engaged in domestic work received little schooling or no schooling at all. Furthermore, according to the results of a survey on girls in Mauritania which was cited in a UNICEF study entitled "Child Labour in Mauritania", girls could be recruited as from 8 years of age, and 32 per cent of the girls questioned during the survey were under 12 years of age. The Committee noted that according to the second periodic report submitted by Mauritania to the CRC in July 2008 (CRC/C/MRT/2, paragraphs 247 and 255), two surveys had been under way for some time on child labour (including girls in domestic service) in Kiffa and Nouakchott "to determine the possibilities of educating and training these young workers and securing their social reintegration". It noted that the "El Mina Centre for Child Protection" in Nouakchott has been carrying out various activities since 2001 (training, literacy, hygiene, etc.) for girl domestic workers. A basic education pilot programme was also carried out in Dar Naim and a unit for "girls in difficult situations" was established.

The Committee notes that according to the CGTM, domestic work amounts to a daily workload of heavy chores for children, who are subjected to abuse from a very young age. Furthermore, the International Trade Union Confederation (ITUC) indicated in a report it submitted to the General Council of the World Trade Organization for the trade policy reviews of Guinea and Mauritania on 28 and 30 September 2011, many girls are forced into unpaid domestic service and are particularly vulnerable

to exploitation. The Committee also notes that in its concluding observations of 17 June 2009, the CRC expressed particular concern at the situation of girls who work as domestic servants in exploitative slavery-like conditions (CRC/C/MRT/CO/2, paragraph 75).

The Committee notes with regret that the Government provides no information on this matter in its report. It again points out that small girls, particularly those employed as domestic servants, are often the victims of exploitation, which can take many different forms, and that it is difficult to supervise their conditions of employment in view of the clandestine nature of their work. ***It therefore urges the Government to take measures to ensure that children who are victims of exploitation in domestic work, particularly girls, are removed from this worst form of child labour and are rehabilitated and integrated in society, in particular through the activities of the El Mina Centre for the Protection of Children and the Dar Naim pilot project. The Committee requests the Government to provide information on progress made in this regard. Lastly, it urges the Government to provide information on the development and conclusions of the two surveys under way in the country.***

*Part V of the report form. Application of the Convention in practice.* The Committee notes that according to the report of 24 August 2010 of the Special Rapporteur on contemporary forms of slavery, children under 13 years of age work in all sectors of activity in Mauritania. In rural areas, enslaved children usually work taking care of the livestock, cultivating subsistence crops and performing domestic work and other significant labour in support of their masters' activities. Children live in slavery-like conditions in urban areas and are often found working in domestic households (A/HRC/15/20/Add.2, paragraphs 42 to 45). The Committee notes, however, that in its concluding observations of 17 June 2009, the CRC expressed particular concern at the lack of comprehensive documentation on the incidence of child labour and effective measures to ensure that children are protected from economic exploitation and the worst forms of child labour and that they can exercise their right to education (CRC/C/MRT/CO/2, paragraph 75). ***The Committee expresses concern at the situation of children engaged in hazardous work and in slavery-like conditions, and therefore urges the Government to take immediate and effective measures to ensure protection in practice for these children against this worst form of child labour. It also requests the Government to provide statistics of the nature, extent and tendencies of worst forms of child labour, particularly as concerns the sale and trafficking of children begging in the streets. It also requests the Government to provide information on the number and nature of the offences reported, investigations and prosecutions, and convictions and the penal sanctions imposed. To the extent possible, all information provided should be disaggregated by sex and age.***

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

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

## Mexico

### ***Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1956)***

*Article 2(1) of the Convention. Period during which night work is prohibited.* In its previous comments, the Committee repeatedly pointed out that, by defining night work as work performed between 8 p.m. and 6 a.m., i.e. a period of ten hours, section 60 of the Federal Labour Act fails to give effect to *Article 2(1)* of the Convention, which defines "night" as a period of at least 12 consecutive hours.

The Committee notes the Government's indications that, although national legislation does not contain a prohibition for young persons under 18 years of age to work during the night for 12 consecutive hours, the Government has taken measures to regulate night work of minors and sanction any contravention. The Committee notes the Government's reference in this regard to the Federal Regulation on Safety, Health and the Working Environment, of 21 January 1997. Yet the Committee observes that the Regulation in question does not contain any provision on the night work of minors. The Committee furthermore notes that section 175(2) of the Federal Labour Act prohibits night work for young persons under 18 years of age in industrial undertakings and section 995 provides for aggravated sanctions for the non-respect of any of the provisions relating to the protection of minors. As regards application in practice, the Committee notes the Government's indications that the Federal Attorney's office for Labour Defense has not received any cases relating to the subject matter of the Convention. It also notes that the labour inspectorate between 2008 and May 2012 carried out more than 218,000 inspections of workplaces likely to be concerned by the application of the federal labour legislation governing night work and that they found no minors working at night in these enterprises. The Committee also notes the extracts of collective agreements provided by the Government which contain provisions on the night work of women. Yet, like section 60 of the Federal Labour Act, they establish that "night" is the interval between 8 p.m. and 6 a.m., establishing a period of ten consecutive hours during which work by minors is prohibited.

The Committee points out again that section 60 of the Federal Labour Act is not in conformity with *Article 2* of the Convention. In this regard, the Committee reminds the Government that *Article 2* of the Convention lays down that night signifies a period of 12 consecutive hours (*paragraph 1*). For young persons under 16 years of age this period shall include the interval between 10 p.m. and 6 a.m. of the following day (*paragraph 2*), and for young persons between the ages of 16 and 18 years, the interval of at least seven consecutive hours falling between 10 p.m. and 7 a.m. (*paragraph 3*). The Committee notes with ***deep regret*** that, despite the request which it has repeatedly made since 1972, no measures have been taken to give effect to the Convention. ***The Committee therefore again urges the Government to finally take the necessary measures to amend the Federal Labour Act in order to ensure conformity with Article 2 of the Convention.***



## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children and penalties.* In its previous comments, the Committee noted that the National Centre for Planning, Analysis and Information to Combat Crime (CENAPI) attached to the Office of the Attorney General of the Republic had developed the National System to Combat Trafficking in Persons (SINTRA) with a view to collecting information on human trafficking and other related offences. The Committee also 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. Yet, the Committee expressed concern at the small number of convictions secured for trafficking of children under 18 years of age for their commercial sexual exploitation in view of the extent of the practice in the country and at the allegations of complicity in trafficking on the part of public officials.

The Committee notes with *interest* the adoption 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 on 14 June 2012, which abrogates the Act of 27 November 2007 concerning the prevention and punishment of trafficking in persons. It notes that the Law criminalizes not only trafficking in children for sexual and labour exploitation, but also the use of children for the production of pornography, begging and in illicit activities. The Committee furthermore notes that section 42(VII) provides that sanctions are increased up to 50 per cent in case the victim is under 18 years of age. The Law also establishes a comprehensive legal and institutional framework to fight against these crimes, which determines the powers, duties and coordination of the various actors involved in the prevention and punishment of such offences and the protection of victims, with specialized care and assistance to victims under 18 years of age.

The Committee notes the statistical information provided by the Government in its report as regards the practical application of the Act concerning the prevention and punishment of trafficking in persons. Between June 2011 and July 2012, only three offences of trafficking of children under 18 years of age were reported in the department of Veracruz. Yet the Committee observes that the information provided by the Government does not specify the number of convictions, how many of these cases concerned the complicity of officials who are complicit in trafficking of minors and the types of sanctions applied.

*The Committee expresses the firm hope that the implementation 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 on 14 June 2012 will enable the Government to fight more effectively against the sale and trafficking of children and young persons under 18 years. In the context of the implementation of the new Law, the Committee urges the Government to intensify its efforts to ensure the elimination in practice of this worst form of child labour by ensuring that thorough investigations and robust prosecutions are carried out, including of state officials suspected of complicity in such acts, and that sufficiently effective and dissuasive penalties are applied in practice. The Committee requests the Government to provide detailed information in its next report on the application of the new Law in practice by the federal states including the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.*

*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 of 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. The Committee also noted the concluding observations of the Committee on the Rights of the Child of 7 April 2011 on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which expressed concern at the high level of child sex tourism, especially in tourist areas (CRC/C/OPSC/MEX/CO/1, paragraph 27).

The Committee notes from the statistics provided by the Government in its report that between June 2011 and July 2012, FEVIMTRA has initiated a total of 14 investigations into cases of pornography involving persons under 18 years of age, which are currently pending. The Committee also notes that, according to the federal database compiling information on the number and nature of offences relating to prostitution, sexual exploitation and sex tourism involving persons under 18 years of age, between June 2011 and July 2012 a total of 11 offences relating to the use of a child for pornography were reported in the states of Chiapas and Chihuahua. The Committee further notes that the Office of the Attorney General of the Republic reports that on 21 February 2012 a conviction was handed down for child pornography imposing a sanction of seven years' imprisonment. *The Committee requests the Government to continue to provide information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed for violations involving child prostitution and child pornography.*

*Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work.* In its previous comments the Committee noted that certain provisions of the national legislation set the age of 18 years for admission to certain types of work which, by their nature and the circumstances in which they are carried out, are likely to harm the health, safety or morals of young persons. However, it also noted that, with the exception of those provisions, the general age established for admission to hazardous and unhealthy kinds of work is 16 years. The Committee also noted that the Government in collaboration with ILO-IPEC has drawn up a list of hazardous and unhealthy types of work prohibited for children with a view to adoption as national legislation.

The Committee notes that on 14 November 2012, the Senate and the Congress approved the Decree to reform the Federal Labour Law entitled “Initiative to reform, add and repeal various provisions of the Federal Labour Law”, which includes a detailed list of hazardous child labour for children in sections 175 and 176. The Committee notes that the entry into force of the Decree is still pending and dependent on the signature by the President and the publication of the Decree in the *Official Bulletin*. While welcoming the list, the Committee notes with **concern** that only a small number of activities (6) listed in section 176(b) are prohibited for persons under 18 years of age, whereas section 176(a) allows the engagement of children in a series of hazardous activities (27) as of 16 years of age. Hence, with the exception of section 176(b), the general minimum age established for admission to hazardous and unhealthy kinds of work remains unchanged at 16 years. In this regard, the Committee previously noted that no provisions exist in the Mexican legislation which authorize the employment or work of young persons as from the age of 16 under strict conditions of protection and prior training, pursuant to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). The Committee notes that the labour law reform process has not addressed this matter and no such provisions are part of the abovementioned Decree.

In this context, the Committee also points to the results of the “Child labour” module published as part of the 2011 national survey of employment and occupation which reports that in 2011 a total of 28 per cent of all working children and young persons between 5 and 17 years of age were exposed to risks in their work. This percentage is equivalent to 850,000 children, of whom, 79.3 per cent are boys and 20.7 per cent are girls. These risks include exposure to dust, fumes or fire, excessive noise, moisture or extreme temperatures, dangerous tools, heavy machinery, excessive darkness, chemicals, explosives, and electric shock. The Committee notes that many of these risks correspond to the activities listed in section 176(a) of the abovementioned Decree, which are permitted for children as from the age of 16 years.

The Committee, therefore, once again observes that the general minimum age established by the Federal Labour Law, even after approval of the labour law reform process, for admission to hazardous and unhealthy kinds of work is 16 years (section 175(a)), in contravention of *Article 3(d)* of the Convention. The Committee reminds the Government that, under *Article 3(d)* of the Convention, work which, by its nature and the circumstances in which it is carried out, is likely to harm the health, safety and morals of children, 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 secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. It 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, as well as the consultation of employers’ and workers’ organizations.

The Committee notes with **concern** the large number of children between 16 and 18 years of age engaged in hazardous activities in practice. ***The Committee again urges the Government to take the necessary measures to bring its legislation in conformity with Article 1 of the Convention, read in conjunction with Article 3(d), so as to ensure that hazardous work is prohibited for children under 18 years. However, where such work is performed by young persons between 16 and 18 years, the Committee again urges the Government to take the necessary measures to ensure that 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 6. Programmes of action. Trafficking.* Further to its previous comments, the Committee notes that the Government has adopted a range of measures in the context of the 2011 National Programme for the prevention and suppression of trafficking. In collaboration with the United Nations Office on Drugs and Crime (UNODC), the Government is carrying out a diagnostic study on the national situation of trafficking in persons. In addition, the Committee notes the development of a number of protocols to align procedures for the investigation and prosecution of cases of trafficking, as well as on attention to victims, the development of mechanisms to alert populations vulnerable to trafficking in persons (in particular indigenous peoples and young persons), various information and awareness raising activities, as well as capacity building efforts undertaken for public officials engaged in the prevention and investigation of cases of trafficking in persons. ***The Committee requests the Government to continue to provide information on the measures taken in the context of the National Programme for the prevention and suppression of trafficking, in particular as regards 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.* In its previous comments, the Committee noted the detailed information on the measures carried out in the context of the National Plan of Action for preventing, combating and eliminating the sexual exploitation of children, in particular as regards awareness-raising activities and the care provided to victims of trafficking and commercial sexual exploitation in specialized centres.

The Committee notes that the Office of the Attorney General of the Republic, in collaboration with the Secretary of Tourism and other stakeholders, has developed a national code of conduct for the protection of children and young persons in the tourism sector, with a view to creating and strengthening the links with the judicial system as regards

trafficking in persons and to share indicators and vulnerability factors to identify possible victims of trafficking. The Committee furthermore notes the Government's indications that in September 2011, the Social Office for Care to Victims of Crime (PROVICTIMA) was created which provides the following types of services to victims of trafficking and sexual exploitation: medical assistance; specialized psychological care; legal advice; and social work services. PROVICTIMA also administers a highly secure centre to protect and provide integral care to victims of trafficking and extreme violence.

***The Committee urges the Government to continue to take measures to remove children from trafficking and commercial sexual exploitation and ensure their rehabilitation and social integration. It again requests the Government to provide information on the measures taken in this respect, including under the National Plan of Action for preventing, combating and eliminating the sexual exploitation of children, as well as on the results achieved in terms of the number of children removed from this worst forms of child labour and their subsequent rehabilitation and social integration.***

***Article 8. International cooperation.*** In its previous comments, the Committee noted that further to the conclusion of Memorandum of Understandings (MOUs) with several Central American countries, a large number of child protection officers had been trained with a view to the creation of a regional protection model and that a bi-national study on trafficking between El Salvador and Mexico was in progress. The Committee notes the Government's indications that in the context of the MOUs 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 informs that the bi-national study on trafficking between El Salvador and Mexico is not yet available. ***The Committee requests the Government to continue to provide information on the measures taken and the results achieved in the context of the MOUs signed with the Governments of Guatemala, Honduras, El Salvador and Nicaragua. It also requests the Government to provide a copy of the bi-national study on trafficking between El Salvador and Mexico when it is available.***

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

## Mongolia

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2002)***

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

***Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour.*** In its previous comments, the Committee noted that in 2002 the Government approved a National Programme of Action for the Development and Protection of Children for 2002–10 (NPA 2002–10). It noted that particular attention has been given to the issue of child labour in this document and that one of its objectives is to amend national legislation to ensure the protection of children. The Committee requested the Government to provide information on any developments regarding the review and possible amendments to the Labour Code and the Law on the Protection of the Rights of the Child in order to better address the problem of child labour. The Committee noted in the Government's report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the Labour Code has recently been amended. It also noted that the NPA 2002–10 is ongoing, as are a number of other projects and programmes, most of them dealing with the worst forms of child labour. ***The Committee requests the Government to supply a copy of the recently amended Labour Code. The Committee also requests the Government to continue providing information on the NPA 2002–10, or any other such programmes, aimed at ensuring the effective abolition of child labour.***

***Article 2(1). Scope of application.*** The Committee previously noted that the Labour Code, according to its section 4, covers relations governed by a labour contract, defined as a mutual agreement on work for pay between an employee and an employer (section 3(1)(3)). The Committee therefore noted that the Labour Code appeared to exclude work performed outside the framework of a labour contract and self-employment from its scope of application. In this regard, the Committee noted the Government's information that, according to the survey conducted by the Mongolian Employers' Federation in 2003, 54.3 per cent of employers involved in the survey had been employing children without a labour contract. In this regard, the Committee requested the Government to provide information on the manner in which protection is given to children carrying out an economic activity that is not covered by a labour contract, such as work on their own account.

The Committee noted the information in the Government's report that, following an audit by the ILO on labour inspection in Mongolia, the Parliament approved a review of the Labour Code and state policy on informal employment. The Committee noted that the Government plans to revise the Labour Code to extend its scope of application in 2010. The Committee also noted the Government's statement that child protection is still weak in the informal sector. The Committee further noted the information in the Human Rights and Freedoms in Mongolia Status Report, issued in 2007 by the National Human Rights Commission of Mongolia, that approximately 6,950 children were working in the informal economy in urban areas (page 50). ***The Committee requests the Government to take the necessary measures to ensure that, within the review of the Labour Code and the state policy on informal employment, protection is given to children carrying out work on their own account or in the informal economy. The Committee requests the Government to continue to provide information on developments in this regard.***

***Article 2(3). Age of completion of compulsory education.*** In its previous comments, the Committee noted that, according to section 109(2) of the Labour Code, a person aged 15 years may enter into a labour contract with the permission of parents or guardians. It noted however that, according to National Programme for the Prevention and Elimination of Child Labour in Mongolia (Phase II, ILO–IPEC Multi-bilateral Programme of Technical Cooperation of 9 April 2002, page 8), the new Law on Primary and Secondary Education was adopted on 3 May 2002. The Committee also noted that the Government indicated in its report to the Committee on the Rights of the Child (CRC) that "the Law on Education provides that a child shall be provided a compulsory basic education up to 17 years of age" (CRC/C/65/Add.32 of 15 November 2004, page 19). The Committee observed



that the minimum age of 15 years specified by the Government seems to be lower than the age of completion of compulsory schooling.

The Committee noted, in its concluding observations, that the CRC expressed concern “about some contradictory provisions of the domestic laws leaving children without adequate protection, e.g. the compulsory school age is 17, whereas the labour law allows children aged 14 and 15 years old to work 30 hours per week” (CRC/C/15/Add.264, 21 September 2005, paragraph 9). The Committee further noted in the Government’s report submitted under Convention No. 182, that the Law on Education was amended in December 2006, and noted the Government’s statement in its report to the CRC of 9 June 2009 that education is mandatory until the age of 16 (CRC/C/MNG/3-4, paragraph 280).

The Committee recalled that, pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 15 years) should not be lower than the age of completion of compulsory schooling. The Committee also considered that compulsory schooling is one of the most effective means of combating child labour. If the age of admission to employment and the age limit for compulsory education do not coincide, a number of problems may arise. For example, if the age of completion of compulsory education is higher than the minimum age for admission to work or employment, children who are required to attend school are at the same time legally competent to work and may be tempted to abandon their studies. *The Committee therefore requests the Government to indicate the legislative provisions contained in the Law on Primary and Secondary Education, in the Law on Education or in any other legislation, fixing the actual age of completion of compulsory education and to supply a copy of the same. Noting that the minimum age for admission to employment appears to be less than the age of completion of compulsory schooling, the Committee requests the Government to take the necessary measures to raise the minimum age for admission to employment in order to link it with the age of completion of compulsory schooling in conformity with Article 2(3) of the Convention.*

*Providing education for school drop-outs.* The Committee noted that, according to the National Programme for the Prevention and Elimination of Child Labour in Mongolia (Phase II, ILO-IPEC Multi-bilateral Programme of Technical Cooperation of 9 April 2002, page 9), since the mid-1990s, school enrolment has been gradually improving and the school drop-out rate has reversed.

The Committee noted in the Government’s report submitted under Convention No. 182 that the National Statistical Office with support from UNICEF carried out the “Random sampling research on groups with mixed indicators” in 2005–06. One finding of this research was that 90.2 per cent of children living in Ulaanbaatar are studying in secondary school versus only 76.1 per cent in the remote rural areas, mostly due to a high drop-out rate for children of herders, who need the assistance of their children in their family’s livestock herding activities. The CRC expressed similar findings (CRC/C/15/Add.264, 21 September 2005, paragraphs 51–52). The Committee noted that the Ministry of Education, Culture and Science, with financial support from UNICEF, is implementing the “Circular for alternative training of primary, basic and complete secondary education” (Circular). This Circular, as well as the newly amended Law on Education both make explicit provisions for providing working children and drop-out children with educational services, including informal education. *The Committee requests the Government to continue providing information on the impact of the Circular, and any other measures taken, on providing educational services to both working and drop-out children as well as in increasing school attendance rates, in particular in the remote areas. It also requests the Government to continue providing statistical information on school attendance and school drop-out rates, in particular in rural schools.*

*Article 7. Light work.* The Committee previously noted that, according to a national survey conducted by the National Statistical Office in 2000, quite a number of children under the specified minimum age for admission to employment are economically active in some way or another. The Committee recalled that *Article 7(1)* of the Convention provides that national laws or regulations may permit persons from the age of 13 to engage in light work, which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. The Committee also recalled that, according to *Article 7(3)* of the Convention, the competent authority shall determine what is light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. *Noting the absence of information in this regard, the Committee once again requests the Government to indicate the measures taken or envisaged in respect of provisions to determine light work activities and the conditions in which such employment or work could be undertaken by young persons of 13 years or more.*

*Article 8. Artistic performances.* The Committee previously noted that section 25(6) of the Law on the Protection of the Rights of the Child provides that individuals and officials using a child in press and commercial advertising without the consent of the child or his/her parents, guardians, caregivers and conducting profit-oriented activities illegally using the name of the child will face a penalty of 20,000–30,000 tugriks with confiscation of their income and profit. The Committee recalled that, according to *Article 8* of the Convention, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment under the general minimum age, for such purposes as participation in artistic performances. Permits so granted shall limit the number of hours during which, and prescribe the conditions in which, employment or work is allowed. It requested the Government to indicate whether in practice children under the age of 15 years participate in artistic performances and, if so, to provide information on provisions of the national legislation which determine conditions of such work. The Committee noted the information in the Government’s report that, pursuant to section 8.1 of the Law on the Protection of the Rights of the Child, a list of plays and performances which may adversely affect a child’s health shall be developed and approved by Governmental officials responsible for health issues. *The Committee requests the Government to provide a copy of this list, once approved.*

*Article 9(1). Penalties.* In its previous comments, the Committee noted that, according to section 141(1)(6) of the Labour Code, if an employer forces minors to do work prohibited to them, or to lift or carry loads exceeding the prescribed limits, or has required employees under 18 years of age to work in a workplace that adversely affects their health and mental development, or in abnormal working conditions, or compels them to work overtime or during public holidays or weekends, the state labour inspector shall impose a fine on that officer of 15,000–30,000 tugriks. It also noted that section 25(5) of the Law on the Protection of the Rights of the Child provides for penalties for engaging a child in hazardous work stating “individuals forcing the child to beg and officials engaging the child in a work harmful for his/her health will face a penalty of 10,000–20,000 tugriks”.

The Committee noted in the Government’s report, submitted under Convention No. 182, that the penalties for breach of provisions found in the Criminal Code (such as human trafficking in children, involvement in pornography, sexual exploitation, drug trafficking) and other laws relating to children’s rights are appropriate. However, the penalties imposed upon employers, parents and other representatives in connection with employment in hazardous work are weak. The Committee further noted the

Government's indication that the fine imposed upon someone employing minors in prohibited work is insufficiently small to deter employers from resorting to the labour exploitation of minors. The Government indicated that much still remains to be done in relation to updating the legislation by imposing penalties, by ordering injunctions and ameliorating the penalty mechanism imposed upon parents and family members who allow the employment of children in the worst forms of child labour. *The Committee encourages the Government to continue updating the legislation in this regard and requests it to provide information on any developments thereof. The Committee also requests the Government to take the necessary measures to ensure that a person found to be in breach of the provisions giving effect to the Convention, in particular those in respect of hazardous work, is prosecuted and that adequate penalties are imposed. It asks the Government to provide information on the types of violations detected, the number of persons prosecuted and the penalties imposed.*

*Article 9(3). Registers of employment.* In its previous comments, the Committee noted that the national legislation does not appear to contain provisions on the obligation of an employer to keep and make available the registers of persons under the age of 18 whom he/she employs. The Committee reminded the Government that, in accordance with *Article 9(3)* of the Convention, national laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer containing the names and ages or dates of birth, duly certified, wherever possible, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. *Noting the absence of information in the Government's report, the Committee once again requests the Government to indicate in which manner it ensures that employers shall keep and make available registers, which contain the names and ages or dates of birth, duly certified whenever possible, of persons under the age of 18 years employed or working for them.*

*Part V of the report form. Application of the Convention in practice.* The Committee noted in the Government's report submitted under Convention No. 182 that the National Statistics Office recently conducted the second National Child Labour Survey (2006–07) (NCL Survey). The Committee noted 621,500 children, of which 60.3 per cent were boys and 39.7 per cent girls, were covered in the NCL Survey and that at least 11.5 per cent worked at least one hour a week or were economically active. Though the survey has some shortcomings as it did not include homeless children, as well as those living in correctional labour colonies, orphanages and childcare institutions, it is nevertheless significant in creating the official and objective database. The prevalent sectors of work for children were: 84.6 per cent in agriculture; 5.1 per cent in services; 3.5 per cent in trade and industry; and 5.8 per cent in sweatshops. In relation to the employment relationship, the NCL Survey indicated that 93.1 per cent of working children work in household enterprises and are not paid, 9.2 per cent are self-employed and 1.7 per cent have a contractual relationship.

Another survey, conducted by the Mongolian Employers Federation in 2003, (Employers' Survey), reveals that labour standards in relation to children working in the formal sector are not always adhered to: 59.5 per cent of employers hiring children aged 14–18 years of age did not conclude any contracts and 29.2 per cent were employing the children on a wage or work performance contract. The main motives for not concluding a contract were not wanting to pay the social insurance premiums and other deductions (36 per cent) and the temporary nature of the employment (52 per cent). According to the reports submitted by employers and used in the Employers' Survey, 46 per cent of the children's conditions at the workplace were deemed "normal", 11.7 per cent were too hot, 21 per cent too dusty or with poor air circulation and 10.6 per cent were too noisy.

In addition, the Committee noted that the Population Training and Research Centre of the National University of Mongolia also carried out a survey which focused mostly on children aged 16–18 years of age working in the gold- and coal mining sectors in the Selenge and Tuv aimags (provinces). This survey indicates that most children started mining at an average age of 12, work an average of four hours per day in the winter, and an average of eight to nine and 10–11 continuous hours in the summer for children aged below 16 and 16–18, respectively. A total of 37.7 per cent of the children mining gold used mercury and 66.7 per cent of them work at home. Of these, 22.5 per cent have been involved in an accident in which 92.6 per cent have injured their legs, arms or their organs. Half of all children mining gold experience some form of health problem: 43.3 per cent suffer regularly from respiratory diseases, 41.7 per cent suffer from kidney and urinary disorders, 25 per cent suffer from orthopaedic illnesses and 23.3 per cent suffer from ear, nose and throat diseases.

Finally, the Committee noted that the report "Understanding children's work and youth employment outcomes in Mongolia", issued in June 2009 by the ILO, UNICEF and the World Bank (through the Understanding Children's Work Project), indicates that 13.2 per cent of children between the ages of 5 and 14 are engaged in economic activity and that 7.5 per cent of children between the ages 15 and 17 are engaged in hazardous work. The Committee also noted that, in its concluding observations, the CRC expressed concern "at the high rate of working children in Mongolia and the various kinds of negative consequences resulting from the exploitation of child labour, including the school drop outs and negative impacts on health caused by the harmful and hazardous work. The high number of child domestic and rural workers and children working in very harmful conditions in gold and coal mines give cause for serious concerns" (CRC/C/15/Add.264, 21 September 2005, paragraph 59). *While noting the efforts made by the Government to combat child labour, the Committee expresses serious concern at the large number of children working under the age of 15, as well as the significant number of children engaged in hazardous occupations, and therefore strongly encourages the Government to redouble its efforts to improve the situation, including through the allocation of additional resources for the implementation of measures aimed at combating child labour. The Committee also requests the Government to continue providing information on the situation of child labour in Mongolia and, in particular, to supply copies or extracts from official documents of inspection services. The Committee also asks the Government to provide information on the number and nature of the contraventions reported and penalties imposed.*

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

## Morocco

### Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

*Article 1 of the Convention. National policy.* In its previous comments, the Committee noted the adoption of a National Action Plan for Children (2006–15) (PANE), a major component of which is devoted to combating child labour. In this regard, the Committee noted that the activities envisaged in the PANE include support for NGOs working to combat child labour and the preparation for 2012 of a study on the working conditions of children. The Committee also noted that the PANE aims to remove children under 15 years of age from work situations at the rate of 10 per cent a year until 2015 and to improve the situation of needy families at the rate of 5 per cent a year. The Committee noted the

Government's indications that significant efforts were made during the first phase of the implementation of the PANE between 2006 and 2010. The Committee also observed that a Bill on domestic work had been finalized, with the objective of determining the working conditions and terms and conditions of employment of domestic workers and prohibiting the employment of girls under 15 years of age as domestic workers.

The Committee notes the Government's indications that a process of updating the PANE has been initiated in light of the new sectoral strategies developed in 2007 with a view to introducing new indicators to improve follow-up and evaluation, and that the process was completed with the holding of the national mid-term evaluation workshop of the PANE and the preparation of its second phase in May 2011 in Rabat. The Government adds that a copy of the Bill on domestic workers will be provided once it has been adopted, and that the study on the working conditions of children in the region will be commenced in the near future. ***The Committee requests the Government to continue providing information on the implementation of the PANE and on the results achieved in terms of the progressive abolition of child labour. It requests the Government to provide a copy of the Act on domestic work, when it has been adopted. It also requests the Government to supply the findings of the national study on working conditions, once it has been completed. In so far as possible, statistical data should be disaggregated by age and sex.***

*Article 2(1) and (3). Scope of application and compulsory schooling.* In its previous comments, the Committee noted that, under section 143 of the Labour Code, minors may not be employed or admitted to enterprises or the premises of employers before the age of 15 years, and it observed that the protection provided by the Labour Code does not apply to persons working on their own account. The Committee noted the Government's indication that the Labour Code does not protect children working on their own account, but that the latter are protected by the Dahir of 13 November 1963 on compulsory education, as amended by Act No. 04.00 of 25 May 2000, under which parents are required to enrol their children in school and which establishes penalties for refusal to do so. The Committee also noted that labour inspectors are only authorized by law to enforce the application of the labour legislation when there is an employment relationship. Consequently, labour inspectors do not carry out any supervision in the informal economy. The Committee however noted that an emergency plan had been adopted for the period 2009–12, consisting of ten projects aimed at giving effect to the requirement to attend school up to the age of 15 years including, in particular, the development of the pre-school level, equality of opportunity with regard to access to compulsory education and measures to reduce the repetition of classes and school drop-out rates.

The Committee notes the Government's indications concerning the measures taken in the context of the emergency programme. The Government indicates that, in order to guarantee a place for each child in school, the Ministry of National Education created 499 new schools, including 205 primary schools, 88 middle schools and 136 high schools, which opened their doors between the 2007–08 and 2010–11 school years. The Ministry also plans the establishment of 290 additional schools, consisting of 141 primary schools, 78 middle schools and 71 high schools. Furthermore, with a view to combating school drop-outs, the Ministry has established educational mechanisms for the personalized follow-up of students at school. In this context, the Government indicates that 4,066,649 children benefited from personalized follow-up measures in 2011. The Committee notes with *interest* the Government's indication that satisfactory results continue to be achieved: primary schooling is almost generalized, as the school enrolment rate recorded in 2011–12 is 97.9 per cent (97 per cent for girls); the rate of the repetition of classes in primary school fell between 2008–09 and 2011–12 from 16 to 8.2 per cent; and the drop-out rate in primary school was 3.2 per cent in 2011–12. ***Considering that compulsory schooling is one of the most effective means of combating child labour, the Committee encourages the Government to continue its efforts to increase the school enrolment and completion rates and to reduce the rate of repeating school years and of school drop-outs, particularly for children under 15 years of age, with a view to preventing them from working on their own account and in the informal economy. It requests the Government to continue providing information on the progress achieved in this respect.***

*Article 2(1) and Part V of the report form. Minimum age for admission to employment and application of the Convention in practice.* 1. *Child workers in informal artisanal activities and other sectors.* In its previous comments, the Committee noted the information provided 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" (pp. 19, 20, 22 and 23), some 372,000 children aged between 7 and 14 years, 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 were working in the agricultural sector. In urban areas, children were engaged in the textile, commercial and repairs sectors. The Committee noted the assessment of the activities undertaken with ILO–IPEC support for the prevention and removal of thousands of children from work. However, it observed that, under the terms of section 4 of the Labour Code, employers in purely traditional sectors, that is 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 Labour Code. The Committee therefore noted that children employed in informal artisanal activities, or formal artisanal activities involving five employees or fewer, do not benefit from the protection of the Labour Code and, consequently, from the application of the minimum age of 15 years. The Committee requested the Government to take measures to ensure that the minimum age of 15 years is duly applied to all children working in artisanal activities.



The Committee notes the Government's indication that a Bill to determine the conditions of work and employment in activities of a purely artisanal nature has been prepared in collaboration with the Department of Artisanal Activities. The Bill includes a section prohibiting work by children under the age of 15 years, in accordance with sections 143 and 153 of the Labour Code. The final version of the Bill has been sent to the General Secretariat of the Government and is in the process of being adopted. The Government adds that the Ministry of Artisanal Activities, in collaboration with ILO-IPEC, is continuing to work on projects to combat child labour in the artisanal sector. ***Expressing the hope that the Bill to determine the conditions of work and employment in activities of a purely artisanal nature will establish a minimum age of 15 years for all children working in artisanal activities, the Committee requests the Government to take measures to ensure that the Bill is adopted in the near future and to provide a copy to the Office. It requests the Government to continue its efforts to combat child labour and requests it to continue providing information on the implementation of any relevant projects, and on the results achieved with regard to the progressive abolition of child labour, particularly in the artisanal sector.***

2. *Child domestic workers.* In its previous comments, the Committee noted that, according to the report "Understand children's work in Morocco", children working in urban areas were mainly engaged in domestic work. The Committee also noted that, according to the observations provided previously by the ITUC, some 50,000 children, mainly girls, are employed in domestic work, including 13,000 young girls under the age of 15 who are employed as servants in Casablanca, with 70 per cent of them being under 12 years of age and 25 per cent under 10 years of age. In this respect, the Committee noted that a Bill on domestic work had been formulated in 2007 and was in the process of being validated. The Bill fills the current legislative gap and sets the minimum age for admission for this type of employment at 15 years, lays down conditions of work and establishes supervisory measures and penalties, including imprisonment, for persons employing children under 15 years of age. The Committee noted the Government's indication that the process of adopting the Bill on domestic work had been under way since June 2011.

The Committee notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), according to which, with the entry into office of the new Government, the Bill on domestic work has been withdrawn from Parliament and submitted once again to the Council of the Government on 12 March 2012, which deferred it for in-depth examination. ***The Committee once again expresses the firm hope that the Bill which has been under examination for a certain number of years, will be adopted in the very near future. It requests the Government to provide information in its next report on the progress achieved in this respect.***

*Article 8. Artistic performances.* In its previous comments, the Committee noted that Decree No. 2-04-465 of 29 December 2004 prohibits the engagement of any person under 18 years of age as an employed actor or performer in public performances without the written authorization of the official responsible for labour inspection, following consultation with the minor's guardian. The Committee also noted the Government's indication that Decree No. 2-04-465 of 29 December 2004 does not establish the particulars of the authorization by parents and the labour inspector, nor the penalties to be applied in the event of violations, and that the law establishes details concerning working hours and conditions. In this respect, the Committee noted that section 145 of the Labour Code provides that "[n]o minor under 18 years of age may, without the prior individual authorization in writing of the official responsible for labour inspection, for each minor, following consultation with the minor's guardian, be employed as an actor or performer in public performances organized by enterprises, the list of which is determined by regulation. The official responsible for labour inspection may withdraw the authorization granted previously, either at her or his own initiative or at the initiative of any authorized person". The Committee however noted that this provision does not require that permits granted to minors under 18 years of age, under the Decree No. 2-04-465 of 29 December 2004, shall limit the number of hours during which and prescribe the conditions in which such employment or work shall be allowed.

The Committee observes that the Government's report does not contain any further information on this subject. It once again reminds the Government that *Article 8* of the Convention requires the permits granted allowing minors under 18 years of age to participate in artistic performances to limit the number of hours during which and to prescribe the conditions in which employment or work is allowed. ***The Committee once again requests the Government to take the necessary measures to amend the national legislation to bring it into conformity with Article 8 of the Convention, so that permits granted to minors under 18 years of age allowing them to participate in artistic performances explicitly limit the number of hours during which and prescribe the conditions in which employment or work is allowed.***

*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 (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 50,000–60,000 dirhams (US\$6,000–\$7,200). It nevertheless noted that sections 150 and 183 of the Labour Code provide for a fine of between 300 and 500 dirhams (between US\$36 and US\$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 have to 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 legislative provisions or regulations respecting safety and healthy, which poses an imminent risk to the health or safety of the workers, 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 set out in 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 the necessary measures 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 383 establishments were inspected in 2011, and that 1,234 reports of violations were drawn up and 63 warnings were issued to employers. In addition, four notifications were referred to the competent courts for decision. The Government indicates that the sectors which mainly employ children under 15 years of age are commerce and mechanical work (40 per cent), carpentry (23 per cent), manufacturing (15 per cent) and textiles and agriculture (5 per cent). The Committee notes that, according to the 2011 report on child labour at the national level provided by the Government with its report, labour inspections revealed that the violations reported by employers in relation to child labour often relate to failure to comply with the minimum age for employment or work. According to the report, in such cases, the employers often respond positively to the observations made by inspectors, particularly in relation to the employment of children below the minimum age of 15 years, and the children are immediately removed from the work in question.

However, the Committee once again observes 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 once again reminds the Government that it is necessary to ensure the application of the Convention through penalties set out in law. ***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 types of 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 detected by the labour inspection services, the number of persons prosecuted and the penalties imposed, particularly in relation to the provisions giving effect to the Convention.***

### **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 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 also noted that a Bill on domestic work had been adopted and was in the process of being validated. 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 Bill on the conditions of employment and work of domestic workers. This Bill has been in the process of being adopted since June 2011.

The Committee also noted that an initial qualitative and quantitative survey of girls under 18 years of age engaged in domestic work had been undertaken in 2001 in the *Wilaya* of Casablanca. According to the results of the statistical survey undertaken in 2001, nearly 23,000 girls under 18 years of age were working in the Greater Casablanca area as domestic workers, 59.2 per cent of whom were under 15 years of age. The Committee noted that the survey revealed that a significant proportion of these girls were uneducated, were subject to penalties or punishment in the course of their work, received beatings and/or were subjected to sexual abuse. The Committee noted that a second survey was planned in the Greater Casablanca area during the second half of 2010, with an extrapolation of the results and data at the national level. The Committee further noted the Government's indications that the figures recorded by the 2001 survey have decreased significantly since then, owing to the efforts made by Morocco in recent years, especially to combat school drop-outs and all other forms of social exclusion. With regard to the second survey to be conducted on girls engaged in domestic work in Casablanca, the Government indicated that the methodological report which determines the target group and planning of the survey had been drawn up and the survey itself was being undertaken.

The Committee notes the Government's indications that, with the entry into office of the new Government, the Bill on domestic work was withdrawn from Parliament and resubmitted to the Council of the Government on 12 March 2012, which deferred it for in-depth examination. With regard to the survey on girls engaged in domestic work in Casablanca, the Government indicates that it commenced during the course of 2012 and that the results will be provided when they have been published. The Committee reminds the Government that young girls engaged in domestic work are often victims of exploitation and that the clandestine nature of such work makes it difficult to monitor their conditions of employment. It also reminds the Government that, under the terms of *Article 1* of the Convention, each member State shall take immediate and effective measures to secure the prohibition of the worst forms of child labour as a matter of

urgency. *Observing that the Government has been referring to the adoption of the Bill on domestic work and the specific list of prohibited types of hazardous work in the domestic work sector for several years, the Committee urges it to take the necessary measures to ensure that the Bill and the list are adopted on an urgent basis. The Committee also requests the Government to take the necessary measures to conclude the survey on the situation of young girls engaged in domestic work in Casablanca in the very near future and to provide a copy of the findings to the Office 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 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) had 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 also noted that, as part of the National Action Plan for Children (PANE) for the decade 2006–15, a preliminary study on the problem of the sexual exploitation of children was carried out in February 2007 with a view to formulating a national strategy to prevent and combat such exploitation.

The Committee notes the lack of information in the Government's report on the activities of the UPEs and on the results achieved through the implementation of the National Strategy to Combat the Sexual Exploitation of Children. *The Committee, therefore, urges the Government to take immediate and effective measures to ensure that the National Strategy to Prevent and Combat the Sexual Exploitation of Children will be implemented in the very near future and to provide information in its next report on the progress achieved in this respect. The Committee also requests the Government to provide updated information on the number of children who are prevented from engaging in or removed from prostitution through the UPEs. Finally, the Committee once again asks the Government to provide a copy of the preliminary study on the problem of the sexual exploitation of children undertaken in February 2007 with a view to the formulation of the national strategy.*

*Clause (d). Children at special risk. Child domestic labour.* The Committee previously noted the adoption of the National Programme to Combat the Use of Young Girls in Domestic Work (INQAD) as part of the PANE. It also noted that, as part of the strategic plan for 2008–12, and following the implementation of the INQAD programme, the Ministry of Social Development, Family Affairs and Solidarity was planning to organize a second nationwide awareness-raising campaign to combat the use of young girls as domestic workers and to prepare regional action plans. It further noted that, as part of the multi-sectoral programme implemented in collaboration with the United Nations Development Programme to combat gender-based violence by empowering women and girls in Morocco, ILO–IPEC launched an action programme to combat the use of young girls in domestic labour in the region of Marrakech Tensift-El Haouz over the period 1 January 2009 to 31 December 2010.

The Committee notes the Government's indications that in 2011, following the activities undertaken with the cooperation of ILO–IPEC, 12,192 children were removed from their workplaces and offered viable alternatives and 20,993 were prevented from engaging in work. The Committee also notes that, according to information available from ILO–IPEC, an IPEC action project to combat domestic work by girls is being implemented up to 2014 in the context of the project to support the implementation of the ILO Declaration (PAMODEC). The ILO/IPEC/PAMODEC project has three main priorities, namely prevention, removal and protection, and emphasizes education, capacity building and national ownership. Activities have already been carried out in the context of the project, including the training of 50 focal points on the improvement of the system of monitoring and information gathering, with a special component on combating domestic work by children, training courses on domestic work by children for NGO educators and social workers and information sessions for primary and middle school teachers and inspectors in the Fès region, the objective of which is to combat more effectively school drop-outs, particularly among girls. *The Committee encourages the Government to intensify its efforts for the identification, removal and reintegration of girls under 18 years of age engaged in domestic work who are victims of economic or sexual exploitation, and requests it to continue providing information on the results achieved, particularly in the context of the ILO/IPEC/PAMODEC project on domestic work by girls. The Committee encourages the Government to ratify the Domestic Workers Convention, 2011 (No. 189), which has key provisions for child protection.*

*Article 5 and Part V of the report form. Monitoring mechanisms and application of the Convention in practice.* In its previous comments, the Committee noted that, in the context of the ILO–IPEC project “Combating child labour in Morocco by creating a suitable environment nationwide and providing for direct intervention against the worst forms of child labour in rural areas”, a number of training sessions were organized to strengthen the capacity of the various actors involved in combating child labour, including 330 labour inspectors and 43 controllers designated as focal points. One of the tasks of the focal points is to monitor establishments employing children. The Committee noted previously the Government's indications concerning the activities undertaken by the focal points in the years 2008–10.



The Committee notes the information provided by the Government on the activities carried out by the focal points in 2011. They visited 383 workplaces, in which they detected 119 child workers under the age of 15 years and 397 child workers between the ages of 15 and 18 years. During the visits, 1,234 reports were drawn up, nine offences and violations were recorded and four cases were referred for prosecution. The sectors employing children between 15 and 18 years of age are commerce and mechanical work (31 per cent), wood working (19 per cent), manufacturing (14 per cent), retail (11 per cent) and the textile industry (8 per cent). The Committee notes that, according to the 2011 report on child labour at the national level, provided by the Government with its report, labour inspections found that children are engaged in work likely to harm their health. The dangers include: the effects of radiation and exposure to injury and burns through welding; the use of machinery with cutting edges and the carrying of heavy loads; the use of chemicals and exposure to dust; the use of paints; the use of electricity, and exposure to high temperatures. The report indicates that when children between the ages of 15 and 18 years are identified in such situations, appropriate work is offered to them as an alternative. ***Expressing its concern at the situation of children under 18 years of age engaged in hazardous types of work and the low number of violations reported and cases referred for prosecution in comparison, the Committee requests the Government to intensify its efforts to ensure that no children under 18 years of age are engaged in the worst forms of child labour, including hazardous types of work. The Committee requests the Government to continue providing information on the application of the Convention in practice, including statistical data and information on the nature, extent and trends of the worst forms of child labour. In so far as possible, all such information should be disaggregated by age and gender.***

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 sector.* 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 (CRC) of 23 May 2009, 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 Government had also indicated that the control mechanisms for child labour, such as labour inspection, were more effective in the formal than in the informal sector (CRC/C/MOZ/2, paragraph 359). The Committee had finally noted that the CRC, in its concluding observations of 4 November 2009, expressed concern that there were still no specific regulations governing children who are not covered by an employment relationship (CRC/C/MOZ/CO/2, paragraph 80).

The Committee notes that the Government's report contains no information on this matter. ***Recalling 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, the Committee encourages the Government to take measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children carrying out economic activities without an employment relationship or in the informal economy. It requests the Government to provide information on the measures taken in this regard.***

2. *Domestic work.* The Committee had previously noted section 4(2) of the Regulations on Domestic Work (Decree 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 had 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, but states that section 4(2) of the Regulation on Domestic Work prohibits hiring minors under the age of 12 years 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 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 once again requests 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 had previously noted the Government's statement that the minimum age for admission to employment established in the Labour Law (of 15 years of age) applies to children working in rural work. It had also noted the Government's indication that pursuant to section 3 of the Labour Law, draft regulations on rural work have been developed and was under discussion. The Committee had 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. It had also noted the statement by the CRC, in its concluding observations of 4 November 2009, 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 notes the Government's information that the proposal for the instrument on rural work is still under discussion. The Committee also notes that according to the Multiple Indicators Cluster Survey (MICS) report of 2008, in rural areas, 25 per cent of children are engaged in child labour, compared to 15 per cent in urban areas. ***Expressing its concern at the situation of children involved in child labour, especially 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 a copy of the regulation on rural work, once it has been adopted.***

*Article 2(3). Age of compulsory schooling.* The Committee had previously noted the Government's statement that compulsory education started at the age of 6 years and was completed at the age of 13 years. It had therefore observed that the age for completion of compulsory schooling was two years below the minimum age for admission to employment or work (15 years). The Committee had also noted that the CRC, in its concluding observations of 4 November 2009, commended the significant efforts deployed by the Government to increase enrolment rates in primary and secondary education (CRC/C/MOZ/CO/2, paragraph 71). However, the CRC expressed concern that, nearly half of primary school aged children drop out of school before they completed grade 5 (ibid.).

With regard to the age of completion of compulsory schooling, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). In cases where these two ages do not coincide, various problems can arise. If the compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). ***Accordingly, the Committee strongly encourages 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. It requests the Government to provide information on any progress made in this regard. Furthermore, considering that compulsory education is the most effective means of combating child labour, the Committee requests the Government to take the necessary measures to strengthen the functioning of the education system, in particular by increasing the school enrolment, attendance and completion rates of children under the minimum age of employment with special focus on children in rural areas.***

*Article 3(2). Determination of hazardous types of employment or work.* The Committee had previously noted that section 23(2) of the Labour Law prohibited employers from employing children under the age of 18 years in work that is unhealthy, dangerous or which required great physical strength, as defined by the competent authorities, after consultation with trade union and employers' organizations. It had noted the Government's statement that no measures had been adopted to determine types of dangerous work prohibited to persons aged under 18 years. The Committee had further noted that the CRC, in its concluding observations of 4 November 2009, urged the Government to define hazardous work prohibited for persons under 18 years old (CRC/C/MOZ/CO/2, paragraph 81).

The Committee notes the absence of information in the Government's report. The Committee, therefore, once again recalls that, by virtue of *Article 3(2)* of the Convention, the types of employment or work which, by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, 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 once again urges the Government to take the necessary measures to include in national legislation provisions determining the types of hazardous work prohibited for persons under the age of 18, in accordance with Article 3(2) of the Convention.***

*Article 6. Vocational training and apprenticeship.* The Committee had previously noted that Chapter IV of the Labour Law regulates vocational training and apprenticeship. It had 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 of age. ***In this regard, the Committee once again requests the Government to take 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 had 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 from 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 and 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 diploma 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 had 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 had further noted the statement in the Government's report that the light work referred to in the Labour Law has not been classified.

Noting the absence of information in the Government's report, 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. ***Observing that a significant number of children under the minimum age are engaged in child labour, the Committee 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.* The Committee had previously noted that the Labour Law does not prescribe the registers to be kept by employers. It had reminded the Government that under *Article 9(3)* of the Convention, national laws or regulations or the competent authority must prescribe the registers concerning employees under the age of 18, 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.* The Committee previously noted that section 63(1)(b) 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. It also noted that the Committee on the Rights of the Child (CRC), in its concluding observations of 4 November 2009, expressed deep concern at the increasing number of child prostitution in Mozambique, especially in the Maputo, Beira and Nacala regions, as well as in some rural areas (CRC/C/MOZ/CO/2, paragraph 84). The Committee, therefore, urged the Government to take the necessary measures to ensure the adoption of legislation, pursuant to section 63(1)(b) of the Child Protection Act, prohibiting the use, procuring or offering of a child under the age of 18 for the purpose of prostitution in the very near future.

The Committee once again notes with *regret* that the Government report does not contain any information on this point. 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 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, requests the Government to take immediate and effective measures to ensure the adoption of legislation prohibiting the use, procuring and offering of a child under 18 years of age for prostitution, 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 with its next report.***

*Use, procuring or offering of a child for the production of pornography or for pornographic performances.* In its previous comments, the Committee noted that, although national legislation provided for the protection of children from being exposed to pornography, it did not prohibit the use, procuring or offering of children under 18 years of age for the production of pornography or for pornographic performances. It also noted that section 63(1)(c) of the Child Protection Act states that the State must take legislative measures to protect children from all forms of sexual exploitation, including the exploitation of children in pornography or pornographic performances. ***Noting once again an absence of information on this point in the Government's report, the Committee urges the Government to take the necessary measures to ensure the adoption of legislative measures prohibiting the use, procuring or offering of children under the age of 18 for the production of pornography or pornographic performances, pursuant to section 63 of the Child Protection Act.***

*Clause (c). Use, procuring or offering of a child for illicit activities.* In its previous comments, the Committee noted the adoption of the Law on Drugs No. 3/97, which contained provisions relating to the use of minors for the production, transport, distribution and consumption of drugs. The Committee notes that while the Government report states that a copy of the Law on Drugs has been attached, no such attachment has been received along with the report. ***Considering that the Committee has been requesting a copy of the Law on Drugs No. 3/97 since 2005, the Committee expresses the firm hope that the Government will send a copy of this legislation, along with its next report.***



*Clause (d). Hazardous work. Children in domestic service.* 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 of children. The Committee recalled that children, particularly young girls, engaged in domestic service are often victims of exploitation, and that it is difficult to supervise their conditions of employment due to the clandestine nature of such work. It further noted the Government's statement in its 23 March 2009 report to the CRC that domestic work is one of the most common types of child labour in Mozambique, and that children are frequently forced to work in this sector (CRC/C/MOZ/2, paragraphs 356 and 358).

The Committee notes the absence of information in the Government's report on this matter. In this regard, the Committee notes the information in a report available on the website of the United Nations High Commissioner for Refugees (UNHCR) that children in Mozambique are engaged in the worst forms of child labour, many of them in dangerous work in domestic work. The report further indicated that child domestic workers, work up to 15 hours a day and are subject to physical abuse, including burns. ***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. The Committee also encourages the Government to ratify the Domestic Workers Convention, 2011 (No. 189), which has key provisions for child protection.***

*Article 4(1). Determination of hazardous types of work.* In its previous comments, the Committee noted that, pursuant to section 23(2) of the Labour Law, employers shall not engage persons under 18 years of age in hazardous work, as defined by the competent authorities after consultation with the organizations of employers and workers. It noted with concern the Government's statement that no measures had been adopted to determine the types of dangerous work prohibited to persons under the age of 18 years.

The Committee notes the absence of information in the Government's report on this point. The Committee once again reminds the Government that, by virtue of *Article 4(1)* of the Convention, the types of hazardous work prohibited to persons under the age of 18 shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular, Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). ***The Committee, therefore, once again urges the Government to take the necessary measures to ensure that regulations are adopted pursuant to section 23(2) of the Labour Law to determine the hazardous types of work prohibited for children under 18 years of age in the near future. It also requests the Government to provide information on any progress made in this regard.***

*Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Orphans and other vulnerable children.* The Committee previously noted the information in the Government's report that, between 2005 and 2009, actions were implemented through the National Action Plan for Children (NAPC) to locate, document and reunite the families of orphaned, lost or abandoned children. It noted the Government's statement in its report to the UN Human Rights Council for the Universal Periodic Review of 11 November 2010, that the impact of HIV/AIDS was a contributing factor to the continuation of child labour in the country (A/HRC/WG.6/10/MOZ/1, paragraph 97). The Committee expressed its concern at the increasing number of children orphaned in Mozambique as a result of HIV/AIDS and urged the Government to strengthen its efforts to ensure that such children are protected from these worst forms of child labour.

The Committee notes the Government's information that in its efforts to enhance the protection of children, particularly orphaned and vulnerable children, the Government has revised two social assistance programmes, the Basic Social Assistance Programme and the National Basic Social Security Strategy (ENSSB) for the period of 2010–14. According to the Government's report, the Basic Social Assistance Programme aims to provide financial assistance to households who have members who are not fit to work or who have orphaned children. Within the context of the ENSSB, programmes prioritizing orphaned and vulnerable children were initiated with a view to extending the granting of direct social support. Moreover, programmes to reintegrate heads of households fostering orphaned children into working life and productive activities have also been established. The Committee further notes that, according to the 2012 Global AIDS Response Progress Report (GARP) of the National AIDS Council, the Government of Mozambique has taken the following steps towards meeting the needs of most vulnerable children in the country:

- the Action Plan for the Reduction of Absolute Poverty (PARPA II) which includes the goal of providing a minimum of three to six identified basic services (health, nutrition, education, psychological support, legal and financial support) to 30 per cent households with orphans and other vulnerable children was initiated;
- a Multi-sectoral Plan for Orphans and Vulnerable Children (PACOV) which addresses the special needs of this growing population was established, and a Multi-sectoral Technical Group for Vulnerable and Orphaned children was established in all 11 provinces and 54 districts;

- in partnership with Save the Children, the Ministry of Women and Coordination of Social Action (MMAS) developed guidelines for the establishment and functioning of child protection committees. Currently 531 such committees have been established to support orphans and other vulnerable children.

The Committee further notes from the GARP report that: (i) an estimated 66,364 children have benefited through the Pre-school Education Programme carried out by the MMAS; (ii) about 22 per cent of the families with orphans received support through the Government initiated programmes; (iii) 212,096 orphans and other vulnerable children received support from UNICEF assisted programmes, and (iv) 237,200 orphans and other vulnerable children received support from the United States Government, during the year 2010. The Committee notes, however, that according to the GARP report, in Mozambique, 12 per cent of children under the age of 18 years are orphans. In 2011, it was estimated that the number of orphans was 936,000, out of which 424,000 were orphans due to AIDS. While appreciating the measures taken by the Government to protect orphans and other vulnerable children, the Committee expresses its *concern* at the number of children orphaned in Mozambique as a result of HIV/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 urges the Government to intensify its efforts to ensure that such children are protected from these worst forms. It requests the Government to provide information on the effective and time-bound measures taken in this regard, and on the results achieved.***

***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

### **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 all persons under the age of 18 for the purpose of prostitution or pornography. It also noted the statement in the Government's report to the Committee on the Rights of the Child (CRC) of 15 September 2011 that the criminal and sexual exploitation of children occurred in the country both through children being prostituted, and through adults taking advantage of needy children by providing basic necessities in return for sex (CRC/C/NAM/2-3, paragraph 226). However, the Committee noted that the draft Child Care and Protection Bill had been developed, and that section 176(1)(a) of this Bill would prohibit the use, procuring or offering of a child for the purpose of commercial sexual exploitation.

The Committee notes the Government's statement that the draft Child Care and Protection Bill is with the legal drafters at the Ministry of Justice. The Government states that after its finalization, it will be tabled before Parliament. ***The Committee requests the Government to take the necessary measures to ensure that the draft Child Care and Protection Bill will prohibit the use, procuring and offering of all persons under the age of 18 for prostitution and pornography, and will be adopted without delay. It requests the Government to provide a copy of the Child Care Protection Act, once adopted.***

*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. However, the Committee noted that section 176(1)(b) of the draft Child Care and Protection Bill prohibits the use, procuring or offering of a child for illicit activities, including drug production and trafficking.

The Committee notes, as above, the Government's statement that the draft Child Care and Protection Bill is with legal drafters of the Ministry of Justice, and will be presented to Parliament once finalized. ***Recalling that, by virtue of Article 3(c) of the Convention, the use of children by adults for illicit activities, including to commit crimes, is considered to be one of the worst forms of child labour, the Committee urges the Government to take the necessary measures to ensure the adoption of the draft Child Care and Protection Bill in the near future.***

*Article 4(1). Determination of types of hazardous work.* The Committee previously noted that section 3(3)(d) and section 3(4) of the Labour Act prohibits six types of hazardous work for children between the ages of 14 and 18. In addition, the Committee noted the Government's indication that a list of hazardous work (in terms of Conventions Nos 138 and 182) had been developed by the Project Advisory Committee on Child Labour. This list was subsequently submitted to the Labour Advisory Council for its consideration.

The Committee notes the Government's statement that the Labour Advisory Council approved the submitted list without any modifications. The Government also indicates that the Labour Advisory Council recommended the list to the Minister of Labour and Social Welfare for approval, and that once this list is approved by the Minister, the supporting regulations for hazardous work will be developed. ***The Committee requests the Government to take the necessary***

*measures to ensure the elaboration and adoption of regulations containing a further determination of prohibited types of hazardous work. It requests the Government to provide a copy of the relevant regulations, once adopted.*

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

## Nepal

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1997)**

*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.*

*Part V of the report form. 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 points in a request addressed directly to the Government.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)**

*Article 3 of the Convention. Worst forms of child labour. 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. 1. 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.***

*2. 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.* 1. *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.**

2. *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 notes the information contained in a report by 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 child labour and forced child labour are found in brick kilns, quarries and the textile industry. This ITUC report states that children are found performing mainly in informal economic activity in quarries and mines, domestic servitude, agriculture and portering. This ITUC report further indicates that children work in cramped places for long hours, night shifts, deal with chemicals and pesticides, operate dangerous machinery and carry heavy loads.

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 points in a request addressed directly to the Government.

## Netherlands

### Aruba

#### **Minimum Age Convention, 1973 (No. 138)**

*Article 2(1) and (3) of the Convention.* 1. *Age of completion of compulsory schooling.* In its previous comments, the Committee observed that there was no specified age of completion of compulsory schooling in Aruba. However, the Committee noted that a State Ordinance on Compulsory Education had been developed. The Committee urged the Government to take measures to adopt the State Ordinance on Compulsory Education, and to ensure that this Ordinance was in conformity with the Convention.

The Committee notes with *interest* the Government's indication that the State Ordinance on Compulsory Education (AB 2011 No. 82) was signed into law on 23 December 2011. The Committee notes the Government's statement that pursuant to section 2 of the State Ordinance, education is compulsory for children between the ages of 4 and 16. The Government also indicates that, under this Ordinance, parents who do not comply with their obligation to ensure that their children attend school may be fined. The Government further indicates that it is taking measures to establish the Bureau on Compulsory Education, which will be responsible for enforcing this new Ordinance, as well as raising awareness among schools and parents on its provisions. ***The Committee requests the Government to provide a copy of the State Ordinance on Compulsory Education (AB 2011 No. 82), with its next report.***

2. *Minimum age for admission to employment or work.* Referring to its previous comments, in which it noted that the Labour Ordinance of Aruba establishes a minimum age for admission to work of 14 years (pursuant to sections 4(d) and 15), the Committee draws the Government's attention to *Article 2(3)* of the Convention, which states that the minimum age specified shall not be lower than the age of completion of compulsory education. Referring to paragraph 370 of its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee recalls that 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 they are legally authorized to work. ***The Committee therefore requests the Government to take measures to raise the minimum age of for admission to employment from 14 to 16 years of age, in order to link this age with the age of completion of compulsory schooling established in the State Ordinance on Compulsory Education.***

*Article 3(2). Determination of types of hazardous work.* In its previous comments, the Committee noted that section 17(1) of the Labour Ordinance provides that it is prohibited to engage juvenile persons (persons between 14 and 18 years of age) in night work or work of a hazardous nature, which is to be described by a State decree. The Committee noted the Government's indication that the Committee for the Modernization of Labour Legislation (CMLL) had proposed to eliminate the need for the formal requirement of a decree to determine the types of hazardous work, and to allow the Director of the Labour Department to determine which types of work would fall under this category through official labour policy, which would then be published in the *State Gazette*.

In this regard, the Committee notes the Government's indication that the proposal to allow the Director of the Labour Department to determine the types of hazardous work is with the Department of Legislation for technical evaluation and revision. The Government indicates that once this proposal approved, the Labour Department will prepare a policy concerning hazardous work. In this connection, the Committee once again recalls that under the terms of *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 urges 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. It requests the Government to provide information on progress made in this regard, in its next report.***

*Article 6. Vocational training and apprenticeship.* The Committee previously noted the Government's indication that the state decree provided for under section 16(a) of the Labour Ordinance allows exemptions for certain tasks which are necessary for the learning of a trade or profession, and can be done by children of 12 years or over who have completed the sixth class of primary school. The Committee also noted the Government's indication that the CMLL had proposed to eliminate the need for the formal requirement of a decree to specify the employment permitted for vocational education or technical training purposes, and to allow the Director of the Labour Department to do so through official labour policy.

The Committee notes the Government's indication that a proposal is under consideration to provide that the specification of the types of employment permitted for technical training is within the competency of the Director of the Labour Department. The Government indicates that once this proposal is approved, the Labour Department will prepare the corresponding policy. ***The Committee expresses the firm hope that, following the approval from the Department of Legislation, the Government will take the necessary measures to ensure that the Director of the Labour Department specifies the employment permitted for vocational education or technical training purposes under section 16(a). It requests the Government to continue to provide information on any progress made in this regard.***



*Article 7. Light work.* In its previous comments, the Committee noted the Government's indication that the state decree provided for under section 16(b) of the Labour Ordinance to specify certain tasks which can be carried out by children of 12 years of age and above, who have completed the sixth class of primary school, had not yet been addressed in the CMLL. The CMLL had, however, proposed to allow the Director of the Labour Department to determine the types of light work through official labour policy, which would then only need to be published officially in the *State Gazette*.

The Committee notes the Government's statement that once the Department of Legislation approves the proposal to permit the Director of the Labour Department to determine the types of light work through official labour policy, the Labour Department will begin to prepare such a policy. In this regard, the Committee once again recalls that *Article 7(3)* of the Convention requires that the competent authority determine the activities allowed as light work in which young persons between 13 and 15 years of age may be permitted to participate, and to prescribe the number of hours of work and the conditions of employment or work. ***The Committee expresses the firm hope that the Director of the Labour Department will determine the types of light work permitted to children of 13 years and above, provided for under section 16(b) of the Labour Ordinance in the near future. The Committee requests the Government to continue to provide information on developments in this regard.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted the Government's indication that control and enforcement of the labour legislation by the labour inspectors continues to be weak due to regulatory and financial challenges.

The Committee notes the Government's statement that labour inspections did not reveal any infractions related to provisions in national legislation implementing the Convention. The Committee also notes the Government's statement that there is no new information available on the application of the Convention in practice. ***The Committee encourages the Government to take measures to ensure that sufficient data on the situation of working children in Aruba is made available, such as information on the number of children and young persons working below the minimum age and the nature, scope and trends of their work. It requests the Government to provide this information, when it becomes available.***

***The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. It requests the Government to provide any information on progress made in this regard and invites it to consider seeking technical assistance from the ILO.***

## 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) concerning the application of the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), 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 specified under *Article 3(d)* of the Convention. The Committee also noted the allegation of the NZCTU that in 2006, about 300 children under 15 years visited their doctor for a work-related injury, and that accident compensation and rehabilitation assistance was provided to between 1,000–2,000 children between the ages of 15 and 19. In this regard, the Government stated 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 ensure that young people are not exposed to hazardous work and that employers have an obligation to ensure a healthy and safe working environment, as well as duties related to training and supervision. The Committee also noted Business New Zealand's statement that the existing legislative framework provides effective age thresholds for entry into work, particularly when read together with the obligation on all employers to provide their employees of whatever age, with a safe and healthy working environment.

However, the Committee noted the information in a Department of Labour (DoL) research paper entitled "School children in Paid Employment – A summary of research findings" of September 2010 (DoL Report of 2010) according to which employers are not effective in raising school children's awareness of hazards, nor their rights, in the workplace as expected under the Health and Safety in Employment Act. The DoL Report of 2010 referenced a study which found that a third of secondary-school students indicated that their employers had not provided them with any information about workplace hazards. Moreover, this DoL Report of 2010 indicated that inadequacies in training and supervision of children in workplaces were also frequently reported. Additionally, the DoL Report of 2010 indicated that injuries are a common and occasionally serious occurrence in school children's workplaces, with one sixth of secondary school students in part-time work reportedly being injured at work in the previous year. The DoL Report of 2010 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 had an employment injury. 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 are allowed to work in dangerous workplaces (CRC/C/NZL/CO/3-4, paragraph 41).

The Committee notes the statement by Business New Zealand that, in the New Zealand context, it is required that work hazards be eliminated, isolated or minimized, as appropriate. Business New Zealand states that employers must provide training and supervision for anyone engaging in any activity capable of being considered hazardous, as well as protective clothing and equipment, regardless of the age of the employee, but with specific prohibitions applying with respect to young persons under the age of 16. Business New Zealand further states that work for children that is excessively difficult or hazardous is neither condoned nor encouraged in the country.

The Committee notes the statement by the NZCTU, in its comments submitted concerning the application of Convention (Revised) No. 59, that in the country there is little attention given to the nature of work undertaken by children and young people working before or after school, on weekends or during school holidays, nor any direct provisions to ensure that children and young people are not exploited or exposed to unsafe work practices or workplaces. The NZCTU states that while the Government provides some information on the rights of young workers on the website of the Department of Labour, it is up to young people, or their families, to act on this information. The NZCTU also states that accidents records indicated that two 17 year old workers were employed in mines in 2010, and one of the fatalities of a mine disaster in 2010 was a child of 17 years of age. The NZCTU further references a study which found that a quarter of students working in manufacturing report injuries. Moreover, the NZCTU indicates that according to information from the Accident Compensation Corporation, the number of injuries reported by children aged 10–14 in industry was 77 in 2008–09, 72 in 2009–10 and 58 in 2010–11. For the age group 15–19, the number of injuries reported was 4,373 in 2008–09, 2,784 in 2009–10 and 2,548 in 2010–11. However, the NZCTU states that records of injury claims is a poor proxy and that research indicated that young workers were discouraged by employers from reporting their injuries.

The Committee notes the Government's statement, in its reply to the comments of the NZCTU, that the Ministry of Labour is taking a strategic approach to reducing work-related injuries and fatalities under a National Action Agenda, released in March 2011, which highlights the five sectors which have the highest risks of ill health, injury or death. The Government states that each of these five sectors has a three-year Sector Action Plan in place. Under the Manufacturing Action Plan, a priority for action is at-risk groups, which include youth (aged 15–24), who are identified as needing more training and supervision. The Plan aims to deliver effective training and promote safe work practices to youth through targeted programmes. The Government states that it is not aware of a problem that the existing regulatory framework is being ignored, and that it considers the current legislation to be sufficient. Therefore, its action will focus on better training and awareness on safety issues, not non-observance. In this regard, the Committee further notes the Government's statement that it considers that existing policy and legislative frameworks provide effective age thresholds for entry into work to ensure that children only engage in safe work. The Government states that while the specific legal restriction on types of work are only applicable to children under the age of 15, children between the age 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 Government also states that it considers that the conditions of Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), are met by the general duty on employers to ensure a safe working environment and to prevent exposure to hazards and by the duty on employers to ensure that employees have sufficient training and experience so that the work they are employed to do is not likely to cause them harm.

However, the Committee notes the information provided in the Government's report concerning the number of claims for work-related injuries by persons 18 and under, and observes that the number of work-related injuries increased significantly with the age of the children; 724 more children aged 16 years made claims for work-related accidents than those aged 15, and 1,347 more children aged 17 made claims than those aged 16. Additionally the Committee notes the Government's statement that the DoL Report of 2010 on New Zealand school children in paid employment summarizes the current state of knowledge about the risks that children are exposed to in employment. In this regard, the Committee recalls that the DoL Report of 2010 indicated that the current legislative protections, which rely on the employer to protect children under the age of 18 from workplace hazards, do not appear in practice to be fully and effectively protecting children from hazardous work.

Therefore, the Committee must once again express its *serious concern* that children between 15 and 18 years of age are allowed, in law and in practice, to perform the types of work which are clearly hazardous, as previously acknowledged by the Government and supported by the Department of Labour's research. The Committee must therefore emphasize that, by virtue of *Article 3(d)*, 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. ***The Committee therefore once again urges the Government to take immediate and effective measures to comply with Article 1 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 in its next report.*

*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 the Government's statement that, pursuant to sections 54–58 of the Health and Safety in Employment (HSE) Regulations, 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 occurred 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. The DoL Report of 2010 also identified some types of work which are more 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. Noting that the DoL Report of 2010 identified the sectors posing the most risk to young workers (construction, agriculture and hospitality), as well as the types of activities which are most injurious, the Committee reminded 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, 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 notes the Government's statement that no amendments to the Regulations are currently being considered, but that any proposed change would entail a thorough consultation with a wide range of stakeholders, including employers' and workers' organizations. *The Committee requests the Government to continue to provide information on any measures taken or envisaged to undertake a periodic review of the list of types of hazardous work, as provided for in Article 4(3) of the Convention, including measures to regulate the types of hazardous work identified in the DoL Report of 2010, such as work in the construction, agriculture and hospitality industries.*

*Article 5 and Parts IV and V of the report form.* 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. However, the Committee noted the Government's statement that there had been no prosecutions in respect of the prohibition contained in the HSE Act or Regulations on engaging a young person under the age of 15 in hazardous work, despite the information in the DoL Report of 2010 that 17 per cent of students in part-time work under the age of 15 had reported a work-related injury in the previous year, some of which were serious injuries. The Committee requested the Government to provide information on the results of the investigations carried out by the Department of Labour on workplace practices related to persons between 15 and 18 years engaged in hazardous work.

The Committee notes the Government's statement that no information is available in this regard, as the collection of age-related data is not considered to be sufficiently complete to draw reliable conclusions. However, the Committee also notes the information in the Government's report concerning the number of claims for work-related injuries for the year 2009 (the most recent data available). In this regard, the Committee notes that there were 7,391 claims made for work-related injuries by persons 18 and under in 2009, including 992 claims made by children aged 16 and 2,339 claims made by children aged 17. The Committee further notes the Government's statement that further research is being undertaken as a part of the Youth 2000 project. A health and well-being survey of secondary-school students is currently under way across 100 schools in the country (following similar surveys conducted in 2001 and 2007). The Government indicates that this survey will provide updated information on the types of paid work that school-aged children are involved in, and will include new questions to increase the understanding of their working conditions and health and safety outcomes. *Noting the significant number of work-related injuries claims made by persons under 18, the Committee requests the Government to provide information regarding subsequent investigations carried out concerning these accidents, violations detected, prosecutions and penalties applied, with its next report. It also requests the Government to provide information from the survey undertaken from the Youth 2000 project concerning work performed by children under 18, particularly with regard to working conditions and health and safety outcomes. To the extent possible, all information provided should be disaggregated by age and sex.*

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



## Nicaragua

### **Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1976)**

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

The Committee takes note of the Government's report. It notes with interest the adoption of General Act No. 618 on occupational health and safety and Decree No. 96-2007 issuing the regulations thereto, and that both contain provisions on medical examination. **It requests the Government to provide information on the following point.**

*Article 7, paragraph 2(a), of the Convention.* *Supervision of the application of the system of medical examination for fitness to work to children engaged on their own or their parents' account.* In its previous comments, the Committee noted with regret that the national legislation contains no provisions to give effect to *Article 7, paragraph 2(a)*, of the Convention, and asked the Government to take the necessary steps to ensure compliance with the Convention on this point. It notes that the Government's report contains no information on the matter. It again points out that pursuant to this provision of the Convention, national laws and regulations must determine the measures of identification to be adopted for ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried on in the streets or places to which the public have access. **The Committee once again urges the Government to take the necessary steps to ensure that the national legislation provides for the organization of such examinations, in order to give effect to this article of the Convention.**

*With regard to the other provisions of the Convention, the Government is asked to refer to the Committee's comments under the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77).*

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

## Niger

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1978)**

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

The Committee notes the communication of the International Trade Union Confederation (ITUC), of 31 August 2011, and the Government's reply to the ITUC's allegations, received on 14 November 2011.

*Article 2(1) of the Convention.* *Scope of application.* The Committee noted previously that the Labour Code does not apply to types of employment or work performed by children outside an enterprise, such as work performed by children on their own account. It noted the Government's indication that the broadening of the scope of application of the labour legislation to children engaged in an economic activity on their own account would require formal collaboration between the Ministries of the Civil Service, Labour, Mines, the Interior, Justice and Child Protection. In that respect, it reminded the Government that the Convention applies to all sectors of economic activity and that it covers all types of employment or work, whether or not a contractual employment relationship exists.

The Committee notes the Government's indication that a national survey of the informal economy will be organized by the National Statistical Institute (INS) in 2012 which will make it possible to measure the extent of the phenomenon of children working on their own account and will enable the labour administration to intervene more effectively in this field. **The Committee requests the Government to take the necessary measures to ensure that the INS survey of the informal economy is completed effectively in the very near future and that discussions on this matter are held between the Ministries concerned. The Committee once again requests the Government to provide information on the progress achieved in this respect.**

*Article 2(3).* *Compulsory schooling.* In its previous comments, the Committee noted that the Ten-year Educational Development Programme (PDDE), drawn up in 2002, aimed at achieving an 80 per cent enrolment rate in primary school by 2012 and 84 per cent by 2015, with special emphasis on narrowing the gap between boys and girls.

However, the Committee noted that, in its concluding observations of 18 June 2009 (CRC/C/NER/CO/2, paragraph 66), the Committee on the Rights of the Child, while commending the major efforts made by Niger to expand access to primary education, as well as the increase in the access of girls to education, the building of new educational infrastructures in rural areas and the training programmes for teachers, expressed concern at the poor quality of the education system, the high drop-out rate and weak gender equity in education. The Committee also observed that the low rate of school attendance of children between 7 and 12 years of age shows that a significant number of children drop out of school well before attaining the minimum age for admission to employment and are on the labour market.

The Committee notes the Government's indication that it is continuing its ceaseless efforts in the field of education and that encouraging results have already been obtained in that respect. As a result, according to the Government, the growth in the gross school attendance rate in primary school, which was 57.1 per cent (47.7 per cent for girls and 66.7 per cent for boys) in 2006–07, rose to 67.8 per cent (58.6 per cent for girls and 77 per cent for boys) in 2008–09. However, the Committee notes that, according to the National Survey on Child Labour in Niger (ENTE) of 2009, 43.2 per cent of children between the ages of 5 and 11 years and 62.5 per cent of children between the ages of 12 and 13 years in Niger are engaged in types of child labour to be abolished, at an age when they are supposed to be at school, as school attendance is compulsory up to 14 years. According to the ENTE, 22.8 per cent of children between the ages of 7 and 11 years and 23 per cent of children aged 12 and 13 years do not attend school because they consider that education is not useful, while 18.7 per cent of children between the ages of 7 and 11 years and 15 per cent of children aged 12 and 13 do not attend school because they assist with household work. Despite the efforts made by the Government, the Committee expresses its **concern** at the persistence of the low rates of school attendance. It observes that poverty is one of the primary causes of child labour and, when combined with a defective education system, prevents the development of the child. **Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system and to take measures to enable children to attend compulsory basic education. It also requests the Government to continue taking**

*measures to increase the school attendance rate and reduce the school drop-out rate, particularly for girls, with a view to preventing children under 14 years of age from working. The Committee further requests the Government to continue providing information on the results achieved.*

*Article 3(3). Authorization to employ young persons in hazardous work from the age of 16 years.* In its previous comments, the Committee noted that Decree No. 67-126/MFP/T of 7 September 1967 authorizes the employment of young persons over 16 years of age in certain types of hazardous work. It also noted that health and safety committees have been established in enterprises and that they are responsible for training and awareness raising on safety. The Committee observed that these committees do not appear to provide adequate specific instruction or vocational training in the relevant branch of activity. In this respect, the Government indicated that a distinction needs to be made between three categories of young persons: those whose activities are performed in the context of a formal school curriculum, namely students in technical and vocational training schools; those who work in the context of an apprenticeship contract, supervised by one or more professional adults with many years of experience in the trade; and those who are trained under the traditional system for learning a trade and whose superior/trainer has also been trained under this system of transmission of practical knowledge. With regard to the latter category, the Committee asked the Government to provide information on the manner in which the health and safety committees ensure that the work performed by young persons does not jeopardize their health or safety.

Once again noting the absence of information in the Government's report, the Committee once again recalls that, in addition to the requirement of training, *Article 3(3)* of the Convention allows employment or work by young persons as from the age of 16 years in hazardous types of work only on the condition that their health, safety and morals are fully protected. **Observing that this matter has been raised on many occasions, the Committee once again urges the Government to take the necessary measures to ensure that enterprise safety and health committees ascertain that the conditions of work of young persons aged between 16 and 18 years do not jeopardize their health and safety. It once again requests the Government to provide information on this subject in its next report.**

*Part V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted the Government's indication that studies were being conducted in the country, including the ENTE undertaken by the INS in collaboration with ILO-IPEC and in partnership with a consortium of NGOs, and that the Government would provide the findings of the ENTE when they were published.

The Committee notes the allegations by the ITUC that 46 per cent of children of school age are engaged in work under arduous conditions and perform types of work which exceed their physical capacities. Children also frequently work with their families in rural areas and participate in work in fields, crushing cereals, tending animals, seeking firewood and water.

The Committee notes the Government's indication in its reply to the ITUC's allegations that the rate of 46 per cent alleged by the ITUC is only an approximate figure.

However the Committee notes that, according to the findings of the ENTE, children who were economically active in 2009 represented 50.4 per cent of children between the ages of 5 and 17 years and that the phenomenon of child labour is more significant in rural than in urban areas. It also shows that in Niger girls are much more engaged in work than boys. Furthermore, 83.4 per cent of the children aged between 5 and 17 years who are economically active, that is 1,604,236 children, are engaged in types of work to be abolished (i.e. all types of work that are prohibited by the Convention). Of these, 1,187,840 children are involved in hazardous types of work. In other words, nearly two out of three children (61.8 per cent) between the ages of 5 and 17 who are economically active perform their work under hazardous conditions, with the rate being 63.6 per cent of children between the ages of 5 and 11 years and 57.9 per cent of children aged 12 and 13. The findings of the ENTE also indicate that children engaged in the types of work to be abolished mostly work in domestic service (65.5 per cent of children between the ages of 5 and 11 years and 44.5 per cent of children aged 12 and 13), trade (16.7 per cent of children between the ages of 5 and 11 years and 21.7 of children aged 12 and 13), agriculture (12.8 per cent of children between the ages of 5 and 11 years and 18.3 per cent of children aged 12 and 13) and industry (3.8 per cent of children between the ages of 5 and 11 years and 6.2 per cent of children aged 12 and 13). The Committee expresses its deep concern at the high number of children engaged in work in Niger who are below the minimum age for admission to employment and work, and that the significant proportion of these children who work under hazardous conditions. **It strongly encourages the Government to intensify its efforts to improve the situation with regard to child labour in the country and requests it to continue providing information in its next report on the application of the Convention in practice, including extracts from the reports of the labour inspection services indicating the number and nature of the contraventions reported and the penalties applied. It requests the Government to provide statistical data in its next report disaggregated by sex and age group, on the nature, extent and trends of child labour and work by young persons under the minimum age specified by the Government when ratifying the Convention.**

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

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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

The Committee notes the communication of the International Trade Union Confederation (ITUC) of 31 August 2011, and the Government's reply to the ITUC's allegations received on 14 November 2011.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. 1. Sale and trafficking of children.* In its previous comments, the Committee noted the comments of the ITUC reporting the existence in the country of the internal trafficking of girls for domestic work, as well as the trafficking of boys for economic exploitation and of girls for sexual exploitation. It also noted that, according to the information obtained by the high-level fact-finding mission (the mission), which visited Niger from 10 to 20 January 2006 at the request of the Conference Committee in June 2005, "Niger is certainly a *transit country* since its geographical location makes it a hub for trade between North Africa and sub-Saharan Africa," and that "Niger is both a *country of origin* and a *country of destination* for human trafficking, including the trafficking of children." The Committee noted that, when examining the second periodic report submitted by Niger on 20 November 2008 (CRC/C/NER/2, paragraphs 433–437), the Committee on the Rights of the Child (CRC) observed that the national survey on trafficking in persons showed that, of the 1,540 households surveyed, 5.8 per cent answered that a member of the household had been a victim of trafficking and 29.4 per cent answered affirmatively that there had been human trafficking in their locality/village/neighbourhood. The Committee noted the Government's indication that a National Plan to Combat Child Trafficking had been drawn up and approved. It also noted that a Bill for the prevention, repression and

punishment of trafficking in Niger had been drafted by the Niger Association for the Defence of Human Rights, but that the Bill on trafficking had still not been adopted by Parliament, and that accordingly the legal void persisted in that respect.

The Committee notes that, according to a report on trafficking of persons of 2011 (the 2011 trafficking report), available on the website of the United Nations High Commissioner for Refugees, the Government appears to have adopted Ordinance No. 2010-86 to combat the trafficking of persons in December 2010, which consists of comprehensive legislation prohibiting all forms of sale and trafficking and establishing sentences of imprisonment of between ten and 30 years in cases where the victim is a child. However, the Committee notes the Government's indication that the National Plan of Action to Combat Child Trafficking has still not been adopted. *The Committee requests the Government to provide information on the application of Ordinance No. 2010-86 to combat trafficking of persons in practice, including statistics on the number and nature of the violations reported, investigations conducted, prosecutions and convictions obtained, and the penal sanctions applied. The Committee requests the Government to provide a copy of this Ordinance with its next report. The Committee also urges the Government to take the necessary measures to ensure the adoption of the National Plan of Action to Combat Child Trafficking as soon as possible.*

*2. Forced or compulsory labour. Begging.* The Committee noted previously the indication by the ITUC that children are forced to beg in West Africa, including Niger. For economic or 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. During this period, they 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 the existence of begging for purely economic ends had been acknowledged by those interviewed by the mission, including the Government, and that, in this form of begging, children are especially vulnerable since their parents, even though they are concerned for the children's religious education, are unable to provide for their subsistence. The children are, therefore, left entirely dependent on the *marabouts*. The Committee expressed serious concern at the use of children for purely economic ends by certain *marabouts*, particularly since, according to the information gathered by the mission, this form of begging seemed to be very much on the increase.

The Committee noted previously that a National Observatory to Combat Begging had been set up. It also noted with interest that Circular No. 006/MJ/DAJ/S/AJS of 27 March 2006 of the Minister of Justice of Niger, addressed to the various judicial authorities, calls for sections 179, 181 and 182 of the Penal Code, which punish begging and any person, including the parents of minors under 18 years of age, who habitually engage in begging, who cause others to beg or who knowingly make a profit from begging, to be strictly applied through the prosecution, without leniency, of any persons engaging in begging or using children for begging for purely economic ends. In this respect, the Committee noted the Government's indications that there had been some cases of the arrest of *marabouts* presumed to use children for purely economic ends. However, the Government indicated that in general they are released for lack of legal proof of their guilt.

The Committee notes the Government's indication that Niger has undertaken awareness-raising campaigns with a view to changing attitudes with the support of NGOs and development partners, including UNICEF. However, the Committee notes with concern the Government's indication once again in its report that *marabouts* who have been arrested for using children for purely economic ends have been released for lack of legal proof of their guilt. The Committee, therefore, once again notes with regret that, even though the legislation is in conformity with the Convention on this matter, the phenomenon of child *talibés* remains a cause of serious concern in practice. The Committee once again reminds the Government that, under *Article 1* of the Convention, immediate and effective measures have to be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour, and that under *Article 7(1)* of the Convention, it is under the obligation to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive penal sanctions. *The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of marabouts who use children under 18 years of age for purely economic ends are carried out and that sufficiently effective and dissuasive sanctions are applied to them. In this respect, the Committee requests the Government to take the necessary measures to reinforce the capacities of law enforcement agencies. The Committee also requests the Government to take effective and time-bound measures to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and to identify child talibés who are compelled to engage in begging, remove them from such situations and ensure their rehabilitation and social integration.*

*Clause (d). Hazardous types of work. Children working in mines and quarries.* In its previous comments, the Committee noted that section 152 of Decree No. 67-126/MFP/T of 7 September 1967 prohibits the employment of children in underground work in mines. However, it noted that, according to the information gathered by the mission, work by children in hazardous types of work, particularly in mines and quarries, existed in informal locations, that young children accompany their parents to informal sites and that they "become involved in the chain of production, whether in gypsum mines or salt quarries, sometimes performing small tasks to facilitate their parents' work or, in some cases, tasks that are physically hazardous for more than eight hours a day, every day of the week, running the risk of accident or disease". The Committee noted with interest that the Minister of the Interior had issued a circular strictly prohibiting the employment of children in mines and quarries in the areas concerned, namely Tillabéri, Tahoua and Agadez, and that the Minister for Mining had received directives to take this prohibition into account in drawing up mining agreements. However, the Committee noted the Government's indication that no conviction had yet been handed down in this respect. It further noted that the review and modification of the list of hazardous types of work were carried out at a workshop held in Ayorou on 2 and 3 July 2009. In this respect, the Committee noted the Government's indication that the list of hazardous types of work was drawn up under the responsibility of the Ministry of Labour, in collaboration with the technical ministries and the employers' and workers' organizations concerned.

The Committee notes the Government's indication that the list of hazardous types of work has been reviewed and improved by the Ministry of Labour, in collaboration with the technical ministries and employers' and workers' organizations. The Government adds that it will provide the Office with a copy of this list when it has been adopted. *Expressing the hope that the list of hazardous types of work will extend the protection afforded by the Convention to children working in mines in the informal sector who are obliged to engage in hazardous types of work, the Committee urges the Government to take the necessary measures for the adoption of this list in the very near future. It therefore requests the Government to provide a copy of the amended list of hazardous types of work with its next report. It also urges the Government to take immediate measures to ensure the effective application of the national legislation for the protection of children against underground work in mines.*

*Article 5. Monitoring mechanisms. Labour inspection.* In its previous comments, the Committee noted the indication by the mission in its report that "the labour inspectorate, which plays a key role in combating child labour and forced labour, is



severely lacking in both the human and material resources needed to perform its duties". The mission recommended that a labour inspection audit be carried out to ascertain the exact nature and extent of the needs of the labour inspectorate in Niger. The Committee noted the Government's indication that it was making every effort to ensure that the audit was carried out in the near future.

The Committee notes the allegations of the ITUC that the inadequacy of resources means that the labour inspection services are very ineffective and that no inspections on child labour were carried out in 2010.

The Committee notes the Government's indication in reply to the ITUC's allegations that the labour inspection services have lacked resources for a long time, but that the Government has made significant efforts in 2011 to provide them with sufficient resources, and that these efforts will continue so that they are able to discharge effectively the duties entrusted to them.

The Committee notes that, in its report provided to the Office under the Labour Inspection Convention, 1947 (No. 81), the Government once again agrees to the audit being carried out. However, it notes with concern that the audit has still not been undertaken. **The Committee, therefore, urges the Government to take the necessary measures to reinforce and adapt the capacities of the labour inspection services so as to ensure better supervision of children under 18 years of age who are engaged in the worst forms of child labour, including the implementation of the mission's recommendation. It once again requests the Government to provide information in this respect in its next report.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour.* 1. *Access to free basic education.* In its previous comments, the Committee noted from the mission report that "parents hesitate to send their children to school when they see that such education affords no guarantee of a job, whereas the Muslim religious schools at least train children to be good Muslims or even teachers of the Koran, which explains why such schools are on the increase in Niger". The Committee noted the mission's recommendation that the operation "of the education system needs to be improved to ensure access for all to high-standard education". With regard to Koranic schools, the Committee noted that, in the context of the Franco-Arab education support project, measures had been taken for the restructuring of these schools. The Committee also noted that the Ten-year Educational Development Programme (PDDE), drawn up in 2002, aims to achieve an 80 per cent enrolment rate in primary school by 2012 and 84 per cent by 2015, with special emphasis on narrowing the gap between girls and boys. The Committee however noted that, in its concluding observations of 18 June 2009, the CRC expressed concern at the poor quality of the education system, the high drop-out rate and the weak gender equity in education (CRC/C/NER/CO/2, paragraph 66).

The Committee notes the Government's indication that several actions have been taken to prevent the engagement of children in the worst forms of child labour, including their school attendance. In this respect, the Government indicates that programmes of action have resulted, among other outcomes, in the enrolment in school of 922 children, including 440 girls in Komabangou, with a view to preventing them from becoming engaged in the worst forms of child labour. It also notes the school enrolment of 1,273 children in M'Banga; the support for the recruitment of teachers for primary schools in M'Banga, Komabangou and 16 satellite villages; and the implementation of the support project for the school enrolment of children and young school drop-outs in the rural community of Makalondi.

However, the Committee notes that, according to the National Survey of Child Labour in Niger of 2009 (ENTE), only 39 per cent of girls between the ages of 7 and 17 years engaged in a type of work that is to be abolished attend school, compared with 47 per cent of boys. Furthermore, the proportion of boys between the ages of 7 and 11 years who attend school is 56 per cent, compared with 48 per cent for boys aged 12 and 13 years, and 24 per cent for the 14–17-year age group. Among girls, these proportions are respectively 46.4 per cent, 28 per cent and 13 per cent. The ENTE also indicates that, among children engaged in forms of work that are to be abolished, 57.2 per cent do not attend school. The failure to attend school is of greater concern among children between the ages of 14 and 17 years who are engaged in hazardous types of work, 80.9 per cent of whom do not attend school. With regard to school drop-outs, 21.4 per cent of children between the ages of 7 and 17 years engaged in types of work that are to be abolished have dropped out of school, out of which 36.5 per cent of children between the ages of 14 and 17 years are engaged in hazardous types of work. The Committee therefore expresses its deep concern at the school attendance rates and the school drop-out rates of children who are compelled to work. **Accordingly, considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to improve the operation of the educational system, taking into account the special situation of girls. In this respect, it also requests the Government to ensure an increase in school enrolment rates and a reduction in school drop-out rates, and to adopt other measures for the integration of Koranic schools into the national educational system. It requests the Government to continue providing information on the results achieved.**

2. *Raising awareness and educating the public about the problems of child labour and forced labour.* The Committee noted previously the recommendation made by the mission in its report that specific measures should be taken "to raise awareness among Koranic teachers and parents to prevent the 'instrumentalization' of begging by certain *marabouts*". The Committee noted the information provided by the Government concerning the awareness-raising and training activities undertaken among those involved in combating child labour, and particularly its worst forms, including political decision-makers, employers, community leaders and traditional chiefs, police officers, magistrates, current or potential working children, parents, teachers, students and the public in general with regard to the problem of child labour.

The Committee notes the Government's indication that the awareness-raising campaigns have succeeded in raising the awareness of the actors concerned with regard to the danger represented by this phenomenon. The Government adds that it is continuing awareness-raising activities, including for the population in general, with a view to changing attitudes. **The Committee once again requests the Government to provide detailed information on the awareness-raising activities undertaken for traditional chiefs, civil society and elected local officials, and on their impact in terms of the number of children who have been prevented from begging for purely economic ends by certain *marabouts*.**

*Clause (b). Necessary direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* In its previous comments, the Committee noted the results of the implementation of the ILO-IPEC project for the prevention and elimination of child labour in artisanal gold mining in West Africa. It also noted that the measures for the social integration of victims of the worst forms of child labour removed from gold mines are provided free of charge by national associations and NGOs, with the support of technical ministries and partners, such as UNICEF.

The Committee notes the ITUC's allegations that the use of children in gold, salt and gypsum mines and other forms of extraction persists. The ITUC indicates that these children have to work under deplorable conditions, with inadequate ventilation, the risk of rock falls and a lack of light, and that they are exposed to the consumption of alcohol and drugs.

The Committee notes the Government's indication that the ILO-IPEC project has come to an end in Niger. The Government adds that, despite this, the schools built in the context of the project continue to enrol a significant number of students. *The Committee requests the Government to provide information on the number of children who are, in practice, removed from artisanal gold mines and then rehabilitated and socially integrated, particularly in schools built for that purpose. Furthermore, noting that the ILO-IPEC project has come to an end, the Committee strongly encourages the Government to continue taking measures to remove children under 18 years of age from these mines and for their rehabilitation and social integration. It requests the Government to provide information on the progress achieved in this respect.*

*Article 8. Regional cooperation.* The Committee noted previously that, in addition to the multilateral cooperation agreement to combat child trafficking in West Africa, signed in July 2005, Niger also signed the Abuja Multilateral Cooperation Agreement in 2006 and a bilateral agreement for the establishment of a mixed frontier control brigade between Niger and Nigeria. Following the implementation of these various cooperation agreements to combat trafficking in children, Niger has established 30 vigilance committees and widespread joint mobile brigades on all national frontiers. The Government added that child victims of trafficking have been intercepted in frontier areas. However, the Committee noted with deep concern the Government's indication that those presumed guilty had been released by the police for lack of legal proof.

The Committee notes the Government's indication that no new cases of trafficking of children have been recorded since 2009. However, according to the 2011 trafficking report, the Government assisted in the repatriation of 89 child victims of trafficking to Mali, Nigeria, Burkina Faso, Benin, Cameroon and Liberia, and the return to their villages from Niger. *Recalling that under Article 7(1) of the Convention, the Government is under the obligation to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, the Committee once again urges the Government to take the necessary measures to ensure that persons involved in the trafficking of children are prosecuted and that sufficiently effective and dissuasive sanctions are imposed upon them, in the context of the agreements concluded with other signatory countries.*

*Parts IV and V of the report form. Application of the Convention in practice.* In its previous comments, the Committee noted that the ENTE had already been undertaken by the National Institute of Statistics and that the findings would be provided to the Office when they were published.

The Committee notes that, according to the findings of the ENTE, 83.4 per cent of economically active children between the ages of 5 and 17 years, or 1,604,236 children, are engaged in types of work that are to be abolished. Of these, 1,187,840 children are involved in hazardous types of work and, as a result, 74 per cent of children between the ages of 5 and 17 years engaged in types of work that are to be abolished do so under hazardous conditions. The gender distribution of children engaged in hazardous types of work shows that girls (31.2 per cent) and boys (31.1 per cent) are involved almost in the same proportions. The Committee also observes that children in rural areas (36.6 per cent) are more exposed than those living in urban centres (18.2 per cent) and in Niamey (7.5 per cent). *Expressing its deep concern at the situation of children under 18 years of age engaged in the worst forms of child labour, the Committee urges the Government to renew its efforts to ensure the protection of children from these forms of labour in practice, and particularly from hazardous types of work. It requests the Government to continue providing information on the progress achieved in this respect.*

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.*

## Nigeria

### **Minimum Age (Underground Work) Convention, 1965 (No. 123) (ratification: 1974)**

*Article 4(5) of the Convention. Employer's obligation to make available to the workers' representatives, at their request, the list of persons employed in work underground.* The Committee had noted that under section 62 of the Labour Act, every employer is required to keep a register of all young persons in his or her employment with particulars of their ages, the date of employment and the conditions and nature of their employment and to produce the register for inspection when required by an authorized labour officer. It had further noted that under section 91(1) of the same Act, "young person" means a person under the age of 18 years and "industrial undertaking" includes mines, quarries and other works for the extraction of minerals from the earth.

The Committee notes the Government's statement that the various state offices of the Federal Ministry of Labour and Productivity have been directed to inform the employers to release, on demand, the register of all young persons in their employment (kept pursuant to section 62 of the Labour Act) to the trade union, in compliance with section 5(6) of the Labour Act, Cap L1, LFN 2004. The Committee notes, however, that section 5(6) of the Labour Act, Cap L1, LFN 2004 relates to the list of employees from whom deductions for overpayment of wages were made, which shall be made available by employers when making payment to a trade union. The Committee observes that for a number of years, it had been requesting the Government to indicate the measures taken to give effect to the Convention (*Article 4(5)*), under which the employer shall make available to the workers' representatives, at their request, lists of the persons who are employed in work underground and who are less than two years older than the minimum age specified by the Government which is 16 years. The lists should contain the dates of birth as well as dates at which they were employed or worked underground in the undertaking for the first time. *The Committee therefore requests the Government to indicate the measures taken or envisaged to bring the national legislation into conformity with the provisions of Article 4(5) of the Convention.*

## Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

*Article 2(1) of the Convention. Scope of application.* 1. *Self-employed children.* The Committee had 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. The term “worker” does not include the following persons: (i) persons who are not employed for the purposes of the employer’s business; (ii) members of the employer’s family; (iii) sales representatives in so far as their work is performed outside the permanent workplace of the employer’s business; and (iv) persons to whom materials or articles are given to be cleaned, ornamented, repaired or adapted in order to be sold outside of their premises. The Committee had reminded the Government that the Convention applies not only to work performed under an employment contract but to all types of work or employment regardless of the existence of a contractual relationship, such as self-employment. ***Noting the absence of information in the Government’s report, the Committee once again requests the Government to provide information on the measures taken or envisaged to ensure that all children, including self-employed children, benefit from the protection laid down in the Labour Act. In this respect, it requests the Government to envisage the possibility of amending section 91 of the Labour Act as well as taking measures to adapt and strengthen the labour inspection services with a view to ensuring such protection.***

2. *Minimum age for admission to work.* The Committee had noted that by virtue of section 59(2) of the Labour Act of 1990, a person under 15 years of age shall not be employed or work in industrial undertakings. However, it noted that, according to section 59(1) of the Labour Act, read in conjunction with section 91 of the same Act, “no child under 12 shall be employed or work in any capacity except where he/she is employed by a member of his/her family to perform light work of an agricultural, horticultural or domestic character”. The Committee had also noted that, according to sections 28(1)(b) and 277 of the Child Rights Act of 2003, a child under 18 years shall not be “employed to work in any capacity except where he/she is employed by a member of his/her family to perform light work of an agricultural, horticultural or domestic character”. Moreover, the Committee had observed that section 7(1) of the draft Labour Standards Bill of 2004 follows the same wording as that of section 59(1) of the Labour Act of 1990, in other words, fixing a general minimum age of admission to work or employment of 12 years and did not appear to modify the Labour Act of 1990 in light of the relevant provisions of the Child Rights Act of 2003. In this regard, the Committee had noted with concern that the national legislation provided for a wide variety of minimum ages, and that many of these minimum ages were too low.

The Committee notes the Government’s statement that the Legal Departments of the Federal Ministry of Labour and Productivity and the Federal Ministry of Women’s Affairs and Social Development have been required to provide legal advice on this matter. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to harmonize its legislation and to provide for a general minimum age for admission to employment or work of 15 years. The Committee requests the Government to provide information on any progress made in this regard.***

3. *Children working in agriculture and domestic services.* The Committee notes that the Labour Act permits the employment of children under the age of 12 years in agriculture, horticulture and domestic services. Section 65 of the Labour Act further provides that the Minister may make regulations concerning the employment of women and young persons as domestic servants. The Committee notes that, according to the UNICEF Information Sheet on Child Labour in Nigeria, 2006, an estimated 15 million children under the age of 14 years work in Nigeria, mostly in the semi-formal and informal economy with hundreds of thousands of young domestic workers working for prosperous urban families. It also notes the information from a report available on the website of the United Nations High Commissioner for Refugees (UNHCR) that children in Nigeria are engaged in dangerous activities in agriculture and domestic service. Children engaged in work in cocoa plantations are often exposed to pesticides and chemical fertilizers. The Committee expresses its ***serious concern*** at the situation and number of children below the minimum age who work as domestic workers and in the agricultural sector. ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that children under 15 years are not admitted to work in agriculture or in domestic work, except for light work as laid down under Article 7(1) of the Convention. It also asks the Government to indicate whether a regulation on domestic service was adopted pursuant to section 65 of the Labour Act.***

*Article 3(2). Determination of hazardous work.* The Committee had previously noted that neither the Labour Act nor the Child Rights Act provide for a comprehensive list of types of hazardous work, especially regarding occupations that are likely to harm the morals of children. It had therefore requested the Government to take the necessary measures to determine in detail the types of work, which, by their nature or the circumstances in which they are carried out, are likely to jeopardize the health, safety or morals of children under 18 years of age.

The Committee notes the Government’s indication that the Occupational Safety and Health Bill, which is currently before the National Assembly for approval, contains the list of types of hazardous work prohibited to young persons under the age of 18 years. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Occupational Safety and Health Bill, which contains a list of types of hazardous work prohibited to young persons under the age of 18 years, will be adopted in the near future. It requests the Government to supply a copy, once it has been adopted.***

*Article 6. Apprenticeship.* The Committee had previously noted that, according to section 49(1) of the Labour Act, a person aged 12–16 years of age may undertake an apprenticeship for a maximum period of five years. Section 52(a)



of the Labour Act states that the Minister may make regulations to determine the terms and conditions upon which the contract of apprenticeship may be lawfully entered into as well as the duties and obligations of the apprentices and their masters. The Minister may also regulate the conditions governing the entry of persons aged 12–16 years into apprenticeship (section 52(e) of the Labour Act). The Committee had also noted that the Committee on the Rights of the Child (CRC) expressed its concern at the exploitation and abuse that commonly take place in apprenticeships (CRC/C/15/Add.257, 28 January 2005, paragraph 73). The Committee had reminded the Government that *Article 6* of the Convention permits work done by persons of at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers, and is an integral part of: (a) a course of education or training for which a school or training institution is primarily responsible; (b) a programme of training mainly or entirely in an undertaking; or (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training. ***Noting that the Government's report does not contain a reply to its previous comment, the Committee once again requests the Government to take the necessary measures to ensure that children under 14 years of age do not undertake apprenticeships. It also asks the Government to indicate whether regulations were adopted, pursuant to section 52(a) and (e) of the Labour Act, to regulate apprenticeships.***

*Article 7(1). Minimum age for admission to light work.* The Committee had previously observed that neither the provisions under section 59(1) of the Labour Act, nor section 28(1)(b) of the Child Rights Act provide for a minimum age for admission to light work.

The Committee notes the Government's information that in practice children under 12 years of age do not perform light work. The Committee notes, however, that according to the Multiple Indicator Cluster Survey Report of 2007 (UNICEF/National Bureau of Statistics, Nigeria), 29 per cent of children aged between 5 and 14 years are engaged in child labour. The Committee once again reminds the Government that, according to *Article 7(1)* of the Convention, national laws or regulations may permit the employment or work of children aged 13–15 years in light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received. In this regard, the Committee draws the Government's attention to paragraph 393 of the General Survey of 2012 on the fundamental Conventions concerning rights at work, on the requirement to establish a minimum age for admission to light work, in conformity with the Convention. ***The Committee accordingly requests the Government to take the necessary measures to ensure that only children aged 13–15 years may perform light work.***

*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 were not clearly defined in the Labour Act or in the Child Rights Act.

The Committee notes the Government's reference to section 59(3) and (8) of the Labour Act. According to section 59(3), young persons under the age of 14 years may be employed only on a daily wage, on a day-to-day basis and as long as they return to their place of residence each night. Section 59(8) further states that no young persons under the age of 16 years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in any day. The Committee observes that section 59(3) does not prescribe the number of hours during which light work may be permitted to young persons under the age of 14 years. It further observes that the maximum working hours of eight hours a day prescribed under section 59(8) may 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 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.***

*Part III of the report form. Labour inspectorate.* The Committee notes from the Government's report of 2009 under the Labour Inspection Convention, 1947 (No. 81), that the labour inspectorate has not been very effective for the following reasons: (i) inadequate manpower and working materials; (ii) inadequate funding and capacity building; and (iii) obsolete laws (to the extent that the labour laws are reviewed but are pending at the National Assembly for approval). The Government's report under Convention No. 81 further indicated that the Government has established child labour units in all the 36 states and the Federal Capital Territory with the responsibility of coordinating child labour inspection. ***The Committee requests the Government to provide information on the functioning of the child labour units with regard to the child labour inspections carried out and on the number and nature of violations detected. It also requests the Government to take the necessary measures to strengthen the functioning of the labour inspectorate, by increasing the number of labour inspectors as well as by providing them with additional means and resources, in order to ensure the effective supervision of the provisions giving effect to the Convention. It requests the Government to provide***

*information on measures taken in this regard and on the results achieved, including on the number of inspections carried out and violations detected with regard to children.*

*Part V of the report form. Application of the Convention in practice.* The Committee notes from the concluding observations of the CRC of June 2010 that, in Nigeria, public awareness campaigns to combat the economic exploitation of children were carried out, child labour units were established in all states and a survey was conducted in 2008 to identify the prevalence and nature of child labour. The CRC, however, remained seriously concerned at the very high number of children engaged in child labour, in particular in its worst forms (CRC/C/NGA/CO/3-4, paragraph 82). The Committee further notes the information from a report available on the website of the UNHCR that in May 2011 the Ministry of Labour and Productivity (MOLP) reportedly collected data from state governments on the prevalence of child labour. *The Committee requests the Government to provide information on the data collected on the situation of working children in Nigeria during the 2008 survey and by the MOLP in 2011. The Committee also requests the Government to provide information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children under 15 years, extracts from the reports of inspection services, and information on the number and nature of contraventions reported.*

*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 direct request addressed directly to the Government.

## Paraguay

### **Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1966)**

*Article 4(1) and (2) of the Convention. Medical re-examination of fitness for employment until the age of 21 years.* In its previous comments, the Committee requested the Government to take the necessary measures to bring the legislation into conformity with *Article 4* of the Convention, under which provision has to be made for a medical examination of fitness for employment and for periodical re-examination until at least the age of 21 years, in the case of occupations involving high health risks. It also stressed the need to define the occupations or categories of occupations for which such an examination is required.

In its report, the Government provides a considerable amount of information on the measures taken to strengthen the protection of children who work, especially by adopting the National Strategy for the Prevention and Elimination of Child Labour and Protection of the Work of Young People (2010–15) and by consolidating institutional coordination for handling complaints and recording abuse with respect to work carried out by children under 18 years of age. While noting this information, the Committee observes that the Government does not provide information on any measures it might have taken to bring the legislation into conformity with the Convention. It recalls that section 121(b) of the Labour Code subjects the employment of minors under 18 years to a number of conditions, including the obligation to present a yearly physical and mental fitness certificate established by the competent authority. *The Committee therefore requests the Government once again to take the necessary measures to supplement its legislation to ensure, in respect of occupations involving high health risks, the compulsory nature of the examination for fitness for employment and for re-examination until at least the age of 21 years. It also requests the Government to define the occupations or categories of occupations for which such an examination is required.*

*Article 6(1). Measures for vocational guidance and physical and vocational rehabilitation of children and young persons declared unable to work. Noting the absence of information in the Government's report, the Committee again requests it to take the necessary measures to provide for the physical and vocational rehabilitation of children and young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations, and to supply information in this respect.*

*Part V of the report form. Application of the Convention in practice.* *Given that under section 55 of the Children's and Young Persons' Code, the Municipal Council for the Rights of Children and Young Persons (CODENI) is bound to establish a specific register of young workers, the Committee hopes that the Government will be in a position to supply, in its next report, statistical data on the number of children and young persons working in the industrial sector, the number of those who have undergone the medical examinations provided for under the Convention, information on the infringements reported by the Labour Inspectorate in this area and the penalties imposed, as well as any other information concerning the application of the Convention in practice.*

### **Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1966)**

*The Committee requests the Government to refer to its comments on the application of the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77).*

### **Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) (ratification: 1966)**

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

*Article 3 of the Convention. Period during which it is forbidden to work at night.* In its previous comments, the Committee noted with satisfaction that under section 2 of Decree No. 4951 of 22 March 2005, night work between 7 p.m. and 7 a.m., i.e. a period of 12 hours, is classified as dangerous and that, pursuant to section 3 of the Decree, it is prohibited for children under 18 years of age. It nonetheless noted that section 58 of the Children's and Young Persons' Code prohibits night work for children aged 14 to 18 years for a period of ten hours including the interval between 8 p.m. and 6 a.m. In order to avoid any ambiguity in the law, the Committee deemed it advisable to align section 58 with the Children's and Young Persons' Code with Decree No. 4951 of 22 March 2005 and the Convention, by introducing an amendment to increase to 12 hours the period during which young persons must not work at night.

While noting the information from the Government that the exceptions allowed by this provision of the Convention have not been used, the Committee again expresses the view that it would be advisable to align section 58 of the Children's and Young Persons' Code with Decree No. 4951 of 22 March 2005, the Convention and practice. *It requests the Government to take the necessary steps to amend section 58 of the Children's and Young Persons Code and to establish that the period during which children may not work at night must be 12 hours.*

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

## **Philippines**

### **Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (ratification: 1953)**

*Article 2 of the Convention. Period during which night work is prohibited.* In its previous comments, the Committee had noted that the regulation issued by Directive No. 23 of 30 May 1977, which prohibited night work for young persons under 16 years between 10 p.m. and 6 a.m. was not in conformity with the provisions of the Convention, under the terms of which the prohibition should cover a period of at least 12 consecutive hours, including the interval between 10 p.m. and 6 a.m. Recalling that according to *Article 2* of the Convention, the term *night* signifies a period of 12 consecutive hours (*paragraph 1*), which for young persons under 16 years of age, this period shall include the interval between 10 p.m. and 6 a.m. of the following day (*paragraph 2*), and for young persons between the ages of 16 and 18 years, the interval of at least seven consecutive hours falling between 10 p.m. and 7 a.m. (*paragraph 3*), the Committee had requested the Government to take the necessary measures in order to bring the national legislation into conformity with *Article 2* of the Convention.

The Committee notes that according to subsections (1) and (2) of section 12-A of the Republic Act No. 9231 of 2003, a child below 15 years shall not be allowed to work for more than four hours a day and a child between 15 and 18 years of age shall not be allowed to work for more than eight hours a day. It also notes that subsection (3) of section 12A of Act No. 9231 further prescribes that no child under 15 years of age shall be allowed to work between 8 p.m. and 6 a.m. of the following day and no child between 15 and 18 years shall be allowed to work between 10 p.m. and 6 a.m. of the following day. The Committee, therefore, observes with *satisfaction* that subsections (1), (2) and (3) of section 12-A when read together, lead to a prohibition to work during the night as required by *Article 2* of the Convention. The Committee further notes that section 5(a) and (b) of Republic Act No. 679 of 1952, which prohibits night work by children under 18 years of age also states that children employed at night shall be granted a rest period of at least 13 consecutive hours between two working periods.

## **Portugal**

### **Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1932)**

The Committee notes the Government's report. It also takes note of the observations sent by the General Workers' Union (UGT) and the General Confederation of Portuguese Workers (CGTP).

*Article 2(2) of the Convention. Exceptions to the prohibition of night work by young persons.* In its previous comments, the Committee had noted section 65 of Act No. 99/2003 approving the Labour Code (Labour Code of 2003) which regulates the night work of young persons. It had noted that according to section 65(3) of the Labour Code of 2003, a collective agreement may provide that a young person aged 16 or over may work at night in specific sectors of activity, except during the period between midnight and 5 a.m. Moreover, it had noted section 65(4) of the Labour Code of 2003 which stated that a young person aged 16 or over may work at night, in cultural, artistic, sporting or advertising activities, where there are objective grounds for doing so and on condition that he/she is granted a compensatory period of rest equal to the number of hours worked.

The Committee had noted the observations made by the CGTP that the national legislation authorizes the night work of young persons aged 16 and over in particular sectors of activity without specifying the sectors themselves.



The Committee once again notes the allegations made by the CGTP reiterating its previous comments that the national legislation does not expressly state the sectors of activity in which night work is authorized for young persons over 16 years of age. The CGTP further alleges that this task is being left to collective bargaining which would lead to a generalization or widespread habit in practice not permitted by the Convention. The Committee also notes the UGT's statement that since this Convention dates from 1919 and was ratified by Portugal in 1932, it is natural that some of its provisions may have become obsolete.

The Committee notes the Government's indication that the Labour Code of 2003 has been revised and the night work of young persons under 18 years of age is now covered by section 76 of the Legislative Decree No. 7/2009 (Labour Code of 2009) which retains the provisions previously contained in section 65 of the Labour Code of 2003. In this regard, the Committee notes that the Government continues to consider that some provisions of the Convention which might have been justified at the time of its adoption in 1919, have lost any relevance with the passage of 93 years, and does not reflect the world of work today. The Government, once again recalling the decision taken by the Governing Body, considers that the Convention should be revised as soon as possible, and that it is looking forward for that.

The Committee reminds the Government that as long as the Convention has not been revised and has not been denounced by a ratifying country as per *Article 13* of the Convention, it remains in force and is binding upon those countries that have ratified the Convention. Such a country is under an obligation to comply with the provisions of the Convention. The Committee once again recalls that according to *Article 2(1)* of the Convention, young persons under 18 years of age shall not be employed during the night in any industrial undertaking, other than an undertaking in which only members of the same family are employed and in the cases listed in *Article 2(2)* of the Convention. **The Committee therefore requests the Government to take the necessary measures to specify the activities in which night work may be authorized for children over 16 years of age as per section 76(3)(a) of the Labour Code of 2009, so as to be in conformity with Article 2(1) and (2) of the Convention.**

*Article 3(1). Employment of children in industrial undertakings.* Noting that the provisions laid down under section 65 of the Labour Code of 2003 did not completely comply with the provisions of the Convention, the Committee had reminded the Government that according to *Article 3(1)* of the Convention, the term "night" signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m. It had therefore requested the Government to take the necessary measures to bring the national legislation into conformity with the Convention on this point.

The Committee notes the allegations made by the CGTP that national legislation fails to conform to *Article 3(1)* of the Convention in terms of the definition of "night work".

The Committee notes that according to section 76(1) of the Labour Code of 2009, it is prohibited to employ a young person under 16 years of age between 8 p.m. and 7 a.m. It also notes section 76(2) of the Labour Code of 2009 which states that a young person aged 16 and over cannot work between 10 p.m. and 7 a.m. In this regard, the Committee notes that according to section 73(1) of the Labour Code of 2009, the working hours of a young person (between the ages of 16 and of 18 years) shall not exceed eight hours a day or 40 hours per week. The Committee, therefore, observes with **satisfaction** that sections 73(1) and 76(2) of the Labour Code of 2009, when read together, lead to a prohibition to work during the night as required by *Article 3(1)* of the Convention. The Committee further notes that by virtue of section 73(2) of the Labour Code of 2009 a collective agreement on employment may further reduce or limit the maximum working hours of young persons.

*Part V of the report form. Application of the Convention in practice.* The Committee notes the Government's information that in the course of the inspections carried out by the Working Conditions Authority during the period from June 2008 to May 2012, four infringements of the provisions governing the prohibition of night work by minors were detected and were the subject of prosecutions.

### **Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) (ratification: 1983)**

The Committee notes the Government's report. It takes note of the observations sent by the General Workers' Union (UGT) and the General Confederation of Portuguese Workers (CGTP).

The Committee notes the allegations made by the CGTP referring to the lack of provisions in the national legislation to give effect to the Convention. The Committee notes the Government's reference to the newly adopted Act No. 102/2009 of 10 September approving the legal framework for the promotion of safety and health at work (which incorporates most of the provisions of Act No. 34/2004) and Act No. 98/2009 of 4 September regulating the system of compensation for accidents at work and occupational diseases, including rehabilitation and reintegration. Accordingly, the Committee notes with **interest** that the above Acts guarantee compliance with the following provisions of the Convention.

*Article 4 of the Convention. Medical examination until the age of 21 years for occupations involving high health risks.* In its previous comments, the Committee had noted that neither the Labour Code nor Act No. 35/2004 contained provisions requiring a medical examination for fitness for employment and periodical re-examinations for persons until the age of 21 years for occupations which involve high health risks. It had therefore requested the Government to provide information on the measures taken or envisaged to this end.

The Committee notes with *satisfaction* that according to section 108(3)(a) of Act No. 102/2009, all workers working in occupations involving high health risks are required to undergo a medical examination prior to their employment. Moreover, while minors (under the age of 18 years) and employees above 50 years are required to undergo a periodic medical examination every year, all other workers (including workers between the age group of 18 and 21 years) are required to undergo a periodic medical examination once in two years (section 108(3)8B). Section 108(4) of the Act further states that based on the worker's state of health and the results of the occupational risk assessment in the workplace, the medical officer, may increase the intervals between the medical examinations of the worker.

*Article 5. Medical examination to be free of charge.* The Committee had previously requested the Government to indicate whether the medical examinations prescribed by the legislation are free of charge. The Committee notes with *interest* that according to section 15(12) of Act No. 102/2009, the employer bears the expense of medical examinations, evaluation of cases of exposure, medical tests or any other activities related to occupational risks and health monitoring, without imposing any financial charges on the workers.

*Article 6(2). Physical and vocational rehabilitation of children and young persons found to be unsuited or to have physical handicaps or limitations.* The Committee had previously reminded the Government that as per *Article 6(2)* of the Convention the nature and extent of the measures taken for vocational guidance and physical and vocational rehabilitation of workers found unsuited for work, shall be determined by the competent authority, and for this purpose cooperation shall be established between the labour, health, educational and social services concerned, and effective liaison shall be maintained between these services in order to carry out such measures. It had requested the measures taken in this regard.

The Committee notes section 110(2) of Act No. 102/2009 which provides that where the medical examination indicates a worker's unsuitability for certain types of work, the workplace medical officer shall indicate in such cases, other types of work suitable for such worker. Moreover, according to section 155(1) and (2) of Act No. 98/2009, workers who have been the victims of an accident or contracted an occupational disease resulting in temporary, partial or permanent incapacity are assured vocational training, adaptation of the workplace or part-time work by the employer. The Committee further notes with *satisfaction* that, according to section 155(3) of Act No. 98/2009, the Government must create vocational rehabilitation, reintegration and placement services in coordination with the existing services. The Committee also notes that in connection with worker's rehabilitation and reintegration, sections 162–166 of Act No. 98/2009 envisages the possibility of collaboration between public services responsible for employment and vocational training, as well as services responsible for protection against occupational risks and other services.

*Part V of the report form. Application of the Convention in practice.* The Committee notes the observations made by the CGTP that in addition to the lack of legislative provisions, the enforcement of legal obligations relating to monitoring the health of minors is inadequate which is aggravated by the shortcomings of the actions of the Working Conditions Authority (ACT).

The Committee notes the information provided by the Government regarding the violations detected relating to medical examinations of minors during the inspection activities carried out by the ACT. Accordingly, nine violations each were detected in 2007–08; four violations were detected in 2009; six violations were detected in 2010; and two violations were detected in 2011.

### **Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) (ratification: 1983)**

The Committee notes the Government's report. It also takes note of the observations sent by the General Workers' Union (UGT) and the General Confederation of Portuguese Workers (CGTP).

*With regard to Articles 4, 5 and 6(2) of the Convention, the Committee requests the Government to refer to its comments under the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77).*

*Article 7(2)(a) of the Convention. Supervision for the enforcement of the system of medical examination for fitness for employment of children engaged either on their own account or on account of their parents.* The Committee had previously noted the comments made by the UGT and the CGTP that undue use of child labour still persisted in rural areas. The CGTP further stated that the labour inspection services did not yet react to this state of affairs. The Committee had reminded the Government to adopt measures of identification for ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged, either on their own account or on account of their parents in itinerant trading or in any other occupation carried out in the streets, or in places to which the public have access (for example, a requirement for the child or young person to be in possession of a document attesting to a medical examination for fitness).

The Committee notes the Government's information that children and young persons engaged, either on their own account or on account of their parents in itinerant trading or in any other occupation carried out in the streets, or in places to which the public have access are covered by Act No. 102/2009 on the system of protection of safety and health at work which is applicable to all sectors of activity including self-employed workers. It notes that according to section 108(3) of Act No. 102/2009, all workers, including minors, are required to undergo a medical examination prior to their employment and to further undergo periodic annual examination. The Committee notes with *satisfaction* that as per

section 3 of Act No. 102/2009, the provisions of this Act apply to family undertakings, domestic work, agricultural and fishing sector as well as self-employment. The Committee further notes the Government's information that according to the provisions of Law Decree No. 399/91 which adapted the regulations on street vending, under Law Decree No. 122/79, children under the age of 18 years are required to undergo a free medical examination which certifies their physical fitness to perform the occupation, before they are issued a permit to work as an itinerant trader.

*Part V of the report form. Application of the Convention in practice.* Concerning the observations made by the UGT and the CGTP on the inadequate enforcement of the legal provisions on medical examination, the Committee notes the Government's statement that children under 16 years of age are entitled to perform light work according to section 68(4) of the Labour Code. In Portugal, children work in farms and small-scale family businesses which are widely scattered in the country and where it is difficult to distinguish an employment relationship in the true sense. The Committee notes the Government's information that the Working Conditions Authority (ACT) has given priority to the eradication of the illegal employment of children and inspection action plans had always focused on conditions of employment of children. It further notes from the Government's report that with regard to inspection activities, 202 inspections were carried out in 2010 to monitor the employment and working conditions of minors during which 20 violations were detected and penalties ranging between €33,150 and €73,713 were imposed. Most of the violations detected were with regard to the failure to provide medical examinations, violation of the minimum requirements for admission of minors to employment (without compulsory schooling or vocational qualification) and failure to inform the ACT about the employment of minors. In this regard, the Committee also notes the Government's indication in its report of 2011 under the Minimum Age Convention, 1973 (No. 138), that the labour inspectors have not detected any cases of illegal work in the domestic sector, though six cases of illegal work by minors in other sectors were detected in 2009 and 2010.

## Russian Federation

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1979)**

*Article 2(1) of the Convention. Scope of application. Children working in the informal economy.* The Committee previously noted that section 63(1) of the Labour Code prohibited children under 16 years of age from signing an employment contract. The Committee also noted the Government's statement that the illegal employment of minors and the violation of their labour rights are frequent occurrences in the informal economy. This involves minors who wash cars, engage in trading and perform auxiliary work. The Committee subsequently noted the Government's information regarding measures taken to prevent children from signing employment contracts in breach of the national labour legislation, but observed an absence of information regarding any measures taken to ensure that children who work without an employment contract enjoyed the protection afforded by the Convention.

The Committee once again notes an absence of information in the Government's report regarding measures taken to address children working outside the scope of an employment contract or in the informal economy. However, the Committee notes the Government's statement, in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that one of the most common violations detected by the state labour inspectorate involving persons under the age of 18 was the failure to conclude employment contracts in written form. The Committee also notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 1 June 2011, expressed concern regarding the large number of children who live and work on the streets, in particular in the informal sector where they are vulnerable to abuse to such an extent that regular school attendance is severely restricted (E/C.12/RUS/CO/5, paragraph 24). **Recalling that the Convention applies to all branches of economic activity and covers all types of employment or work, the Committee urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal economy. The Committee requests the Government to supply information on the specific measures taken in this respect in its next report.**

*Parts IV and V of the report form. Labour inspectorate and the application of the Convention in practice.* The Committee previously noted the information from a 2009 study carried out by the ILO-IPEC, within the framework of a project on street children in the region of St. Petersburg, that children, some as young as 8 and 9 years old, were engaged in economic activities such as collecting empty bottles and recycling paper, transporting goods, cleaning workplaces, looking after property, street trading and cleaning cars.

The Committee notes the statement in the Government's report that the Federal Labour and Employment Service (Rostrud) and its local departments (the state labour inspectorates) ensure the protection of the labour rights of minors in employment through their inspection activities. In this regard, the Committee notes the information in the Government's report submitted under Convention No. 182 that 1,267 inspections were carried out in the first six months of 2010 to verify compliance with legislation relating to children under 18 and 564 such inspections were carried out in the first six months of 2011. The Government also indicates that in the first six months of 2010, 1,865 violations were detected relating to persons under 18, and 1,461 such violations were detected over the same period in 2011. Consequently, labour inspectors imposed fines amounting to 1,200,000 Russian roubles (RUB) in the first six months of 2010, and fines of RUB756,000 over the same period in 2011. The Committee therefore observes that significantly fewer inspections were



carried out to verify compliance with legislation relating to children under 18 in the first six months of 2011 (564 such inspections detecting 1,461 violations) compared to the first six months of 2010 (1,267 inspections detecting 1,865 violations). *The Committee accordingly urges the Government to strengthen its efforts to effectively address and eliminate child labour, including in the informal economy. Moreover, the Committee requests the Government to take the necessary measures to ensure that sufficient data on the situation of working children in the Russian Federation is made available, including information on the number of children below the minimum age engaged in economic activity, and the nature, scope and trends of their work. To the extent possible, all information provided should be disaggregated by sex and by age.*

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* In its previous comments, the Committee noted that while child trafficking is prohibited in law (pursuant to section 127.1 of the Criminal Code), it remains a source of serious concern in practice. In this regard, the Committee noted that, according to the International Trade Union Confederation, thousands of persons are trafficked from the Russian Federation to other countries, including Canada, China, Germany, Israel, Italy, Japan, Spain, Thailand and the United States. Internal trafficking within the Russian Federation is also reportedly taking place and cases have been confirmed of children being trafficked for sexual exploitation. The Committee also noted that, according to the report of 24 January 2007 of the UN Special Rapporteur on the sale of children, child prostitution and child pornography in Ukraine (A/HRC/4/31/Add.2, paragraphs 48–49), the Russian Federation is also a destination country for boys and girls between 13 and 18 years of age trafficked from Ukraine, for exploitation in street vending, domestic labour, agriculture, dancing, employment as waiters/waitresses or for the provision of sexual services. The Committee further noted the Government's indication that in 2008 the courts examined the cases of five persons involved in three instances of the trafficking of minors. In this respect, the Committee observed that the number of cases involving the trafficking of children reported by the authorities remained low.

The Committee notes the information in the Government's report submitted under the Forced Labour Convention, 1930 (No. 29) that, in 2009, 66 offences were recorded of the trafficking of minors (section 127.1(2)(b) of the Criminal Code), and 67 persons were found to have committed these offences. It also notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 10 August 2010, expressed concern at the high prevalence of trafficking in the country, which had increased more than sixfold during the reporting period. The CEDAW also noted with concern that the Russian Federation is a source, transit and destination country for trafficking and expressed regret regarding the lack of disaggregated data on the number of victims of trafficking, including minors (CEDAW/C/USR/CO/7, paragraph 26). Moreover, the Committee notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 1 June 2011, expressed concern about continued reports of trafficking in women and children for sexual exploitation and abuse (E/C.12/RUS/CO/5, paragraph 23). The Committee expresses its *deep concern* that the trafficking of children for economic or sexual exploitation remains a serious problem in practice. *It therefore urges the Government to take immediate and effective measures to combat and eliminate the trafficking of children under 18 years of age, without delay. In this respect, the Committee requests the Government to take the necessary measures to ensure that perpetrators of child trafficking are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice. It also requests the Government to provide information on the number of reported violations, investigations, prosecutions, convictions and penalties imposed related to the sale and trafficking of children. To the extent possible, all information provided should be disaggregated by sex and by age.*

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* The Committee previously noted that a draft Law on combating human trafficking, which aimed to establish appropriate measures to ensure the legal protection and social rehabilitation for victims, was under discussion in the Duma Commission on Family Issues for Women and Children. However, the Committee also noted the indication by the Worker members of the Conference Committee on the Application of Standards at the 98th Session (June 2009) of the International Labour Conference that the draft Law on combating human trafficking appears to be suspended since 2006. The Committee further noted that the Conference Committee on the Application of Standards called on the Government to take the necessary measures to ensure the adoption of the draft Law on combating human trafficking. The Committee requested information on the number of child victims of trafficking who had benefited from appropriate services for their rehabilitation.

The Committee notes an absence of information on this point in the Government's report. However, the Committee notes that the Human Rights Committee, in its concluding observations of 24 November 2009, expressed concern about the notable lack of recognition of the rights and interests of trafficking victims in the counter-trafficking efforts of the Government (CCPR/C/RUS/CO/6, paragraph 18). *Therefore, the Committee requests the Government to strengthen its efforts to provide for the removal, rehabilitation and social reintegration of child victims of trafficking. It requests the Government to provide information on the effective and time-bound measures taken in this regard in its next report, and on the number of children who have benefited from the appropriate services provided. Lastly, the Committee requests the Government to take immediate steps to ensure that the draft Law on combating human trafficking is adopted in the very near future to ensure the provision of rehabilitation and social integration services to child victims of trafficking.*

*Article 8. International cooperation and assistance.* The Committee previously noted that the Ministry of the Interior had drafted a cooperation agreement between the Ministries of the Interior (police) of the member countries of the Commonwealth of Independent States (CIS) to combat the trafficking of persons. It requested information on the international cooperation measures taken to eliminate the cross-border trafficking of children.

While noting the absence of information from the Government on this point, the Committee notes that the Human Rights Committee, in its concluding observations of 24 February 2009, welcomed the international cooperation measures undertaken by the Government to combat trafficking (CCPR/C/RUS/CO/6, paragraph 18). In this regard, the Committee notes the information from the International Organization on Migration that it is carrying out several projects in the country, including one entitled “Preventing and counteracting trafficking in human beings in the Russian Federation”. The Committee also notes that in December 2010, the President signed the CIS Programme to Combat Human Trafficking for 2011–13, which outlines commitments to form a national anti-trafficking structure and fund NGOs to provide victim protection. **Considering that the sale and trafficking of children continues to be a matter of serious concern in the country, the Committee urges the Government to pursue its international cooperation efforts to combat and eliminate the trafficking of children. It requests the Government to provide information on specific measures taken in this regard, and on the results achieved.**

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

## Rwanda

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1981)**

*Article 1 of the Convention and Part V of the report form. National policy on the effective abolition of child labour and the application of the Convention in practice.* The Committee previously noted that a draft National Five-Year Action Plan for the Elimination of Child Labour (NAP) was first developed in 2007, but had not been adopted. It also noted that, according to the National Child Labour Survey (NCLS) of 2008, approximately 6.1 per cent of children between the ages of 5 and 14 in the country (approximately 142,570 children) were involved in economic activity. The NCLS also indicated that the majority of these working children (4.9 per cent of children in the age group) combined both school and economic activity. The NCLS further indicated that the overwhelming majority of working children (85 per cent) were in the agricultural sector.

The Committee notes the Government’s statement that the revision of the NAP is in the final process of consultation. The Committee also notes the information from ILO–IPEC of April 2012 that the revised NAP should include recent data on child labour and, in this regard, an ILO technical team travelled to Kigali in the spring of 2012. The Committee further notes that Rwanda is one of several countries participating in the ILO–IPEC project entitled “Project Development, Awareness Raising and Support for the Implementation of the Global Action Plan on the Elimination of the Worst Forms of Child Labour by 2016”. Information from ILO–IPEC indicates that implementation of the Project in Rwanda was extended until June 2013. **Noting that the NAP was first developed in 2007, the Committee urges the Government to ensure the elaboration, adoption and implementation of the NAP in the near future. The Committee requests the Government to provide information on progress made in this regard, and on the results achieved.**

*Article 2(2). Raising the initially specified minimum age for admission to work.* The Committee previously noted the adoption of the Law Regulating Labour (2009), which prohibits employing a child even as apprentice, before the age of 16. **Observing that, upon ratification the Government specified the minimum age of 14 years, the Committee draws the Government’s attention to the fact that Article 2(2) of the Convention provides that any Member having ratified the Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age from that which it had initially specified. To allow the age fixed by national legislation (of 16 years) to be harmonized with that provided for at the international level, the Committee would be grateful if the Government would consider the possibility of sending a declaration of this nature to the Office.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted the Government’s indication that it intended to progressively increase the number of years of compulsory schooling from six to nine years, thereby raising the age of completion of compulsory schooling to 16 years of age. The Committee requested the Government to provide information on whether the extension of the duration of compulsory education from six to nine years was contained in national legislation.

The Committee notes the Government’s statement that the progressive extension of compulsory education from six to nine years is contained in the Education Sector Policy of July 2003. Moreover, the Committee notes the Government’s statement in its report to the Committee on the Rights of the Child of 1 March 2012 that, since the 2009 school year, Rwanda has introduced a cycle of nine years so that children normally complete school at 16 years (CRC/C/RWA/3-4, paragraph 95). The Committee notes with **interest** that this age of completion of schooling of 16 years is in line with the new minimum age for admission to work specified in the Law Regulating Labour (2009).

*Article 3(2). Determination of hazardous work.* The Committee previously noted that a draft ministerial order on the worst forms of child labour had been developed. It requested the Government to provide a copy of the order, once adopted.

The Committee notes with *satisfaction* the adoption of Ministerial Order No. 06 of 13 July 2010 determining the list of the worst forms of child labour, their nature and categories of institutions that may not employ children. This Order contains an extensive list of hazardous types of work, including: underground work; work in mining; work at high heights; work in the drainage of marshlands; work in unhygienic places; work with high temperatures, noises and vibrations; work related to demolition; work carried out using machines or other dangerous materials; work involving the lifting of heavy loads; fishing on boats; domestic work outside of the family; construction work; and the driving of heavy machines. The Ministerial Order also contains a list of categories of institutions that are not permitted to employ children, such as enterprises that carry out the slaughtering of animals, mining and quarry enterprises, enterprises that manufacture toxic gases, construction enterprises, enterprises that produce and sell alcoholic beverages, and enterprises that manufacture bricks and tiles.

*Article 9(3). Registers of employment.* In its previous comments, the Committee noted that section 165 of the Law Regulating Labour (2009) states that employers must keep a register of workers, and that section 166 states that the Minister shall determine the nature of this register. The Committee noted that a draft ministerial order had been developed in this regard.

The Committee notes the adoption of Ministerial Order No. 10 of 28 July 2010 regarding the declaration of an enterprise and the nature of employer's registers. The Committee notes with *interest* that section 6 of this Ministerial Order states that every employer shall have a register of employment, and that this register shall be kept at the place of work. Annex II of the Ministerial Order contains a model for the employer's register, which includes the employee's name, date of birth and the date of their work contract. The Committee further notes that section 7 of the Ministerial Order provides that the employer's register shall be available to labour inspectors when requested.

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

## Senegal

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

The Committee notes the Government's report and the communication from the International Trade Union Confederation (ITUC) of 31 August 2012.

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children for economic exploitation; forced labour and penalties. Begging.* In its previous comments, the Committee noted that the Committee on the Rights of the Child, in its concluding observations in October 2006 (CRC/C/SEN/CO/2, paragraphs 60 and 61), expressed concern at the practices in Koranic schools run by *marabouts* who use *talibé* children on a large scale for economic gain by sending them to agricultural fields or to the streets for begging and other illicit work to earn money, thereby preventing them from having access to health, education and good living conditions.

The Committee previously noted with concern that, although section 3 of Act No. 2005–06 prohibits the organization, for economic gain, of begging by others or the employment, procuring or deceiving of anyone with a view to causing that person to beg, or the exertion of pressure on a person to beg or to continue begging, section 245 of the Penal Code provides that “the act of seeking alms on days, in places and under conditions established by religious traditions does not constitute the act of begging”. It accordingly observed that, from a joint reading of these two provisions, it would appear that the act of organizing begging by *talibé* children cannot be criminalized as it does not constitute an act of begging under section 245 of the Penal Code. The Committee further noted that the United Nations Special Rapporteur on the sale of children, child prostitution and child pornography, in her report of 28 December 2010 submitted to the Human Rights Council following her mission to Senegal (A/HRC/16/57/Add.3), noted the inconsistency between section 3 of Act No. 2005–06 and section 245 of the Penal Code (paragraph 31). The Committee also noted that the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, in its concluding observations of 3 December 2010 (CMW/C/SEN/CO/1, paragraph 26), noted with concern that more than half of the children who are forced to beg in the Dakar region come from neighbouring countries and that the Government of Senegal has not taken any practical steps to end regional trafficking in children for the purpose of begging.

The Committee further noted the comments of the ITUC indicating that the number of *talibé* children compelled to beg, consisting mainly of boys between the ages of 4 and 12 years, was estimated at 50,000 in 2010. The ITUC observed that most of these children live in isolated rural areas of Senegal or are victims of trafficking from neighbouring countries, including Mali and Guinea-Bissau. It emphasized that these children in practice receive very little education and are extremely vulnerable, because they depend totally on their Koranic teacher or *marabout*. They live in unhealthy conditions and in poverty, and are the victims of physical and psychological abuse if they do not succeed in earning their financial quota through begging. With regard to the causes of the phenomenon, the ITUC explains that poverty alone cannot explain this form of exploitation, as the evidence tends to show that certain *marabouts* earn more through children begging than the income necessary to maintain their *daaras* (Koranic schools). The ITUC added that there are no records of arrests, prosecutions or convictions of *marabouts* for compelling *talibés* to beg up to August 2010, when the Prime Minister announced the adoption of a Decree prohibiting begging in public places. Following this measure, seven Koranic teachers were arrested and convicted to prison sentences under Act No. 2005–06 of 29 April 2005 to combat the trafficking of persons and similar practices and to protect victims. However, these sentences were never imposed. Indeed,



the ITUC indicated that branch associations of Koranic teachers were reported to have condemned the application of Act No. 2005-06 and threatened to withdraw their support from the President in the elections in February 2012. In October 2010, the President, therefore, reversed the Government's decision.

The Committee notes the fresh allegations made by the ITUC that Senegal has been very lax in terms of the enforcement of the law and repression of the exploitation of *talibés* and the ill-treatment inflicted on these children. The ITUC reports that, since the conviction and release of the *marabouts* arrested in 2010, no *marabout* has been prosecuted or, in particular, convicted. Furthermore, the ITUC indicates that it would be useful to amend the Penal Code so as to remove any doubt as to whether compelling a child to beg is prohibited in all places and under all circumstances, including in *daaras*, so as to bring the legislation into full conformity with the commitments made by Senegal in relation to the Convention.

The Committee notes the information provided by the Government in its report concerning begging by children. The Government indicates, in particular, that in its view there is no ambiguity between the provisions of section 245 of the Penal Code and section 3 of Act 2005-06. According to the Government, by specifying that the fact of seeking alms under the conditions established by religious traditions does not constitute begging, section 3 of Act 2005-06 is merely making a distinction between forms of begging that are prohibited and those that are tolerated. The Government adds that continuous begging in the streets of the city is a penal offence under Senegalese law, while asking for alms, for example on Fridays in mosques or on mass days in churches, is tolerated in light of socio-cultural beliefs.

The Committee notes that the Committee on the Elimination of Racial Discrimination, in its examination of the reports submitted by Senegal on 31 August 2012, notes with concern the persistence and extent of the phenomenon of *talibé* children (CERD/C/SEN/CO/16-18, paragraph 14). The Committee on the Elimination of Racial Discrimination also expresses regret that the inconsistency between section 3 of Act No. 2005-06 and section 245 of the Penal Code persists despite the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (paragraph 14). In this respect, although the Committee of Experts notes the Government's indications concerning the prosecutions initiated and the convictions handed down for trafficking between 2008 and 2010, it is bound to note that the Government has not provided any information on the investigation, arrest or conviction of *marabouts* for the exploitation of begging by child *talibés*.

With reference to the General Survey on the fundamental Conventions concerning rights at work of 2012 (paragraph 483), the Committee reminds the Government that, while the issue of seeking alms as an educational tool falls outside the scope of the Committee's mandate, it is clear that the use of children for begging for purely economic ends cannot be accepted under the Convention. This situation constitutes a deviation from the legitimate purposes of this traditional educational system and its methods. Often kept in conditions of servitude, *talibé* children are obliged to work daily, generally in street begging, in order to give the money received to their *marabouts*.

The Committee is, therefore, bound once again to express its **deep concern** at the large number of *talibé* children used for purely economic ends and the failure to give effect to Act No. 2005-06 in respect of Koranic teachers who make use of begging by *talibé* children for exclusively economic purposes. The Committee reminds the Government that, under the terms of *Article 1* of the Convention, immediate and effective measures shall be taken as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour and that, in accordance with *Article 7(1)* of the Convention, all necessary measures shall be taken to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive penal sanctions. **The Committee, therefore, once again urges the Government to take immediate and effective measures, in law and practice, to ensure that persons engaged in the sale and trafficking of *talibé* children under 18 years of age for the purposes of economic exploitation, or who make use of these children for begging for purely economic purposes, are prosecuted effectively and that sufficiently effective and dissuasive sanctions are applied to them. In this respect, the Committee once again requests the Government to take the necessary measures to harmonize the national legislation so as to guarantee that the use of begging by *talibé* children for economic exploitation can be criminalized under section 245 of the Penal Code and under Act No. 2005-06. It requests the Government to provide information on the measures adopted in this respect and on the number of investigations conducted, prosecutions, convictions and penal sanctions imposed on such persons.**

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Talibé children.* In its previous comments, the Committee noted that a partnership for the removal and reintegration of street children (PARRER) had been established in February 2007 and is made up of members of the Senegalese administration, NGOs, the private sector, development partners, religious organizations, civil society and the media. The Committee noted the ITUC's comments indicating that the Government had adopted measures to promote a programme of modern *daaras* administered or regulated by the State. It noted that the Government established the inspectorate for *daaras* in 2008 to implement the programme for the modernization of *daaras* and the integration of modern *daaras* into the public education system. It further noted that the Ministry of Education signed an agreement with PARRER for the development of a harmonized school programme for Koranic schools, launched in January 2011. In its reply to the ITUC's comments, the Government indicated that it was engaged in improving the management and framework of the system of teaching in *daaras*. A number of actions were also envisaged in its strategy for the prevention of begging by children, such as the implementation of social protection measures in the areas of origin of migrant children, the establishment of programmes

of conditional transfers for vulnerable families, support for the creation of income-generating activities for *marabouts* and the broadening of the teaching curriculum in Koranic schools with a view to facilitating the integration of young *talibés* into active life. The Committee also noted that, according to the information contained in the report of the United Nations Special Rapporteur of 28 December 2010, the Care, Information and Counselling Centre for Children in Difficulties (the GINDDI Centre), under the Ministry of Education, has been responsible since 2003 for taking children off the streets and reintegrating them, and for providing psychological support and social assistance to girl and boy victims of trafficking (paragraph 68).

The Committee notes that, according to the ITUC, the harmonized school programme for Koranic schools of the PARRER is currently being implemented as a pilot measure in 20 *daaras* in four regions of Senegal (Dakar, Thiès, Fatick and Kaolack). The pilot programme is planned for three years (2011–14) and is to be progressively extended throughout the nation as from 2012–13. Children in the *daaras* concerned will not be compelled to engage in begging. The ITUC also reports that, while the former Government failed to enforce the laws in force, the new President elected in April 2012 has affirmed his commitment to modernizing *daaras* and should adopt the programme, making it a priority and accelerating its implementation at the national level, particularly in rural areas, from which most child *talibés* originate.

The Committee notes the Government's indications concerning the measures adopted for the protection or removal of vulnerable children or those who are victims of trafficking and exploitation. The Committee notes that these measures include the "Education and Family Life (EVF)" project in *daaras*, which envisages a number of activities, including training for Koranic masters and *talibé* children on the rights of the child and their protection, and the improvement of the living conditions and education of child *talibés* in *daaras*. The Committee also notes that, with a view to preventing the movement of children in the Kolda region (a border area), thought to be the biggest area of origin of child beggars, a pilot project has been established to provide financial allowances to families.

The Government adds that, in the context of the PARRER, a number of activities have been undertaken, including advocacy visits to major religious leaders and Koranic masters, measures of prevention and to remove children from the streets, and the development of broad awareness-raising campaigns. These various activities have led to a number of results being achieved, including the identification of 1,129 families at risk in the regions of Ziguinchor, Kolda and Kaolack, the establishment of 146 committees for the protection of child *talibés*, and the formulation and dissemination of Islamic arguments against child begging. However, the Committee observes that the Government has not provided recent statistics on the number of child *talibés* who have benefitted from the protection provided by the GINDDI centre. ***The Committee requests the Government to continue its efforts for the protection of child talibés under 18 years of age from forced or compulsory labour, including begging. It requests it to continue providing information on the measures adopted, particularly in the framework of the programme financed by the PARRER, and the results achieved, with an indication of the number of talibé children who have been removed from the worst forms of child labour and who have benefitted from rehabilitation and social integration measures in the GINDDI centre. It also requests the Government to continue providing information on the measures adopted or envisaged in the context of the process of the modernization of the daaras system, and the progress achieved in the context of the harmonized school programme for Koranic schools.***

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

## Thailand

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously requested a copy of section 287 of the Penal Code. In this regard, the Committee noted that section 287 of the Penal Code prohibits, inter alia, producing or making any document, drawing, print, picture, photograph, film or tape which is "obscene". However, the Committee noted the information in a document entitled "UNICEF urges quick government action on child pornography" of 11 October 2010, available on the UNICEF website, that reports indicate the open display and sale in the country of graphic sexual videos involving children. In this document, UNICEF urged the Thai authorities to bring to bear "the full force of the law" on those found to be producing, distributing or selling videos or any other material related to the sexual exploitation of children, and urged the Government to investigate where and how such videos are produced. Therefore, while noting that the production of child pornography appears to be prohibited in law, the Committee noted with concern that this worst form of child labour continues to be a problem in practice. ***The Committee accordingly urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out in practice for persons who use, procure or offer persons under 18 years of age for the production of pornography or pornographic performances. The Committee further requests the Government to provide information on whether the involvement of children in non-recorded pornographic performances (such as live performances) is prohibited in law.***

*Clause (c). Use, procuring or offering of a child for illicit activities, in particular, for the production and trafficking of drugs.* In its previous comments, the Committee noted that while the production, importation, exportation, possession or consumption of narcotics is prohibited under the Narcotics Act of 1979, the use procuring or offering of a child under 18 years of age for this purpose did not appear to be prohibited. It also observed that, according to a rapid assessment conducted by ILO–

IPEC in 2002, children as young as 10 years of age participate in drug trafficking, and the majority of these are children 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.* 1. *The ILO-IPEC TICW project and the National Plan on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women (NPA on Trafficking in Children and Women 2003-07).* The Committee previously noted the launching of the TICW Project in 2000 and noted that within the TICW II Project (2003-08), the National Committee on Combating Trafficking in Children and Women launched the NPA on Trafficking in Children and Women 2003-07. It requested information on the concrete impact of measures taken through these initiatives.

The Committee noted the information in the Government's report that the implementation of the TICW II Project resulted in interventions in Phayao, Chiang Mai, Chiang Rai, Mukdaharn, and Bangkok. The Government indicated that the Chiang Mai Coordination Centre for the Protection of Children's and Women's Rights (Chiang Mai Coordination Centre) (under the MSDHS), developed a database on persons at risk for trafficking, as well the destination sites of vulnerable persons, and that this information was used by partnering agencies in the implementation of initiatives. The Government indicated that 306 community watchdog volunteers were trained in 124 villages in the Phayao Province, and efforts were made to include awareness raising on trafficking in a secondary school curricula. In this regard, the Committee noted the information from ILO-IPEC that within the context of the TICW II Project, the action programmes implemented included "Integrated hill tribe community development project for the prevention of trafficking in children and women (phase II)", "Programme for the prevention of trafficking in children and women in Chiang Rai province", "Strengthening the capacity of Ban Mae Chan School to launch a prevention programme on trafficking", and "Trafficking in children and women for forced labour and sexual exploitation in Chiang Mai". The Committee further noted the information in the Government's report that combating the trafficking in persons was a top priority for the Government, and specific policies announced in this regard included capacity building, intelligence exchange between countries and awareness-raising campaigns. **Observing that the NPA on Trafficking in Children and Women 2003-07 ended in 2007, and the TICW II Project concluded in 2008, the Committee urges the Government to take the necessary measures to ensure that comprehensive national efforts are undertaken to combat the sale and trafficking of persons under the age of 18. It requests the Government to provide information on any ongoing or envisaged national plans of action addressing this phenomenon, and on the implementation of these programmes.**

2. *Child commercial sexual exploitation.* The Committee previously noted that the Office of the National Commission on Women's Affairs estimated that there were between 22,500 and 40,000 children under 18 years of age in prostitution (representing approximately 15-20 per cent of the overall number of prostitutes) in the country, and that these estimates did not include foreign children in prostitution. The Committee further noted that the National Plan of Action on the Elimination of the Worst Forms of Child Labour (2004-09) included initiatives to address child prostitution, and requested information on the concrete measures taken in this regard.

The Committee noted the Government's statement that it was in the process of collecting information from relevant agencies on this point. It also noted the information in the Government's report that a National Plan for the Elimination of the Worst Forms of Child Labour (2009-14) was adopted in 2008. The Committee observed that although the commercial sexual exploitation of persons under 18 is prohibited by law, it remained an issue of serious concern in practice. **The Committee accordingly urges the Government to take comprehensive measures, including within the framework of the National Plan for the Elimination of the Worst Forms of Child Labour (2009-14), to combat this worst form of child labour. It requests the**



**Government to provide information on the concrete results achieved in combating the commercial sexual exploitation of children.**

*Article 7(1) of the Convention and Part V of the report form. Penalties and the application of the Convention in practice.*

1. **Trafficking.** The Committee noted the information in the Government's report that the Division on the Suppression of Offences against Children, Youth and Women undertook the collection and management of basic data. The Committee also noted the information in the Government's report that interviews conducted by the police to determine whether foreign children were victims of trafficking revealed 112 suspected child victims of this worst form of child labour. However, the Committee observed that the trafficking of children remained a much broader phenomenon, noting the information in the UNODC Report that between October 2006 and December 2007, 416 child victims of trafficking were detected. Moreover, the Committee noted an absence of information on the number of persons investigated and prosecuted as a result of the identification of child victims of trafficking. **The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who traffic in children for the purpose of labour or sexual exploitation are carried out. It requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied in this regard, as well as any additional information from the Division on the Suppression of Offences against Children, Youth and Women on the prevalence of the trafficking of children. To the extent possible, all information provided should be disaggregated by sex and age.**

2. **Commercial sexual exploitation.** The Committee noted the information in the Government's report from the Division on the Suppression of Offences against Children, Youth and Women that in 2006 two child victims of commercial sexual exploitation were reported, in addition to two offenders. The Government also indicated that there were no reported victims or offenders in 2007, and that in 2008, 23 child victims and 16 offenders were recorded. The Committee observed an absence of information on the penalties applied to these offenders, and observed that these figures appear to represent only a fraction of the number of children engaged in prostitution (with previous Government estimates indicating that tens of thousands of persons under 18 are victims of this worst form of child labour). In this regard, the Committee noted the information in the ILO-IPEC TPR 2010 that, within the framework of the ILO Project "Support for national action to combat child labour and its worst forms in Thailand", a study had been conducted (by the Khon Kaen University) on the commercial sexual exploitation of children in three provinces in the Northeast of Thailand including Nong Khai, Udon Thani and Khon Kaen (which are major source areas for girls and women in prostitution within Thailand). **The Committee requests the Government to provide information from the study conducted on the commercial sexual exploitation of children in Nong Khai, Udon Thani and Khon Kaen, with its next report. It also strongly urges the Government to redouble its efforts to ensure that persons who engage in the use, procuring or offering of persons under 18 for the purpose of commercial sexual exploitation are prosecuted and that sufficiently effective and dissuasive penalties are applied in practice. In this respect, the Committee requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied with regard to the commercial sexual exploitation of persons under 18 years.**

*Article 7(2). Effective and time-bound measures. Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. Child victims of trafficking.* 1. **Services for child victims of trafficking.** The Committee previously noted the various measures adopted by the MSDHS to assist child victims of trafficking, and noted that 3,062 foreign trafficking victims had been protected in Thai shelters and repatriated to their home countries.

The Committee noted the information in the Government's report that the specific policies to combat trafficking announced include measures to protect victims, such as the provision of assistance to those at risk of trafficking, the establishment of a fund to assist victims of trafficking and campaigns to eliminate discriminatory attitudes against victims of trafficking to facilitate their reintegration into communities. The Committee also noted the Government's statement that the Baan Kred Trakarn Protection and Occupational Development Centre was established, and a learning centre was developed as part of its holistic assistance to victims of trafficking. Services provided to trafficked women and children through these centres included the provision of basic necessities, education, vocational training and assistance with psychological recovery. The Government also indicated that the four Protection and Development Centres in Ranong, Pratumthani, Songkhla and Chaing Rai provide assistance, protection and rehabilitation services to victims. The Government further indicated that the Division on the Suppression of Offences against Children, Youth and Women coordinated with agencies involved in the rehabilitation and repatriation of trafficking victims. Lastly, the Committee noted the information in the Government's report that the National Policy and Plan for the Elimination of the Worst Forms of Child Labour (2009–14) included measures to integrate children back into society by preparing their families and communities for their return, to repatriate children in a manner consistent with their needs and safety, and to follow-up on their reintegration, following rehabilitation. **The Committee takes due note of the measures implemented by the Government, and requests it to pursue its efforts to provide direct assistance to child victims of trafficking, with a view to ensuring that victims of trafficking under the age of 18 receive appropriate services for their rehabilitation and social reintegration with child participation.**

2. **Measures aimed at securing compensation for victims of trafficking.** The Committee previously noted that the Government had taken a number of measures aimed at securing justice and compensation for victims of trafficking, including children. It noted that the Prevention and Suppression of Human Trafficking Act provides for the possibility for victims of trafficking to claim compensation from the offenders and the provision of funds amounting to 500 million baht for their rehabilitation, occupational training and development. The Government also indicated that the Accused Act, BE 2544 (2001) states that children who are deceived into trafficking, prostitution, or forced labour, shall receive compensation.

The Committee noted the Government's statement that it was in the process of collecting information from relevant agencies on this point. **The Committee therefore once again requests the Government to indicate in its next report the number of former child victims of trafficking who have received compensation either from the offenders or through funds set up by the Government under the Accused Act BE 2544 (2001) or the Prevention and Suppression of Human Trafficking Act.**

*Article 8. International cooperation and assistance. Regional cooperation and bilateral agreements.* The Committee previously noted several measures taken by the Government to combat trafficking at the regional level, including meetings of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). The Committee requested information on measures taken in this regard and on the concrete measures adopted under bilateral MOUs for the elimination of the interstate trafficking of children.

The Committee noted the statement in the Government's report that, pursuant to the MOU of the COMMIT signed in 2004, and following the review of the first Subregional Plan of Action (2005–07), member countries endorsed the Subregional Plan of Action for 2008–10. This subregional action plan focused on several particular areas, including training and capacity building,

multi-sectoral and bilateral partnerships, re-enforcing legal frameworks, law enforcement, victim identification, protection and reintegration and cooperation with the tourism sector. The Committee also noted the information in the Government's report that the Government had signed an agreement with the Government of Viet Nam on bilateral cooperation for eliminating trafficking in persons on 24 March 2008, and that pursuant to this agreement, the two Governments had developed an Action Plan for 2008–09. The Committee further noted that, pursuant to MOUs to combat human trafficking with the governments of Cambodia (signed in 2003) and Laos (signed in 2005), cooperation projects had been formulated and some measures implemented, including a workshop on human trafficking for Laos–Thai border officials. The Government also indicated that it was in the process of initiating similar bilateral MOUs with the Governments of Myanmar, China and Japan. The Government further indicated that within the framework of the TICW II Project, technical assistance and support was provided for combating trafficking efforts related to the MOUs between Thailand and its neighbouring countries. **Noting that cross-border trafficking remains an issue of concern in practice, the Committee urges the Government to pursue its international cooperation efforts with regard to combating the trafficking of persons under 18. It requests the Government to continue to provide information on the concrete measures implemented in this regard, and on the results achieved.**

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

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

## Togo

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1984)**

*Article 1 of the Convention and Part V of the report form. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that the Government is currently participating in a project to combat child labour through education implemented with the support of ILO–IPEC (the ILO–IPEC–CECLET project). It noted that various action programmes have been adopted in the context of this project.

The Committee notes that, in the context of the ILO–IPEC–CECLET project, a national survey on child labour in Togo (ENTE) was carried out and completed in 2010. The results of this study reveal that around six out of ten children (58.1 per cent) aged between 5 and 17 years, or approximately 1,177,341 children, are economically active at the national level. The ENTE also indicates that the incidence of children aged 5 to 14 years engaged in work that is to be abolished – meaning the performance by a child of prohibited work and, more generally, of types of work that should be eliminated as they are considered socially and morally undesirable by national law, including the provisions giving effect to the Convention – is 54.9 per cent, or approximately 894,360 children out of the 1,629,072 children aged 5 to 14 years in Togo. The results show that children aged 5 to 14 years generally work more in sectors such as agriculture (52.2 per cent) and domestic work (26.3 per cent) and others.

In this regard, the Committee notes the Government's indication that the ILO–IPEC–CECLET project resulted in 12,279 children aged 8–15 years being prevented from entering or being removed from the worst forms of child labour particularly in the informal economy and the agricultural sector. The Committee also notes that, in the context of this project, a national action plan (PAN) against child labour is being developed, the key strategies of which will be awareness raising; the strengthening of educational alternatives; the enforcement of the legislation; increasing knowledge about child labour; the development of direct action programmes for prevention and rehabilitation; and the improvement and coordination of action, monitoring and supervision.

The Committee takes due note of the efforts made by the Government to combat child labour in Togo. **The Committee requests the Government to continue its efforts to combat child labour, affording particular attention to children engaged in agriculture and the informal economy. It requests the Government to continue providing information on the number of children between the ages of 5–14 years who are prevented from prematurely entering the labour market and on the number of children removed from work in the context of the ILO–IPEC–CECLET project. Lastly, it requests the Government to provide information on the progress made in the development of the PAN and to provide a copy when it has been approved.**

*Article 2(1). Scope of application.* In its previous comments, the Committee noted that section 150 of the Labour Code of 2006 provides that children under 15 years cannot be employed in any enterprise or perform any type of work, even on their own account. The Committee requested the Government to provide information on the measures adopted to strengthen the capacities of the labour inspection services with a view to ensuring that children who work on their own account or in the informal economy benefit from the protection of the Labour Code of 2006.

The Committee notes the Government's indication that labour inspectors often benefit from training with a view to strengthening their capacities. The Committee therefore notes with *interest* that, to strengthen the action of the labour inspection services, particularly in relation to the supervision of the working conditions of children of working age, a number of measures have been adopted: (i) progressively increasing the number of inspectors through an active training policy in the National School of Administration; (ii) strengthening the network of areas covered, particularly by creating a regional labour directorate in each economic region and ten prefectural inspection services in densely populated areas, as well as creating new inspection areas in Lomé; and (iii) progressively allocating high-quality human resources to the inspection services. The Government also indicates that it envisages establishing, with the technical and financial support of the ILO, an information system on the activities of the labour inspection services to raise the visibility of the actions to be carried out to ensure compliance with the law. The Committee also notes that, according to information available to ILO–IPEC, actions have been carried out in the context of the ILO/IPEC/CECLET project with a view to strengthening

labour inspection. These include 24 observation and monitoring missions led by 12 inspectors between 1 October 2001 and 31 March 2012 in the agricultural sector, the informal urban economy, restaurants and sand carriers, during which 293 children (121 girls and 172 boys) were detected. ***Taking due note of the efforts made by the Government, the Committee requests it to continue providing information on the measures taken to strengthen the capacities of the labour inspection services to ensure that all children under 15 years of age, including those who work on their own account or in the informal economy, benefit from the protection afforded by the Convention, and on the results achieved.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* In its previous comments, the Committee noted that certain provisions of Order No. 1464/MTEFP/DGTLs of 12 November 2007 authorize the employment of children from the age of 16 years on work likely to harm their health, safety or morals. The Committee also noted that section 12 authorizes children over 15 years of age to carry, drag or push loads of a weight of up to 140 kilograms for boys of 15 years of age employed in transport by wheelbarrow. The Committee also observed that there was no protection measure relating to the performance of these types of work. The Committee reminded the Government that under *Article 3(3)* of the Convention, national laws or regulations may, after consultation with employers' and workers' organizations, authorize the performance of hazardous types of work by adolescents from 16 years of age, on condition that their *health, safety and morals* are fully protected and that they have received *adequate specific instruction or vocational training* in the relevant branch of activity.

The Committee notes the Government's indication that it takes into account its concern and undertakes to take the necessary measures to review Order No. 1464 to bring it into conformity with the provisions of the Convention, in consultation with the social partners in the near future. ***The Committee requests the Government to provide information on the progress made in reviewing Order No. 1464 with a view to bringing it into conformity with the requirements of Article 3(3) of the Convention. It requests the Government to provide a copy of the Order, once it has been revised.***

*Article 6. Apprenticeships.* The Committee notes that, within the context of the ILO-IPEC-CECLET project, a draft code on apprenticeship has been prepared, which sets out in detail the conditions which must be respected by an apprenticeship contract and under which such a contract cannot start before the completion of compulsory schooling and, in any case, not before 15 years of age. ***Hoping that the draft code on apprenticeship will be adopted in the near future, the Committee requests the Government to provide information on the progress made in that respect.***

*Article 8. Artistic performances.* The Committee previously noted that, under section 150 of the Labour Code of 2006, the minimum age for admission to employment or work is set at 15 years, unless derogations are envisaged by order of the minister responsible for labour. It noted the Government's indication that, in accordance with section 150 of the Labour Code, an order derogating from the minimum age for admission to employment has been prepared and is awaiting approval by the National Council for Labour and Labour Laws, the members of which include employers' and workers' organizations.

The Committee notes the Government's indication that a draft order has been submitted for approval by the National Council for Labour and Labour Laws. The draft order provides that, outside school hours and in the interest of art, science or education, the labour inspector may grant individual permits to children under 15 years of age to allow them to appear in public performances and to participate as actors or extras in films. The Government indicates that these derogations will be granted after consultation with the organizations of employers and workers concerned and will specify the number of hours of work authorized, and the working conditions. ***The Committee requests the Government to provide information on the progress made in the adoption of this draft order and to provide a copy of it, once it has been adopted. It also requests the Government to provide information on the granting of such individual permits in practice, once the draft order has been adopted.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

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

The Committee noted the communication of the International Trade Union Confederation (ITUC) of 24 August 2010 and the Government's report. It also noted the adoption of Act No. 2006-010 of 13 December 2006, issuing the Labour Code (the Labour Code of 2006), which repeals the Labour Code of 8 May 1974, and the adoption of Act No. 2007-017 of 6 July 2007 issuing the Children's Code (the Children's Code of 2007).

*Article 3 of the Convention. The worst forms of child labour. Clause (a). Sale and trafficking of children.* In its previous comments, the Committee noted that there was no provision in the current legislation prohibiting this worst form of child labour. It noted that Togo had prepared on 23 January 2003 a preliminary draft of a Bill to define the trafficking of children, which was awaiting adoption by the Council of Ministers, and that a draft Children's Code had been forwarded to Parliament in 2002.

The Committee noted with satisfaction the adoption of Act No. 2005-009 on the trafficking of children of 3 August 2005 (the Act on the trafficking of children). It observed that, by virtue of section 3 of this Act, the term "trafficking" is defined as the process by which any child is recruited or abducted, transported, accommodated or hosted, both within and outside the national territory, by one or more persons, for the purposes of her or his exploitation. Under the terms of section 2, the term "child" is defined as any person under the age of 18 years. The Committee also noted that those who engage in or are accomplices to the trafficking of children are liable to a sentence of imprisonment of five years (section 10) and that the penalty is doubled in cases where acts of the trafficking of children result in the death or disappearance of the victim (section 11). Section 11 also envisages the existence of aggravating circumstances which may result in the person committing the offence serving a penal sentence of ten



years of imprisonment. This is the case, among others, where the victim of the trafficking is under 15 years of age at the time of the offence or where the child has been subjected to the worst forms of child labour. The Committee also noted that, under the terms of section 264(a) of the Children's Code of 2007, the sale and trafficking of children are considered to be one of the worst forms of child labour.

However, the Committee noted the allegations made by the ITUC to the effect that internal and international trafficking of children for domestic work exists in Togo. The internal trafficking affects children from poor and rural communities who are directed towards domestic work in towns, and particularly Lomé, or in fertile agricultural regions. Trans-border trafficking takes place, both from and towards Togo, from Nigeria, Gabon, Côte d'Ivoire, Burkina Faso, Niger, Benin and Ghana.

The Committee further noted the findings of the qualitative survey of the worst forms of child labour undertaken in 2009-10 by the General Directorate of Statistics and Accounting among 2,500 households in four economic regions of the country (Maritime, Plateau, Centrale and Lomé), which are appended to the Government's report. It observed that, according to the report of the discussion by the central region group, girls who are victims of trafficking are used for prostitution and domestic work, while boys are used as manual workers in plantations and quarries. The Committee noted the information provided in the United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons of February 2009, indicating that, according to the Ministry of Labour of Togo, 1,758 victims of trafficking were identified in 2003 and 1,301 in 2004, most of whom were children. It noted that, according to the report, the number of investigations for trafficking in persons fell from 21 in 2005 (the year of the adoption of the Act on the trafficking of children) to nine in 2007. It observed that, of the nine persons investigated in 2007, six men were convicted of trafficking in persons, one for trafficking for sexual exploitation and the five others for trafficking for the purpose of slavery. The sentences received by these persons did not however exceed one year of imprisonment. The Committee also observed that, according to the indications contained in the report entitled "Trafficking in Persons Report 2010 – Togo" published on the website of the Office of the United Nations High Commissioner for Refugees, certain traffickers appear to obtain their release through the corruption of state officials. While taking due note of the measures adopted by the Government to combat the trafficking of children, the Committee expressed concern at the fall in the number of investigations conducted following the adoption of the Act on child trafficking, and with regard to the allegations of corruption from which certain traffickers benefit to evade justice. **The Committee therefore requests the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons engaged in the sale and trafficking of children under 18 years of age are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the number of investigations conducted, prosecutions carried out and convictions obtained under Act No. 2005-009 on the trafficking of children.**

*Clauses (a) and (d). Forced or compulsory labour and hazardous types of work. Child domestic work.* The Committee noted the ITUC's communication reporting conditions of work which are hazardous and/or similar to forced labour encountered by many children engaged as domestic workers. According to the ITUC's allegations, there are thousands of child domestic workers in Togo, the large majority of whom are girls from poor and rural areas of the country, and who perform various potentially hazardous household tasks in private homes and may also be called upon to sell products in the street or in markets on behalf of their employers. These children work very long days (ten hours or more), frequently have no rest days and receive no or very little remuneration. They live in the house of their employers, are dependent upon the latter, and are isolated from their families, which makes them vulnerable to abuse and forced labour. Child domestic workers are also regularly subjected to verbal and physical violence and to sexual abuse, and are often deprived of education opportunities. The ITUC's communication also refers to a survey carried out in Togo between 2007 and 2008 of 61 girl domestic workers, which shows that the average age at which they enter into domestic service is nine.

The Committee noted that section 151(1) of the 2006 Labour Code prohibits forced labour, which is defined as one of the worst forms of child labour. It further noted that, in accordance with Order No. 1464/MTEFP/DGTLIS of 12 November 2007 (Order No. 1464) determining the types of work prohibited for children, domestic work is considered to be a hazardous type of work prohibited for children under 18 years of age.

The Committee observed that, although the national legislation is in conformity with the Convention on this point, child domestic work performed under conditions similar to forced labour or under hazardous conditions remains a concern in practice. It reminded the Government that, under the terms of *Article 3(a) and (d)* of the Convention, work or employment of children under 18 years of age under conditions similar to slavery or under hazardous conditions are some of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee therefore requests the Government to take immediate and effective measures to ensure that children under 18 years of age engaged in domestic work under conditions similar to slavery or under hazardous conditions benefit from the protection afforded by the national legislation. In this respect, it requests the Government to provide information on the application of the provisions respecting this worst form of child labour, including statistics on the number and nature of the violations reported, investigations conducted, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex and age.**

*Article 6. Programmes of action to eliminate the worst forms of child labour. Trafficking of children and child domestic work.* The Committee noted the conclusions of the ITUC which recommends, inter alia, the implementation of measures to assist children engaged in domestic work to leave their work and to facilitate their rehabilitation. The Committee noted the information provided in the Government's report indicating that, in the context of the ILO-IPEC project to combat child labour through education, two workshops were organized in June 2009 with a view to the preparation of a plan of action on the trafficking of children and a plan of action to combat domestic work. According to the technical progress report of the project of September 2010, these sectoral action plans would have been adopted in December 2009. The Committee also noted that, in the context of this ILO-IPEC project, 126 children were prevented from entering domestic work and 22 were removed from this worst form of child labour between March and August 2010. All of them benefited from rehabilitation measures through education services. The Committee further noted that between June and September 2010, workshops were conducted for the training of labour inspectors on the issue of child domestic work. **The Committee requests the Government to provide information on the measures taken and the results achieved in the context of the plan of action on the trafficking of children and the plan of action to combat domestic work in terms of the identification, removal and reintegration of children under 18 years of age. It requests the Government to provide copies of these plans of action.**

*Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. Sale and trafficking of children. 1. National Commission for the Shelter and Social Reintegration of Child Victims of Trafficking.* With reference to its previous comments, the Committee

noted the Government's indications that a National Commission for the Shelter and Social Reintegration of Child Victims of Trafficking (CNARSEVT) was established in April 2002. The responsibilities of the CNARSEVT include: (i) organizing the repatriation to Togo of child victims of trafficking identified at the borders and in the various destination countries; (ii) coordinating the shelter and care (accommodation and health care) of repatriated child victims of trafficking; (iii) supervising the family and social reintegration of repatriated child victims of trafficking; (iv) centralizing information and statistical data on child victims of trafficking, sheltered and reintegrated at the national level; and (v) mobilizing the necessary resources for the repatriation, shelter and social reintegration of child victims of trafficking. The CNARSEVT has regional committees to discharge its functions. **The Committee requests the Government to provide additional information on the activities of the CNARSEVT, including extracts of reports or documents, as well as the results achieved in terms of the number of child victims of trafficking who are repatriated, cared for and reintegrated.**

2. *Measures adopted in the context of various ILO-IPEC projects.* With reference to its previous comments, the Committee noted the Government's indications that, in the context of the implementation of the ILO-IPEC-LUTRENA project, the direct action taken for children and their families between 2001 and 2007 resulted in the removal of 4,038 children from trafficking and the reintegration in the school system of 173 children removed from this worst form of child labour. The Committee also noted the information contained in the Government's report indicating that four transitional shelter centres for children removed from trafficking have been established, that a system to shelter and refer children removed from trafficking has been created and that 165 vigilance committees have become operational in village communities. Furthermore, according to the technical progress report of September 2010 of the ILO-IPEC project to combat child labour through education, a total of 87 children, including 63 girls and 24 boys, were removed from trafficking between March and August 2010 and have benefited from educational services and training opportunities. **The Committee strongly encourages the Government to continue to take immediate and effective measures to remove child victims of sale and trafficking and requests it to continue providing information on the number of children who are, in practice, removed from this worst form of child labour and placed in transitory shelter centres.**

*Article 8. International cooperation and assistance. Regional cooperation in relation to the sale and trafficking of children.* Further to its previous comments, the Committee noted the information provided by the Government in its report indicating that several multilateral agreements have been concluded with neighbouring countries in the context of the measures to combat the trafficking of children. The Committee noted that Togo signed the Cooperation Agreement between Member States' Police Forces on Investigation in Criminal Matters adopted in Accra in 2003 by the Member States of ECOWAS, the Multinational Cooperation Agreement to Combat Child Trafficking of Abidjan (2005) and the Abuja Multilateral Cooperation Agreement to Combat Trafficking in Persons, especially Women and Children (2006). It also noted that Togo has concluded a quadrilateral agreement with Benin, Ghana and Nigeria on border crime. It further noted the Government's indication that discussions are under way with Nigeria for the signature of a bilateral agreement to combat the trafficking of children. **The Committee strongly encourages the Government to continue its efforts and to take measures to cooperate with countries that are signatories to the multilateral cooperation agreements referred to above, thereby strengthening security measures on frontiers, with a view to detecting and intercepting child victims of trafficking and apprehending and arresting persons involved in networks engaged in the trafficking of children. It also requests the Government to continue providing information on the progress made in the discussions for the adoption of a bilateral agreement with Nigeria.**

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

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

## Trinidad and Tobago

### **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 practices similar to slavery. Sale and trafficking of children.* The Committee previously urged the Government to take the necessary measures to ensure that legislation prohibiting the sale and trafficking of children under 18 was adopted.

The Committee notes that the Trafficking in Persons Act was adopted on 9 June 2011. The Committee notes with **satisfaction** that section 18 of the Trafficking in Persons Act prohibits the trafficking of children, specifically the recruiting, transporting, transferring or receiving of a child into Trinidad and Tobago or the harbouring of a child within the country for the purpose of exploitation. Section 18 of the Act also specifies that this offence carries a penalty of not less than 20 years imprisonment and a fine of US\$1 million. Lastly, the Committee notes that section 3 of the Trafficking in Persons Act defines a child as a person below the age of 18 years.

*Clause (c). Use, procuring or offering a child for illicit activities.* The Committee previously noted that section 46 of the draft Children Bill would prohibit the using, or causing a child to be used or to act as a courier to buy, sell, purvey or deliver drugs, and that section 47 of this Bill would prohibit these acts specifically in relation to the trafficking of drugs. Nonetheless, the Committee noted that the Children Bill was no longer under discussion by Parliament.

The Committee notes the Government's statement that the Children Bill is currently being reviewed. **The Committee, therefore, urges the Government to take the necessary measures to ensure that the Children Bill is reviewed and subsequently adopted, to prohibit the use procuring or offering of children under 18 years of age for the production and trafficking of drugs. It requests the Government to provide a copy of the Children Bill, once adopted.**

*Articles 3(d) and 4(1). Determination of hazardous work.* The Committee previously noted that the Factory Inspectorate Unit of the Ministry of Labour and Small and Micro Enterprise Development was developing a list of occupations deemed hazardous to children, based on guidelines provided by a National Seminar on Hazardous Occupations and Children, held in 2004.

The Committee notes the Government's statement that, while a list of hazardous occupations is not yet available, work has begun to create such a list. The Committee also notes the Government's statement that a governmental delegation attended the ILO Subregional Workshop on the Elimination of Hazardous Child Labour for Select Caribbean Countries in October 2011. It notes the Government's statement in its report submitted under the Minimum Age Convention, 1973 (No. 138), that the report of this delegation will contain recommendations to assist in the development of a list of occupations deemed hazardous. **Recalling that, pursuant to Article 1 of the Convention, each Member that ratifies the Convention shall take immediate measures to secure the prohibition of the worst forms of child labour as a matter of urgency, and noting that work on the list of occupations deemed hazardous to children has been ongoing since 2004, the Committee urges the Government to take the necessary measures to ensure the adoption of this list in the very near future, following consultation with the social partners. It requests the Government to provide a copy of this list once it has been adopted.**

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

## Uganda

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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

The Committee took note of the report of the Technical Advisory Mission (the Mission) on Child Labour Issues that was carried out in Uganda in July 2009.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Abductions and the exaction of forced labour.* The Committee had previously noted that article 25:1 of the Constitution of Uganda stipulates that no person shall be held in slavery or servitude and that section 25:2 states that no person shall be required to perform forced labour. It had noted that the Penal Code punishes as offences abduction (section 126); detention with sexual intent (section 134); and abduction for the purpose of reducing to slavery (section 245). Moreover, section 5 of the Employment Act of 2006 states that anyone who uses or assists any other person in using forced or compulsory labour commits an offence. Finally, section 252 of the Penal Code provides that any person who unlawfully compels any other to labour against their will commits a misdemeanour.

However, in its previous comments under the Forced Labour Convention, 1930 (No. 29), the Committee had noted that the armed group Lord's Resistance Army (LRA) abducted children of both sexes, forcing them to provide work and services as concubines, these alleged activities being associated with the killings, beatings and rape of these children. The Committee had noted that, according to the report of the United Nations Secretary-General on children and armed conflict in Uganda of 7 May 2007 (Secretary-General's report of 2007) (S/2007/260, paragraph 10), the figures from 2005 suggested that as many as 25,000 children may have been abducted since the onset of the conflict in northern Uganda in Kitgum and Gulu districts. However, the total number of abductions had significantly reduced since its peak in 2004. The total number of abductions in January 2005 was estimated to be approximately 1,500, significantly reducing to 222 over the first six months of 2006. Since September 2006, there had been no confirmed reports on the abduction of children in Uganda by the LRA. Moreover, the peace talks between the Government of Uganda and the LRA had officially opened on 14 July 2006 and the parties had signed a formal cessation of hostilities agreement in August 2006, which was extended until 30 June 2007. It was initially expected that the prospects of the signing of a peace agreement would mean a potentially significant increase in the number of children released by the LRA. However, despite repeated pleas by various stakeholders, the LRA had not released children from its ranks.

The Committee noted that, in its concluding observations for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 17 October 2008, the Committee on the Rights of the Child expressed concern over continued abductions of children living in border regions by the LRA, to be used as child soldiers, sex slaves, spies and to carry goods and weapons (CRC/C/OPAC/UGA/CO/1, paragraph 24). The Committee on the Rights of the Child was further concerned over the inhuman and degrading treatment of the abducted children. Moreover, the Committee noted that, according to the report of the Secretary-General on children and armed conflict in Uganda of 15 September 2009 (Secretary-General's report of 2009), the LRA has not knowingly operated in Ugandan territory since the cessation of hostilities in August 2006. Over the past four years, however, the LRA, including a substantial but unknown number of Ugandan children associated with its forces, has increasingly moved into neighbouring countries to establish additional bases; and children and their communities in the Sudan, the Democratic Republic of the Congo and the Central African Republic have been the victims of attacks that have claimed hundreds of lives and resulted in the disappearance of hundreds of children. In the Democratic Republic of the Congo, 233 abductions of children by the LRA were documented by child protection partners between 1 December 2008 and 30 June 2009. The Secretary-General further indicates that efforts to sign a Comprehensive Peace Agreement with the LRA failed and, as a result, the LRA has increasingly become a regional actor. Since December 2008, LRA elements, operating in small groups, reportedly conducted attacks against several localities in the Democratic Republic of the Congo, killing civilians, burning houses and abducting children and adults. In total, it is estimated that more than 1,000 civilians have been killed and several hundred abducted by the LRA since it increased its violent activities in 2008.

The Committee therefore once again expressed its deep concern at the situation of children abducted by the LRA and forced to provide work and services as informants, porters, hostages, as well as becoming victims of sexual exploitation and violence. It observed that, although national legislation appears to prohibit abductions and the exaction of forced labour, this remains a serious issue of concern in practice, in particular in the context of renewed violence and conflict. In this regard, the Committee once again recalled that, by virtue of *Article 3(a)* of the Convention, the exaction of forced labour from children is considered as one of the worst forms of child labour and that, by virtue of *Article 1* of the Convention, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. **The Committee strongly urges the Government to take effective and time-bound measures to eradicate abductions and the exaction of forced labour from children under 18 years, as a matter of urgency. In this regard, it requests the Government to take immediate measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It also urges the Government to**



*take measures to cooperate with the neighbouring countries and accordingly reinforce security measures, particularly on the common borders with the Democratic Republic of the Congo, the Central African Republic and Sudan, with a view to bringing an end to this worst form of child labour.*

2. *Compulsory recruitment of children for use in armed conflict.* The Committee had previously noted that, according to the Secretary-General's report of 2007 (paragraph 5), Uganda is among the countries where parties to armed conflicts – the Ugandan People Defence Force (UPDF), the local defence units and the LRA – recruited or used children and were responsible for other grave violations. According to this report, it was estimated that, notwithstanding various peace agreements, up to 2,000 women and children may still have been held by the LRA within its ranks and had not been released. Regarding children recruited by the national military forces, the Secretary-General's report of 2007 indicated that the UPDF recruited young boys to serve in its armed forces, especially within the local defence units, which are UPDF auxiliary forces. The report of 2007 also indicated that during recruitment, age verification was rarely carried out. After training, many of these children were said to be fighting alongside the UPDF. Although the Government of Uganda incorporated, in 2005, in the Uganda People's Defence Forces Act, a provision prohibiting the recruitment and use of child soldiers, the lack of effective monitoring at the local level led to children continuing to join some elements of the armed forces. However, according to the Secretary-General's report of 2007, the Government had committed itself to strengthening the implementation of the existing legal and policy frameworks on the recruitment and use of children in armed conflict. Moreover, in December 2006, the UPDF agreed to undertake inspection and monitoring, including to verify age during the recruitment process. Furthermore, the Uganda Task Force on Monitoring and Reporting (UTF) had committed itself to working with the UPDF and the local defence units to ensure immediate and appropriate follow-up to remove any person under 18 years of age found within the UPDF and local defence units, including through referral to appropriate child protection agencies.

The Committee noted that, according to the Secretary-General's report of 2009 (paragraphs 3–7), on 16 January 2009, the Government of Uganda and the UTF signed an action plan regarding children associated with armed forces in Uganda, which obligates the Government to prevent and end the association of children under the age of 18 with armed auxiliary forces; appoint focal points at the highest level of the Government on the implementation of the action plan; provide access on a regular and ad hoc basis to the UPDF and auxiliary facilities to the UTF to monitor and verify compliance; and promptly investigate allegations of recruitment and use of children and ensure the prosecution of perpetrators. Furthermore, the action plan identifies time-bound activities relating to children associated with the armed forces in Uganda. Among others, the measures include verification visits to all UPDF facilities and regular access to all relevant UPDF units by the UTF. In compliance with the action plan, the Government of Uganda and the UTF agreed upon a series of visits by the UTF to UPDF facilities in northern Uganda in early 2009, with a view to verifying that no persons under the age of 18 were present within, or recruited into, its ranks.

The Committee noted with satisfaction that no case of recruitment or use of children by the UPDF or its auxiliary forces has come to the attention of the UTF. Throughout its visits, the UPDF extended excellent cooperation to the verification team. Furthermore, the UTF observed the UPDF recruitment process in the northern districts of Uganda from 12 to 14 February 2009. It was noted that age requirements for recruitment into the UPDF, as set forth in existing laws and regulations, were strictly observed and followed by UPDF officers in compliance with the UPDF internal circular of February 2009 containing instructions on recruitment criteria. The Committee noted that, according to the Secretary-General's report of 2009, the UTF will nevertheless continue to monitor compliance of the UPDF within the action plan framework to ensure that continuous efforts are made to prevent the recruitment and use of children and that the implementation of the action plan continues.

However, the Committee noted that the LRA, whose leadership originates in Uganda and a significant number of whose forces are also from Uganda, remains listed on the Secretary-General's annexes to his reports on children and armed conflict because of the continued practice of recruitment of children within its ranks. Although LRA violations against children were originally reported solely under Uganda country situation reporting, the geostrategic situation of that group, which is expanding its armed activities to the wider region, has prompted the request of a strategy for increased regional joint capability to monitor and report on cross-border recruitment and use of children by the LRA. The UTF has therefore been engaged in consultations with the Resident Coordinator of the United Nations Country Team in Uganda, the United Nations Children's Fund headquarters and regional offices, the Department of Peacekeeping Operations missions in Sudan and the Democratic Republic of the Congo and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, on appropriate steps to establish a subregional strategy to monitor and report on grave child rights violations committed by the LRA in the region.

The Committee welcomed the measures taken by the Government and the positive results it has registered with regard to the UPDF. However, it expressed its concern at the situation of children who continue to be recruited for armed conflict by the LRA. The Committee refers to the Secretary-General's call upon the Government of Uganda to prioritize the protection of children in its military actions against LRA elements, either on Ugandan territory or in joint operations in neighbouring countries (S/2009/462, 15 September 2009, paragraph 28). *The Committee therefore urges the Government to intensify its efforts to improve the situation and to take, as a matter of urgency, immediate and effective measures to put a stop in practice to the forced recruitment of children under 18 years of age by the LRA. In this regard, it urges the Government to take the necessary measures to ensure that a strategy for increased regional joint capability to monitor and report on cross-border recruitment and use of children by the LRA is adopted as soon as possible. It also requests the Government to take the necessary measures to ensure that persons who forcibly recruit children under 18 years for use in armed conflict are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice.*

*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. Children who have been affected by armed conflict.* The Committee had previously noted that the orphans and vulnerable children policy includes interventions to mitigate the impact of the conflict on vulnerable children, especially by providing them with psychological support and with health-care services. It had also noted that a number of measures had been taken in order to rehabilitate children affected by conflict: (a) the psychological support programme for the care of children in conflict areas; (b) the creation of the National Core Group for Psychological Support, responsible for advocacy against abduction and conflict-related child abuse; and (c) the project implemented by Save the Children from Denmark and Sweden, in collaboration with the UPDF and Gulu Support Children Organization (GUSCO) with the aim of training officers in the UPDF's Child Protection Unit and promoting the observance of rights of children affected by armed conflict. Moreover, according to the Secretary-General's report of 2007 (paragraph 62), interim care centres, known as reception centres, were established in the north of Uganda in order to receive formerly abducted children, including those referred by the UPDF Child Protection Unit.

The Committee noted that, according to the mission report, the Ministry of Education and Sports (MoES) made interventions for child victims of armed conflict, as well as abducted children, and specialized schools have been built in the

north of the country to give support and rehabilitate these children. Indeed, the Committee noted that, according to the report on Education Needs Assessment for Northern Uganda of February 2008 (ENA report) prepared by the Education Planning Department, the MoES has, among other things, provided psychosocial back-up support by training 50 trainers in psychosocial training, helped with the demobilization of 53 child soldiers, supported eight reception centres for former child abductees. The MoES has also constructed 27 learning centres with 114 classrooms in Kitgum, Pader and Lira for 6,000 displaced primary school children, as well as a primary boarding school at Laroo in Gulu with a capacity for 1,000 pupils. Furthermore, the ENA report indicates that many education provider organizations have contributed to the interventions of the MoES with a view to provide an interim response to the needs of northern Uganda in terms of education. The Committee also noted that, according to the Secretary-General's report of 2009, the action plan regarding children associated with armed forces in Uganda signed by the Government of Uganda and the UTF on 16 January 2009 covers different areas of activities, including preventing the recruitment of children under 18 years for use in armed conflict and releasing and reintegrating underage recruits. ***The Committee strongly encourages the Government to continue its efforts and take effective and time-bound measures to remove children from armed conflict and ensure their rehabilitation and social integration. In this regard, it requests the Government to provide information on the number of children under 18 years of age who have been rehabilitated and reintegrated into their communities through these measures, in particular through the action of the MoES and through the activities undertaken under the action programme regarding children associated with armed forces in Uganda.***

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.***

## United Arab Emirates

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1998)**

*Article 3(1) and (2) of the Convention. Minimum age for admission to, and determination of, hazardous work.* The Committee previously requested the Government to take the necessary measures to ensure the promulgation of a ministerial order to determine the types of hazardous work prohibited for persons under 18 years of age.

The Committee notes the Government's information regarding the promulgation of Ministerial Order No. 803 of 2012, which amends Ministerial Order No. 1189 of 2010 relating to the rules and conditions governing the granting of work permits to young persons. The Committee notes with **satisfaction** that section 3 of this Order prohibits employers from engaging young persons under the age of 18 years in 31 types of hazardous work, including mineral extraction in mines and quarries, work in nightclubs and bars, work with explosives or dangerous machinery, welding of lead or silver and the slaughter of animals.

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously observed that, according to section 42 of the Labour Code, the minimum age to enter into an apprenticeship contract (defined as the contract whereby the employer undertakes to provide the employee full vocational training) was 12 years. It also noted the Government's statement that the draft amended text of section 42 of the Labour Code provided 15 years as the minimum age for being accepted in training or vocational education, and observed that this text was going through the constitutional channels in the State.

The Committee notes the Government's statement that the draft amendment to section 42 of the Labour Code is still under examination and awaiting approval by Parliament. ***The Committee once again urges the Government to take the necessary measures to ensure that the draft amended section 42 is adopted in the very near future. It once again requests the Government to keep it informed of any progress in this regard, and to provide a text of the amended provision as soon as it has been adopted.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Slavery and practices similar to slavery. Sale and trafficking of children for commercial sexual exploitation.* In its previous comments, the Committee noted the Government's indication that section 346 of the Penal Code prohibits the trafficking of children, and section 363 prohibits abetting, enticing or inducing a male or a female to commit prostitution. By virtue of Federal Act No. 51 of 2006, anyone who traffics a boy or girl under 18 years of age is liable to life imprisonment, and section 1 of this Act prohibits human trafficking for the purpose of exploitation, and defines exploitation to include all forms of sexual exploitation and prostitution. However, the Committee noted that, in its concluding observations of 5 February 2010, the Committee on the Elimination of Discrimination against Women expressed its serious concern at the persistence of trafficking in women and girls into the UAE for the purposes of labour and sexual exploitation (CEDAW/C/ARE/CO/1, paragraph 28).

The Committee notes the Government's information that, according to the annual report of the National Committee to Combat Human Trafficking in the UAE (NCCHT) of 2012, 17 cases of human trafficking and 51 victims were reported. The Committee notes with **interest** that 111 perpetrators were convicted. Moreover, the Government indicates that four of the 17 cases of human trafficking involved six child victims in total, all of them between 14 and 17 years of age. In these cases, the perpetrators received sentences of imprisonment ranging from three to ten years, as well as deportation. ***The Committee therefore encourages the Government to continue its efforts to strengthen the capacity of law enforcement agencies in order to ensure that persons who traffic in children for the purpose of sexual exploitation are in practice prosecuted, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue to provide information on the number of infringements reported, investigations, prosecution,***

***convictions and penal sanctions applied for violations of the legal prohibition on the sale and trafficking of children for commercial sexual exploitation.***

*Articles 3(d) and 4(1). Hazardous work.* In its previous comments, the Committee urged the Government to take the necessary measures to ensure the promulgation of a Ministerial Order to determine the types of hazardous work prohibited for persons under 18.

The Committee notes the Government's information regarding the promulgation of Ministerial Order No. 803 of 2012, which amends Ministerial Order No. 1189 of 2010 relating to the rules and conditions governing the granting of work permits to young persons. The Committee notes with **satisfaction** that section 3 of this Order prohibits employers from engaging young persons under the age of 18 years in 31 types of hazardous work, including mineral extraction in mines and quarries, work in nightclubs and bars, work with explosives or dangerous machinery, welding of lead or silver, and the slaughter of animals.

*Article 5. Monitoring mechanisms. National Committee to Combat Human Trafficking (NCCHT).* In its previous comments, the Committee noted the indication in the Government's report that, following the adoption of Federal Law No. 15 of 2005, the Minister of Interior established the NCCHT. It noted that the NCCHT was presided over by the Under-Secretary of the Ministry of Justice, and included representatives of the Ministries of Interior, Foreign Affairs, Labour, Social Affairs, and the General Director of the Dubai Police, Zayed Corporation for Charity, and the Red Crescent. The Committee noted that the NCCHT meets frequently, and that during 2008–09 and 2010–11, it took numerous measures to address the problem of trafficking.

The Committee notes the Government's detailed information pertaining to the various measures that were adopted in 2011–12. Among these measures, the Committee notes the adoption of Ministerial Order No. 34 of 2011 relating to the organizational structure of the police directorates of El Sharqaa, Ras el Kheimah, 'Ajman, Om El Quwain, and El Fujairah, in which units to combat human trafficking crimes were created. Moreover, with a view to raising national awareness on crimes, the NCCHT has adopted a national strategy which envisages the convening of a number of awareness-raising events. In April 2011, for example, the first Gulf meeting to combat human trafficking crimes took place, in collaboration with the NCCHT, the Ministry of Justice, and the Office of the High Commissioner for Human Rights, among others, and the participation of the representatives of the Gulf Cooperation Council. This meeting aimed at identifying perspectives for cooperation, exchanging experiences, and finding the best means of reducing the phenomenon, and showcased the national strategies of law enforcement bodies to combat human trafficking. In December 2011, a regional training workshop was held in Abu Dhabi, reviewing the modern forms of human trafficking and child sexual exploitation, in collaboration with the UN Training and Certification Centre in the area of human rights for South-West Asia and the Middle East. During this workshop, several issues relating to child trafficking and child exploitation and their use in the sex industry were discussed. ***While encouraging the Government to pursue its efforts to strengthen the capacity of law enforcement officials responsible for the monitoring of child trafficking, the Committee once again requests the Government to provide information on the impact of the measures taken by the NCCHT and other institutions on the elimination of the trafficking of children under 18 years for labour or sexual exploitation.***

*Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. Child victims of trafficking for sexual exploitation.* The Committee previously noted the allegation of the International Trade Union Confederation (ITUC) that the authorities of the United Arab Emirates (UAE) made no distinction between prostitutes and victims of trafficking for sexual exploitation, all of whom bear equal criminal responsibility for involvement in prostitution. The ITUC pointed out that trafficked persons were consequently not treated as victims and were not supported or protected. The Committee noted the Government's statement in reply to the ITUC's allegations that it considers persons who are exposed to sexual exploitation as victims who need protection and support through guidance and rehabilitation programmes. Nonetheless, the Committee noted that, in her statement of 18 October 2009 following her visit to the UAE, the UN Special Rapporteur on the sale of children, child prostitution and child pornography noted that the age of criminal responsibility of 7 years of age was too low, and encouraged the Government to ensure that all persons who are sexually exploited be treated as victims and not as delinquents. The Committee noted the Government's information that, with respect to the criminal responsibility of minors, the penalties provided for by the Penal Code do not, in fact, apply to children aged 7 to 18 years. In their case, the penalties which are applicable are prescribed by Federal Act No. 9 of 1976 relating to delinquents and vagrants. Section 63 of this Act provides that "Any young person who has completed the age of seven years and not completed the age of sixteen years shall be prescribed the provisions contained in the Child Act." In this regard, the Government referred to the sentence handed down by the Upper Federal Court, No. 64/15 of 29 January 1994, which stated that if a young person between 7 and 16 years of age commits a crime as prescribed in the Penal Code or other penal laws, he/she shall be subject to one or more of the measures specified in section 15 of the Child Act. These measures include reprimands; mandatory vocational training; or placement in a place of treatment, rehabilitation centre, or a place of education or reformation. Moreover, the Committee noted the Government's statement that it had adopted a policy to handle the persons involved in trafficking crimes and to treat them as victims by providing them with all means of support and family, health and psychological care. Observing that section 63 of Federal Act No. 9 of 1976 only applies to children between 7 and 16 years of age, the Committee urged the Government to ensure that children between 16 and 18 years of age trafficked to the UAE for sexual exploitation are treated as victims rather than offenders.



The Committee notes the Government's information that a draft Child Protection Law is in the process of review and finalization. This draft law specifies that the State shall take the necessary measures to protect children's rights against sexual exploitation (including child pornography), their exploitation in organized crime, their economic exploitation, and their exposure to begging. The Government also indicates that the draft Child Protection Law introduces several amendments to the measures provided for by Federal Act No. 9 of 1976. The draft law specifies that the penalties which may be imposed by a court on a delinquent child – defined as a person who has not completed his or her 18th year of age – are reprimands, the handing of the child to the authorities, judicial testing, the obligation to perform specific duties, working in the public interest, or consigning to one of the care or rehabilitation institutions appropriate to the case. The draft Child Protection Law provides that child victims of trafficking shall be placed in care institutions.

In this regard, the Committee notes the Government's detailed information regarding the role of the sheltering centre set up to welcome and care for victims of trafficking and sexual exploitation, the main functions of which are rescue, care, rehabilitation, follow-up and prevention. Child victims, therefore, benefit from such services as psychological care, educational skills and leisure courses, and the eventual transfer to similar institutions in the victim's country of origin. ***The Committee requests the Government to continue to take measures to ensure the rehabilitation and social integration of all child victims of trafficking for sexual exploitation under 18 years of age, and to provide information on the results attained. It requests the Government to provide information on the progress made in adopting the draft Child Protection Law, and to provide detailed information on the application of its provisions to child victims of trafficking for sexual exploitation, once adopted.***

*Part V of the report form. Application of the Convention in practice.* The Committee previously noted that the statement of the UN Special Rapporteur on the sale of children, child prostitution and child pornography had indicated that there was a lack of an information system for gathering data on the sale and trafficking of children and the commercial sexual exploitation of children, in addition to a lack of analysis, recording, sharing of information, and reporting in this regard. The Special Rapporteur noted that the Government recognized the need for such a system and that it was in the process of establishing one.

The Committee notes that, following her visit to the UAE in April 2012, the UN Special Rapporteur on trafficking in persons, especially women and children, drew attention, in her end-of-mission statement, to the lack of comprehensive statistical information on the prevalence rate, forms, trends and manifestation of human trafficking in the UAE. In this regard, the Committee notes the Government's information that the Statistics and Security Analysis Centre has been established within the Federal Security Information Department of the Ministry of Interior, which is entrusted with the collection of all the information related to human trafficking crimes in the country, the follow-up on the development of crime detection, and the publication of security and statistical reports. ***The Committee once again urges the Government to pursue its efforts to establish a system to record and collect data on the number of children engaged in the worst forms of child labour and to report on child victims of crimes. It also once again requests the Government to provide any other information on the nature, extent and trends of the worst forms of child labour, in particular the sale and trafficking of children, studies and inquiries and statistical data on the number of children covered by the measures giving effect to the Convention. To the extent possible, all information provided should be disaggregated by sex and age.***

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

## United States

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

*Articles 3(d) and 4(1) of the Convention. Hazardous work and determination of types of hazardous work. Hazardous work in agriculture from 16 years of age.* The Committee previously noted that, as an exemption from section 213 of the Fair Labor Standards Act (FLSA), in agriculture, 16 is the minimum age under section 213(c)(1) and (2) of the FLSA for employment in occupations (outside family farms) that the Secretary of Labor finds and declares to be "particularly hazardous for the employment of children". The Committee therefore observed that section 213 of the FLSA authorizes children aged 16 and above to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor. In this regard, the Committee noted the Government's statement that the FLSA, which was developed through a process open to the participation of employers' and workers' representatives, does not authorize the Secretary of Labor to restrict young persons of 16 years and older from working in agriculture. The Government, referring to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), which allows ratifying countries to permit 16 and 17 year olds to engage in types of work referred to by *Article 3(d)* on the condition that the health, safety and morals of the children are fully protected, stated that Congress considered it is safe and appropriate for children from the age of 16 to perform work in the agricultural sector.

However, the Committee noted the allegation of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) that a significant number of children under 18 years were employed in agriculture under dangerous conditions, including long hours and exposure to pesticides, with risk of serious injury. Nonetheless, the Committee observed that the National Institute for Occupational Safety and Health (NIOSH) had issued recommendations for changing the existing Hazardous Orders (HOs) regarding child labour, and noted the Government's indication that it

was evaluating an appropriate course of action regarding the NIOSH recommendations on agricultural HOs for youth employment.

The Committee takes due note that, based on the recommendations of the NIOSH, the Wage and Hour Division (WHD) of the Department of Labor (DOL) published a Final Rule on child labour provisions on 20 May 2010, which revised existing HOs to prohibit children under 18 from performing certain types of work, including: (i) working in poultry slaughtering and pressing plants; (ii) forestry services and timber tract management; (iii) operating balers and compacters designed for non-paper products; and (iv) operating wood chippers.

The Committee also 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 the United States of 29 September and 1 October 2010, entitled “Internationally recognized core labour standards in the United States of America” that health and safety standards for child farm workers are severely lacking, and that from 2005 to 2008, at least 43 children died in work-related accidents in farms. In this regard, the Committee notes the statement in the document available on the website of the DOL entitled “Notice of proposed rulemaking to amend the child labor in agricultural regulations – Frequently asked questions” that “[c]hildren employed in agriculture are some of the most vulnerable workers in America. The fatality rate for young agricultural workers is four times greater than that of their peers employed in non-agricultural workplaces. Furthermore, the injuries suffered by young farm workers tend to be more severe than those suffered by non-agricultural workers. The current federal agricultural child labor rules were issued over 40 years ago and have never been updated or even revised”.

The Committee further notes the Government’s statement that it remains acutely aware of the need to fully protect young agricultural workers, including those between 16 and 18 years of age, and that it remains fully committed to continuing to ensure full compliance with the Convention, as informed by Recommendation No. 190. In this regard, the Committee notes the Government’s indication that the outreach programmes on hazardous work of the Occupational Safety and Health Administration (OSHA) prioritize employee education and awareness, focusing upon less experienced workers, such as 16 and 17 years old employees in agriculture.

The Committee notes the information in the Government’s report that the DOL had issued a Notice of Proposed Rulemaking in September 2011, containing proposals to revise the child labour agricultural HOs, as well as some non-agricultural HOs. The Government indicates that the proposal, if finalized, would adopt the remaining specific NIOSH recommendations on existing agricultural HOs, to increase the parity between agricultural and non-agricultural child labour prohibitions. This proposal would create an HO to prohibit the employment of persons under the age of 18 in occupations in farm product and raw materials wholesale trade industries such as work in country grain elevators, grain bins, silos, feed lots, feed yards, stockyards, livestock exchanges and livestock auctions. Additionally, this proposal includes several revisions to existing agricultural HOs, such as prohibiting hired farm workers under 16 years of age from: the planting, cultivating, topping, harvesting, baling, barning, and curing of tobacco; any work that falls within the Environmental Protection Agency classification of pesticide handler; occupations involving working inside a manure pit; work in the agricultural sector such as construction, wrecking and demolition and excavation; certain tasks involving working with or around animals; and operating all power-driven machines.

However, the Committee notes with *serious concern* that this proposed rule was subsequently withdrawn in April 2012. *The Committee, therefore, strongly urges the Government to reconsider the withdrawal of the proposals contained in the Notice of Proposed Rulemaking of 2 September 2011, which would have increased the parity between agricultural and non-agricultural child labour prohibitions by prohibiting some tasks associated with agricultural work to children under 18 and strengthening the protection provided to children under 16 years working in agriculture. In this regard, the Committee urges the Government to take the necessary measures to ensure that young persons between 16 and 18 years of age working in agriculture are only permitted to perform work in accordance with the strict conditions set out in Paragraph 4 of Recommendation No. 190, namely that their health and safety is protected and that they receive adequate specific instruction or vocational training. It requests the Government to provide information on progress achieved in this respect, in its next report.*

*Article 4(3). Examination and periodical revision of the types of hazardous work.* The Committee previously noted that the HOs determining the types of work prohibited to children under 18 were originally adopted in 1939 and 1960 for non-agricultural occupations and in 1970 for agricultural occupations. The Committee also noted that, pursuant to an inter-agency agreement between the WHD and the NIOSH, the NIOSH had issued several recommendations regarding revising the existing HOs to better protect children from particularly hazardous work. The Committee requested the Government to take immediate measures to ensure that the NIOSH’s recommendations for revising the existing HOs were pursued and that the amendments to the HOs were adopted pursuant to these recommendations.

The Committee notes with *satisfaction* that the Final Rule on child labour provisions published by the WHD in May 2010, based on the recommendations of the NIOSH, revised seven existing non-agricultural HOs to prohibit children under 18 from performing additional types of work, including: the tending, riding upon, working from, repairing, servicing, or disassembling an elevator, crane, derrick, manlift (including of truck- or equipment-mounted aerial platforms known as scissor lifts, boom-type mobile elevating work platforms, work assist vehicles, cherry pickers, basket hoists, and bucket trucks), hoist, or high-lift truck (including backhoes, front-end loaders, skid loaders, skid-steer loaders, bobcat

loaders, and stacking trucks); cleaning power-driven meat processing equipment; operating power-driven hoists; and operating reciprocating saw and abrasive cutting disks.

*Articles 5 and 7. Monitoring mechanisms and penalties. Hazardous work in agriculture.* The Committee previously noted the AFL-CIO's indication that an estimated 100,000 children suffer from agriculture-related injuries annually in the United States and that very few inspections take place in agriculture. The Committee also expressed its concern at the decreasing number of child labour investigations conducted in the agricultural sector. However, the Committee noted the Government's indication that the WHD intended to hire additional wage and hour inspectors. The Committee urged the Government to take measures to ensure that the necessary monitoring mechanisms are in place so that all farms are inspected and monitored and provide information on the inspections carried out in this regard.

The Committee notes the information in the Government's report that the WHD has hired more than 300 new investigators since the summer of 2009. The Government states that more than half of the WHD's 1,000 investigators speak a language in addition to English, improving the Division's capacity to reach some of the more vulnerable workers in the workforce with limited English proficiency. The Government indicates that with these added resources, WHD investigators have been able to conduct agricultural investigations on evenings and weekends, when children are most likely to be working in the fields. The Committee also notes the Government's statement that the WHD is now able to issue steeper fines for child labour violations that cause the death or serious injury of any employee under 18 years of age. In this regard, the Committee notes with *interest* that the Final Rule on child labour provisions of 2010 amended the child labour civil money penalty to provide for up to US\$50,000 for each violation that causes the death or serious injury of an employee under 18 years of age (which can be doubled if the violation is repeated or wilful). Prior to the 2008 amendment, the maximum civil money penalty that could be assessed for any child labour violation was US\$11,000.

The Committee further notes the detailed information in the Government's report regarding concluded cases in which child labour violations were found. The Government indicates that there were 887 such cases in 2009, 684 cases in 2010 and 720 cases in 2011. The total child labour civil monetary penalties assessed were US\$4,031,564 in 2009, US\$2,120,472 in 2010 and US\$2,159,699 in 2011. Moreover, the Government indicates that the total number of minors found working in these cases (in violation of the FLSA) was 3,448 in 2009 (including 109 in the agricultural industry), 3,333 in 2010 (including 49 minors in the agricultural industry) and 1,873 in 2011 (including 29 minors in the agricultural industry). The Government states that although the number of minors found employed in agriculture in violation of the FLSA declined between 2009 and 2011 (from 109 minors in 2009 to 29 minors in 2011), the WHD's enforcement hours in agriculture increased by approximately 8 per cent from 2009 to 2010 and by approximately 1.3 per cent from 2010 to 2011.

In addition, the Committee notes the Government's statement that the WHD is engaging local communities, social service agencies and state migrant education consultants to provide an alternative to work for children whose parents are in the fields and to provide education on child safety. For example, the Committee notes the Government's indication that, as a result of the extensive child labour law violations found during the 2009 blueberry harvest season, the WHD implemented the 2010 Blueberry Harvest Initiative. This Initiative constituted an enforcement programme which received considerable media coverage and contributed to employers taking steps to ensure that children were not working in the fields. Moreover, the Committee notes the Government's indication that protecting children at work, including 16 and 17 years olds employed in agriculture, is an important aspect of OSHA's mission, and that OSHA continues to target its enforcement efforts in areas where injuries and accidents are most serious, many of which involve young agricultural workers. The Government's report indicates that OSHA participated in more than 300 outreach events in the first half of 2011 which focused on children under 18 years. The Government indicates that OSHA's Heat Illness Prevention campaign (directed towards agricultural and construction workers) includes a special focus on outreach to new workers, like young agricultural employees, and that the Grain Handling Initiative, implemented by OSHA since 2008, significantly increased enforcement and inspection activities within this industry, to reduce accidents and fatalities, including for workers under 18 years of age. *Taking due note of the measures taken, the Committee urges the Government to pursue its efforts to strengthen the capacity of the institutions responsible for the monitoring of child labour in agriculture, to protect child agricultural workers from hazardous work. It requests the Government to continue to provide information on measures taken in this regard, and on the results achieved.*

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

## Uzbekistan

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)**

The Committee notes the Government's reports dated 17 April, 4 June and 20 November 2012. The Committee also notes the communication of the International Trade Union Confederation (ITUC) dated 31 August 2012, as well as the Government's reply thereto dated 24 October 2012, and the communication of the International Organisation of Employers (IOE) dated 22 October 2012. The Committee further notes the communication from the Council of the Federation of Trade Unions, dated 11 October 2012, as well as the communication of the Chamber of Commerce of Uzbekistan, dated 17 October 2012. In addition, the Committee takes note of the report of the ILO technical advisory mission that took place in Tashkent, Uzbekistan, from 2 to 5 May 2012.



*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 forced labour, including article 37 of the Constitution, section 7 of the Labour Code, and section 138 of the Criminal Code. It also noted that section 241 of the Labour Code prohibits the employment of persons under 18 years in hazardous work, and that the “list of occupations with unfavourable working conditions in which it is forbidden to employ persons under 18 years of age” prohibited children from watering and gathering cotton by hand. The Committee further noted the Government’s statement that the participation of children below 18 years of age in activities on a family farm is not an infringement of the Convention. The Government further indicated that the Association of Farmers of Uzbekistan, the Council of the Federation of Trade Unions and the Ministry of Labour and Social Protection had adopted, in May 2011, the “Joint Statement concerning the inadmissibility of using forced child labour in agricultural works”, which asserted that virtually all cotton was harvested by farm owners who had no interest in making extensive use of children for the harvesting of cotton.

However, the Committee also noted the assertion of the IOE that, despite the legislative framework against forced labour, school children (estimates ranging from half a million to 1.5 million school children) are forced by the Government to work in the national cotton harvest for up to three months each year. The Committee also noted the ITUC’s allegations that State-sponsored forced child labour continued to underpin Uzbekistan’s cotton industry. The ITUC stated that despite the Government’s claim that almost all of the cotton in Uzbekistan is produced on private farms, the reality is rigid state control of all aspects of the cotton industry, whereby the forced mobilization of children is organized and enforced by authorities. The ITUC referred to a 2010 study which found that the mobilization of children during the cotton harvest by the central Government was systematic, utilized the school system, and left little room for choice on the part of children, their parents, school authorities and even farmers. The ITUC further stated that approximately half of all cotton picked in Uzbekistan is the result of forced child labour, and that it is estimated that hundreds of thousands of children are forced out of school each year to pick cotton during school hours. The ITUC alleged that these children are required to work every day, even on weekends, and that the work involved is hazardous, involving carrying heavy loads, the application of pesticides and harsh weather conditions, with accidents reportedly resulting in injuries and deaths.

The Committee further noted the conclusions from several United Nations bodies regarding the practice of mobilizing school children for work in the cotton harvest. In this regard, it noted that the Committee on Economic, Social and Cultural Rights expressed its concern at the situation of school-age children obliged to participate in the cotton harvest instead of attending school during this period (24 January 2006, E/C.12/UZB/CO/1, paragraph 20), and that the Committee on the Rights of the Child expressed concern at the serious health problems experienced by many school children as a result of this participation (2 June 2006, CRC/C/UZB/CO/2, paragraphs 64–65). Moreover, the Committee on the Elimination of Discrimination Against Women expressed its concern regarding the educational consequences of girls and boys working during the cotton harvest season (26 January 2010, CEDAW/C/UZB/CO/4, paragraphs 30–31) and the UN Human Rights Committee stated that it remained concerned about reports that children are still employed and subjected to harsh working conditions, in particular for cotton harvesting (7 April 2010, CCPR/C/UZB/CO/3, paragraph 23).

In addition, the Committee noted the information from UNICEF concerning the cotton harvest of autumn 2011. UNICEF completed observation visits in 12 regions, finding that: (i) children aged 11–17 years old had been observed working full time in the cotton fields across the country; (ii) the mobilization of children had been organized by way of instructions passed through *Khokimyats* (local administration), whereby farmers are given quotas to meet and children are mobilized by means of the education system in order to help meet these quotas; (iii) in some instances, farmers had also made a private arrangement with schools to pick their cotton often in return for material resources or financial incentives for the school; (iv) children were predominantly supervised in the fields by teachers; (v) in over a third of the fields visited, children stated that they were not receiving the money themselves; (vi) quotas for the amount of cotton children were expected to pick generally ranged between 20 to 50 kilos per day; (vii) the overwhelming majority of children observed were working a full day in the field and as a result, were missing their regular classes; (viii) children worked long hours in extremely hot weather; (ix) pesticides were used on the cotton crop that children spent hours hand picking; (x) some children reported that they had not been allowed to seek medical attention even though they were sick; and (xi) that the only noticeable progress towards the eventual elimination of the use of children in cotton picking was observed in the Fergana region.

Additionally, the Committee noted that the Committee on the Application of Standards of the International Labour Conference (Conference Committee), in June 2011, echoed the deep concern expressed by United Nations bodies, the representative organizations of workers and employers and non-governmental organizations, about the systematic and persistent recourse to forced child labour in cotton production, involving an estimated 1 million children. The Conference Committee emphasized the seriousness of such violations of the Convention and urged the Government to take the necessary measures, as a matter of urgency, to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18.

The Committee notes the statement of the IOE in its most recent comment that the Government is ignoring the issue of forced child labour in the country. The IOE states that the information and data available from national media and other

organizations at the national and international levels indicate that the cotton harvest of 2012 does not differ, or slightly differs, from the previous one. The IOE states that, although the Uzbek Prime Minister issued an annual order in early August 2012 to ban the use of both forced and voluntary child labour during the 2012 cotton harvest, and despite the wide diffusion of the order in schools in the country, the extensive use of labour of teenagers and young persons was registered in all regions of the country following the disposition to formally commence the national cotton harvest.

The Committee also notes the comments of the ITUC that the forced mobilization of children by the State to pick cotton during the harvest is serious, systematic and continuous, and that this practice takes place year after year, despite the Government's denials. The ITUC indicates that during the autumn 2011 cotton harvest, children were forced to pick cotton by hand during term time, under threat of punishment, such as expulsion from school, in order to meet quotas set for each region by the central Government. The ITUC also states that independent monitors assessing the 2011 cotton harvest reported that in some more densely populated areas, such as Andijan, some schools took children out of school to pick cotton for 15 to 20 days, while others sent children to pick cotton after classes. However, the ITUC alleges that the situation was reported to be much worse in less densely populated regions, where children had to work for long hours. The ITUC reiterates that the participation of children in the annual cotton harvest is not a result of poverty or family need, but that this participation is organized and enforced by the authorities, channelled through local administration and directly benefits the Government. The ITUC reasserts that during the harvest, cotton quotas are set for each region, and that regional governors (*Hokims*) are appointed to ensure the delivery of these quotas. Such quotas are subdivided down through the hierarchy of state institutions, and the regional governor assigns schools quotas for harvesting cotton. Directors of schools and colleges face dismissal if their institution's cotton quota is not met, and parents have little choice but to allow their children to participate in the harvest. In addition, the ITUC indicates that conditions appear to be worse for students above the age of 16 who attend colleges, and that these children may be sent to work on remote farms for up to two and half months in extremely poor conditions.

The Committee notes the statement of the Chamber of Commerce of Uzbekistan that it does not consider the issue of forced child labour, or the practice of employing children for cotton picking, to be an issue in the country. The Committee also notes the statement of the Council of the Federation of Trade Unions in Uzbekistan that the Government's report is a genuine reflection of the measures taken by the Government to implement the Convention.

The Committee notes the Government's statement that a distinction should be made between legitimate child work and activities prohibited as one of the worst forms of child labour. The Government also indicates that the increased politicization of the alleged large-scale exploitation of the forced labour of children in the cotton harvest is a method of unfair competition in the global cotton market. The Committee further notes the Government's statement that the Government Order No. 82 of 26 March 2012 approved the Plan of additional measures for the implementation of the Forced Labour Convention, 1930 (No. 29), and the Worst Forms of Child Labour Convention, 1999 (No. 182), 2012–13 (Plan on additional measures). Noting the copy of this Plan on additional measures submitted with the Government's report, the Committee observes that this Plan includes measures to maintain effective monitoring for the prevention of forcing children to work, measures to strengthen the monitoring of the attendance of pupils and steps to establish personal responsibility of heads of educational institutions concerning the full attendance and safety of pupils. The Government also states that pursuant to Letter No. 01-523 of the Ministry of Education dated 8 September 2012, the Ministry of Education of the Autonomous Republic of Karakalpakstan and the central education boards of Uzbek provinces and Tashkent were warned not to allow pupils in general education schools to be employed as cotton pickers. The Government also refers to the report of a non-governmental organization, wherein a person interviewed stated that the cotton harvest in the region of Khorzem this year was different from previous years, as children were not picking cotton but continued to attend school. The Government states that this difference was due to the ban on children picking cotton. However, the Committee observes that this report also contains several statements that children continue to be mobilized to work in the cotton harvest in other regions, particularly students in lyceum and colleges.

The Committee, therefore, observes that while several sources indicate that there may have been a decline in the number of children under the minimum age for admission to work who are compelled to work in the cotton harvest, children between 16 and 18 years of age who attend colleges continue to be forced to work during this period, instead of attending school. In this regard, the Committee recalls that the prohibition on the worst forms of child labour, including forced labour and hazardous work, applies to all children *under the age of 18*. Therefore, in light of the broad consensus among the United Nations bodies, the representative organizations of workers and employers and non-governmental organizations with respect to the continued practice of mobilizing school children for work in the cotton harvest, often under hazardous conditions, the Committee must express its *serious concern* regarding the Government's continued insistence that children are not involved in the cotton harvest in Uzbekistan. ***The Committee urges the Government to take immediate and effective time-bound measures to eradicate the forced labour of, or hazardous work by, children under 18 years in cotton production, as a matter of urgency. It requests the Government to provide information on progress made in this regard in its next report.***

*Articles 5 and 6. Monitoring mechanisms and programmes of action to eliminate the worst forms of child labour.* The Committee previously noted the Government's indication that a programme had been approved for on-the-ground monitoring to prevent the use of forced labour by school children during the cotton harvest. The Government also indicated that the supervision of labour legislation and regulations (including the prohibition on employing children in

adverse working conditions) was carried out through specifically authorized legal and technical inspections of the Ministry of Labour and Social Protection and trade union officials. The Government indicated that the Ministry of Labour and Social Protection, in collaboration with the social partners, had implemented workshops to raise awareness among farmers on the inadmissibility of the use of child labour in agricultural works, and that the State Labour Inspection continued to carry out monitoring in farms.

The Committee also noted the IOE's indication that it remained uncertain as to whether the implementation of the measures adopted would be sufficient to address the deeply rooted practice of forced child labour in the cotton fields. It also noted the ITUC's statement that the monitoring of forced child labour needed to be completely independent. In addition, the Committee observed that the Conference Committee expressed regret that, despite the Government's indication that concrete measures had been undertaken by the labour inspectorate regarding violations of labour legislation, no information was provided on the number of persons prosecuted for the mobilization of children in the cotton harvest.

The ITUC states that evidence indicates that the legislative and policy measures in place have had little effect in eradicating the ongoing and systematic mass mobilization of forced child labourers for the cotton harvest. The ITUC indicates that there is a vast disparity between the legal and policy situation and the continued practice of state-sponsored forced labour. It alleges that Government has not implemented its own national laws and policies.

The Committee notes the Government's statement that, as part of the Plan on additional measures, the Ministry of Labour and Social Protection, the Ministry of Internal Affairs, with the Council of Ministers of the Autonomous Republic of Karakalpakstan, and the administration of the regions and Tashkent, will establish systematic monitoring to provide effective control to prevent enterprises, establishments and organisations from forcing children to work, and to ensure that the legislation on the working conditions of minors is respected. In this regard, the Government states that the Council of the Federation of Trade Unions of Uzbekistan has designed a structure to ensure the effective monitoring of the prohibition to compel children to work, and to ensure compliance with the relevant legislation concerning working conditions for minors and the Convention. This structure is composed of working groups established by the chairpersons of local trade union associations. The Government states that these working groups examined companies and organizations in Uzbekistan to assess compliance with the minimum age for employment and the prohibition of the worst forms of child labour, but that no evidence was found of the use of the worst forms of child labour. The Government further indicates that on 27 June 2012, the Association of Private Farmers, the Committee of the Women of Uzbekistan and the Ministry of Labour and Social Protection adopted a joint decision to conduct local outreach campaigns among farmers and that seminars for private farmers on the ILO Conventions were held in August 2012 in every region in the country. Moreover, the Government indicates that at a meeting of the special national working group for organizing nationwide awareness-raising campaigns to prevent the recruitment of students for cotton-picking, special local units of this working group were formed in August 2012. In addition, the Committee notes the Government's statement that the State Labour Inspectorate of the Ministry of Labour and Social Protection performs regular check of compliance with labour legislation governing minors. The Government indicates that in its 2012 inspections, the State Labour Inspectorate identified 37,818 cases of labour law violations, issued 1,273 instructions and initiated 1,221 administrative proceedings. However, the Committee once again notes with *concern* an absence of information as to whether any of the violations detected during these inspections pertained specifically to the worst forms of child labour, particularly the forced labour of, or hazardous work by, children under 18 years of age engaged in the cotton harvest.

The Committee once again observes that the Government has taken significant awareness-raising and preventive measures regarding the mobilization of children during the cotton harvest. In the Committee's view, this would appear to amount to an implicit and tacit admission that such child labour occurs within the country. The Committee must, therefore, once again note with *regret* the absence of information from the Government on the concrete impact, if any, of the monitoring activities undertaken pursuant to the Plan on additional measures, by the Ministry of Labour and Social Protection and the social partners. ***The Committee accordingly requests the Government to provide information on the concrete impact of the measures taken to monitor the prohibition of the use of forced and hazardous child labour in the agricultural sector. It also requests the Government to provide specific information on the number and nature of violations detected specifically with regard to the mobilization of children under 18 to work in the cotton harvest. Where possible, the information should be disaggregated by sex and age.***

*Part V of the report form. Application of the Convention in practice. Forced or compulsory labour in cotton production and hazardous work.* The Committee previously noted the Government's assertion that children are not involved in the cotton harvest. The Committee considered it essential that independent monitors be granted unrestricted access to document the situation during the cotton harvest. The Committee also noted the statements in 2010 from the ITUC, the European Trade Union Confederation (ETUC), the European Trade Union Federation – Textiles, Clothing and Leather (ETUF-TCL), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) and the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT), as well as the joint communication of 2010 from the European Apparel and Textile Confederation (EURATEX) and the ETUF-TCL indicating that a mission must be carried out as soon as possible in order to address the practice of child labour in the cotton sector and to initiate steps towards its eradication. The Committee further noted that the Conference Committee expressed its serious concern regarding the insufficient political will and the lack of transparency of the



Government to address the issue of forced child labour in cotton harvesting. It urged the Government to accept a high-level ILO tripartite observer mission that would have full freedom of movement and timely access to all situations and relevant parties, including in the cotton fields, in order to assess the implementation of Convention No. 182. The Conference Committee also strongly urged the Government to receive this ILO high-level tripartite observer mission in time to report back to this Committee, and strongly encouraged the Government to avail itself of ILO technical assistance, and to commit to working with ILO–IPEC. In this regard, the Committee noted the statement of the Government indicating that technical assistance or alternative cooperation with ILO–IPEC could not be reduced only to the issues of forced labour of children in cotton harvesting. In addition, the Committee noted the statement of UNICEF that its findings following the visits undertaken in 12 regions of the country were only snapshots that could not replace substantive and independent monitoring under the auspices of the ILO, which UNICEF continued to advocate for.

The Committee notes the statement by the IOE that the Government has not shown any will to accept the tripartite observer mission recommended by the tripartite Conference Committee. The Committee also notes that the ITUC, in its communication, urges the Government to invite an ILO high-level tripartite observer mission to visit the country, and also to accept ILO technical assistance to eradicate forced child labour in the cotton industry, including through work with ILO–IPEC. The ITUC further states that once again during the 2011 harvest, the cotton fields were strictly patrolled by police and security personnel, in an attempt to prevent independent monitoring, and that persons seeking to monitor the harvest experienced harassment and intimidation.

The Committee notes the Government’s statement that it has made every effort to eliminate the worst forms of child in the country, and that for this reason, there are no grounds for inviting an ILO high-level mission to the country to examine the use of child labour. The Government states that this should not be seen as refusal to cooperate with the ILO, and that the examination of the application of the Convention should address all of the worst forms, not only cotton-picking. The Government further indicates that a seminar entitled “Implementation of ILO Conventions ratified by Uzbekistan” was held in May 2012. The Government states that this seminar was organized by the Ministry of Labour and Social Protection, and included participation of ILO officials from both Headquarters and the Moscow Bureau, during which participants had an opportunity to discuss various issues related to the fulfilment by Uzbekistan of its commitments within the ratified ILO Conventions. In this regard, the Committee notes the statement in the mission report of the Technical Advisory Mission that the ILO delegation attending the seminar underlined that the Technical Advisory mission should not be seen as replacing the high-level mission which had been requested by the supervisory bodies. This mission report also indicates that the ILO delegation indicated to the Government that the Office was prepared to pursue technical assistance, and that the delegation highlighted that high-level tripartite missions were not sanctions, but instead an important way forward in helping to verify facts and resolve implementation gaps.

Therefore, the Committee must once again note with *serious concern* that the Government has yet to respond positively to the recommendation to accept a high-level tripartite observation mission. The Committee’s concerns are reinforced by the evident contradiction between the Government’s position that children are not removed from school for work in the cotton harvest, and the views expressed by numerous UN bodies and social partners that this worst form of child labour remains a serious problem in the country. It, therefore, considers an ILO mission to be both necessary and appropriate, to fully assess the situation of children’s engagement in the cotton sector. ***The Committee, therefore, urges the Government to accept a high-level ILO tripartite observer mission, and expresses the firm hope that such an ILO mission can take place in the very near future. It also strongly encourages the Government to avail itself of ILO technical assistance in respect of the situation in question.***

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 102nd Session and to reply in detail to the present comments in 2013.]*

## Bolivarian Republic of Venezuela

### ***Night Work of Young Persons (Industry) Convention, 1919 (No. 6)*** ***(ratification: 1933)***

The Committee takes note of the Government’s report. It also notes the comments by the Independent Trade Union Alliance (ASI) of 14 August 2012.

*Article 2 of the Convention. Exceptions to the prohibition regarding night work by young persons in industrial undertakings.* In its previous comments, the Committee noted section 257 of the Basic Labour Act of 1997, which provides that the working day for young persons under 18 years of age must fall between 6 a.m. and 7 p.m. Section 257 also allows exceptions on special grounds to the prohibition of night work by young persons, when deemed appropriate, in cooperation with the labour inspector, by the bodies responsible for the supervision of minors. The Committee asked the Government to provide information on the special grounds for such exceptions and the conditions in which such permission may be granted.

The Committee notes the promulgation of the Basic Labour and Workers Act (*Gaceta Oficial*, 20 May 2012, No. 6076). The Committee notes the Government’s indication that section 32 establishes a general prohibition of child

labour for children under 14 years of age, except for artistic and cultural performances authorized by the authority responsible for the protection of minors. Section 32 furthermore provides that the protection of minors at work is regulated by the Act concerning the protection of children and young persons of 1998. However, the Committee notes with **concern** that the new Basic Labour and Workers Act of 2012 no longer contains a provision prohibiting night work for young persons, unlike the Basic Labour Act of 1997. Moreover, the Committee had previously observed that the Act concerning the protection of children and young persons of 1998 did not contain any provision on the night work of young persons.

In these circumstances, the Committee is bound to recall again that *Article 2(1)* of the Convention states that young persons under 18 years of age shall not be employed during the night in any industrial undertaking, other than an undertaking in which only members of the same family are employed and in the cases listed in *Article 2(2)*. **The Committee therefore urges the Government to take the necessary measures to ensure that national legislation is brought into compliance with the Convention by reinserting a provision prohibiting the night work of young persons under 18 years of age. In case such a provision were to include special grounds on which exceptions to the prohibition of night work by young persons may be granted, as previously provided for by section 257 of the Basic Labour Act of 1997, the Committee requests the Government to supply information on these special grounds and the conditions in which such permission may be given, indicating in particular, the age of the young persons and the types of work they are authorized to perform.**

## Yemen

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

*Article 1 of the Convention and Part V of the report form.* National policy designed to ensure the effective abolition of child labour and practical application of the Convention. In its previous comments, the Committee noted the work of the Child Labour Unit (CLU) attached to the Ministry of Social Affairs and Labour (MoSAL) and referred to a child labour survey on working children the Government was commencing in collaboration with the ILO.

The Committee notes the findings of the first national Child Labour Survey carried out in 2010 by the Central Statistical Organization (CSO) in collaboration with ILO–IPEC which were released in July 2012. The Committee notes that 21 per cent of children between the ages of 5 and 17 are employed. While 11 per cent of 5–11 year-olds are employed, this figure increases to 28.5 per cent among 12–14 year-olds and further to 39.1 per cent among 15–17-year-olds. The employment rate of male children at 21.7 per cent is slightly higher than the employment rate of female children at 20.1 per cent. The two leading sectors that employ children are agriculture (56.1 per cent) and private households (29 per cent). A smaller proportion of children are in wholesale and retail trade (7.9 per cent). The majority of working children are unpaid family workers (58.2 per cent). **Expressing its concern at the large number of working children in the country, especially in rural areas, the Committee strongly encourages the Government to pursue its efforts towards the effective reduction and elimination of child labour. It requests the Government to provide information on national policy measures designed to ensure the effective elimination of child labour, and on the results achieved. The Committee further requests the Government to provide information on the manner in which the Convention is applied in practice, including extracts from the reports of inspection services and information on the number of inspections aimed, in whole or in part, at addressing child labour as well as on the number and nature of violations detected involving children.**

*Article 2(1). Scope of application.* In its previous comments, the Committee noted that, pursuant to sections 3(2) and 53 of the Labour Code, several categories of workers are excluded from the scope of application of the Labour Code, such as self-employed workers, casual workers, household servants and some agricultural workers, in addition to young persons working with their family under the supervision of the head of the family. The Committee further noted that section 5 of Ministerial Order No. 56 of 2004 (Ministerial Order No. 56) states that the minimum age of entering employment shall not be less than the age of completion of compulsory education, which is 15 years. The Committee also noted the Government's indication that the current exemptions in the Labour Code would be addressed in forthcoming amendments to the Labour Code. **The Committee reiterates its hope that the amendments to the Labour Code will soon be adopted and requests the Government to provide information on any new developments in this regard, in particular concerning the categories of workers excluded from the scope of application of the Labour Code by virtue of sections 3(2) and 53.**

*Article 2(1) and (2). Minimum age for admission to employment or work.* The Committee previously noted that section 5 of Ministerial Order No. 56 states that the minimum age of entering employment shall not be less than the age of completion of compulsory education, which is 15 years, while section 133 of the Yemeni Child Rights Law of 2002 establishes the general minimum age for admission to work at 14 years. The Committee also noted the Government's indication that an amendment modifying the minimum age for working children addressing this contradiction is being prepared. Noting that the Government specified a minimum age for admission to employment or work of 14 years at the time of ratification, the Committee draws the attention of the Government towards the possibility of raising the minimum age by notifying the Director-General of the ILO in virtue of *Article 2(2)* of the Convention. **The Committee once again expresses the hope that the draft amendment which modifies the general minimum age in the relevant Acts will be adopted in the very near future, and requests the Government to provide a copy of this legislation once adopted.**

*Article 2(3). Compulsory education.* The Committee previously noted the Government's basic education development strategy (BEDS), as well as the basic education development project by the World Bank, which aims to assist Yemen in expanding the provision of quality basic education to all (grades 1–9), with special attention to gender equity.

The Committee notes from the findings of the 2010 Child Labour Survey referred to above that the school attendance rate for children 6–14 years old (ages for compulsory schooling) stands at 73.6 per cent. Female and rural children are particularly affected by low school attendance rates. While among 6–17 year-olds, the attendance rate among girls is 63.4 per cent, this rate is 77.2 per cent among boys. The lowest school attendance rate is estimated for rural females at 57.5 per cent as compared to 82.9 per cent for urban boys.

The Committee also notes the information from the UNESCO *Education for All Monitoring Report 2011*, that in 2008, Yemen had the most children out of school in the region, more than 1 million (regional overview: Arab States, page 3). The Committee furthermore notes the Secretary-General report on children and armed conflict, which, in 2011 recorded 211 attacks on schools and the disruption of schooling of some 200,000 children (A/66/782-S/2012/261, paragraph 168). The Committee also notes that the basic education development project by the World Bank had to be suspended in June 2011 due to the much deteriorated political and security situation. Yet the suspension of activities was lifted in January 2012 and the project was extended to the end of 2012 (World Bank document, Report No. 69061-YE, 29 June 2012, paragraphs 4–5, 23).

The Committee expresses *serious concern* at the number of children who do not attend school and the significant gap in the gross enrolment rate for basic education for girls and boys. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system as soon as possible, within the framework of the basic education development strategy. The Committee requests the Government to provide information on measures taken in this respect, and on the impact of these measures, particularly with regard to the enrolment, attendance and completion rates of girls and children in rural areas.***

*Article 3(1). Minimum age for admission to hazardous work.* The Committee previously noted that section 49(4) of the Labour Code states that it is prohibited to employ a young person under 15 years of age in hazardous work. The Committee also noted the Government's information that, while section 4 of Ministerial Order No. 56 specifies that no person under 18 years may be accepted for any type of employment or 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, this section did not repeal the relevant provisions in the Labour Code. The Committee further noted the Government's indication that the forthcoming amendments to the Labour Code would take into account the Committee's observation on the contradictory provisions in the Labour Code and Ministerial Order No. 56 concerning the age of admission to hazardous work.

The Committee notes from the findings of the 2010 Child Labour Survey referred to above that 50.7 per cent of child labourers are engaged in hazardous work. ***Considering these circumstances, the Committee again urges the Government to ensure that the relevant amendments to the Labour Code are adopted in the near future to prohibit the employment of children under 18 years in hazardous work. It requests the Government to provide information on developments in this regard.***

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously noted that the Labour Code does not contain a minimum age for apprenticeships, and recalled that by virtue of *Article 6* of the Convention, a young person must be at least 14 years of age to undertake an apprenticeship. The Committee noted the Government's statement that it would take into account the Committee's comments on this issue when amending the Labour Code. ***The Committee reiterates its requests to the Government to take the necessary measures to ensure that the amendments to the Labour Code will be in conformity with Article 6 of the Convention. It asks the Government to provide information on any developments in this regard in its next report.***

*Article 7. Light work.* In its previous comments, the Committee noted that section 6 of Ministerial Order No. 56 states that the exemption of employment or work of persons between 13 and 15 years may only be authorized if the work is light work, that shall not be harmful to their health, moral or physical development and will not prevent them from attending school, or participate in guidance programmes or vocational training, nor weaken their capacity to benefit from education. The Committee noted the Government's statement that the Order requires redrafting, to identify the activities that constitute light work, as well as to prescribe the number of hours during which, and the conditions in which, the employment of children between the ages of 13 and 15 is allowed. In this regard, the Committee noted the Government's indication that it would take the Committee's comments and Paragraph 13(1)(b) of the Minimum Age Recommendation, 1973 (No. 146), into consideration in identifying what is light work, in conformity with *Article 7(3)* of the Convention. ***The Committee again expresses the hope that the Government will soon adopt regulations determining light work activities in accordance with the Convention and requests the Government to provide information on the developments in this regard in its next report.***

*Article 9(1). Penalties.* In its previous comments, the Committee noted the Government's information that the regulations on penalties for persons who violate the provisions of the Labour Code were promulgated and that sections 28–41 thereof specify the penalties to which employers are liable upon violation of the provisions relating to



child labour. *The Committee again requests the Government to provide a copy of the abovementioned regulations concerning violations of the Labour Code. The Committee also once again requests the Government to provide information on the enforcement of the penalties for the violation of these provisions in practice.*

*Article 9(3). Registers of employment.* In its earlier comments, the Committee noted that section 139 of the regulations putting into effect the Child Rights Act No. 45 of 2002 (Child Rights Act) states that an employer shall prepare a register which indicates the name of a working child, the child's guardian, the date on which he/she started work, place of residence and any other data required by the Ministry. Nonetheless, the Committee noted that these provisions did not specify that the employer must indicate the age or date of birth of the workers employed under the age of 18. The Committee recalled that *Article 9(3)* of the Convention requires national laws or regulations or the competent authority to prescribe the registers or other documents which shall be kept and made available by the employer, and that such registers shall 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 under 18 years of age. *The Committee again requests the Government to ensure that the registers kept pursuant to section 139 of the regulations putting into effect the Child Rights Act contain the ages or birth dates of persons who are less than 18 years of age, in conformity with Article 9(3) of the Convention. The Committee also requests the Government to supply a copy of the regulations putting into effect the Child Rights Act No. 45 of 2002.*

*The Committee encourages the Government to take into consideration, during its review of the Labour Code, the Committee's comments on discrepancies between national legislation and the Convention. In this regard, the Committee invites it to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.*

## Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 5** (Saint Lucia); **Convention No. 6** (Burkina Faso, Myanmar); **Convention No. 59** (Lebanon, New Zealand, Paraguay, United Republic of Tanzania, Yemen); **Convention No. 77** (Algeria, Bulgaria, Comoros, Dominican Republic, Kyrgyzstan, Lebanon, Nicaragua, Peru, Spain, Tajikistan, Turkey, Ukraine); **Convention No. 78** (Algeria, Kyrgyzstan, Lebanon, Peru, Spain, Tajikistan, Ukraine); **Convention No. 79** (Kyrgyzstan, Russian Federation, Tajikistan); **Convention No. 90** (Croatia, Guinea, Lebanon, Netherlands, Paraguay, Saudi Arabia, Serbia, Swaziland, Tajikistan); **Convention No. 123** (Ecuador, Mongolia, Rwanda, Turkey, Uganda); **Convention No. 124** (Kyrgyzstan, Uganda, Ukraine, United Kingdom, Viet Nam); **Convention No. 138** (Burkina Faso, Burundi, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gabon, Gambia, Georgia, Germany, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Indonesia, Iraq, Ireland, Israel, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Mauritania, Republic of Moldova, Montenegro, Mozambique, Namibia, Nepal, Netherlands, Nigeria, Rwanda, Samoa, Sao Tome and Principe, Seychelles, Thailand, Trinidad and Tobago, Tunisia); **Convention No. 182** (Bahamas, Burkina Faso, Chad, Comoros, Congo, Djibouti, Equatorial Guinea, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Lithuania, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Republic of Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Russian Federation, Rwanda, Samoa, Sao Tome and Principe, Senegal, Seychelles, Slovakia, Slovenia, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Kingdom: St Helena, United States, Uzbekistan, Yemen).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 5** (Denmark: Greenland, United Kingdom: Guernsey); **Convention No. 6** (Latvia, Madagascar, Viet Nam); **Convention No. 10** (Senegal); **Convention No. 59** (Peru, United Kingdom: Gibraltar); **Convention No. 77** (Hungary, Slovakia); **Convention No. 78** (Bulgaria, Hungary, Slovakia); **Convention No. 79** (Ukraine); **Convention No. 123** (Swaziland); **Convention No. 124** (Slovakia); **Convention No. 138** (Hungary, Iceland, Republic of Korea, Latvia, Lithuania); **Convention No. 182** (Republic of Korea).