

Part IV. Elimination of child labour

Chapter 1

Minimum Age Convention, 1973 (No. 138)

Introduction

327. Since the ILO's inception, the elimination of child labour has been a preoccupation of the Organization. The issue has emerged increasingly as a key concern for both developed and developing countries. Establishing a minimum age for admission to employment or work is crucial in that it sets at least a basic minimum threshold for child protection. This is closely intertwined with the other rights addressed by this Survey. In particular, it is reinforced by freedom of association and collective bargaining which provide space for participation and mobilization against child exploitation. Child labour may also be dealt with under the heading of forced labour, as there is a need to protect children from such exploitation. Moreover, the protection of children in such situations is based on the need to respect and implement the principles of non-discrimination and equality in favour of all children irrespective of their origins.

328. Experience shows that where child labour is practised, respect for other human rights at work is weak. The most recent Global Report on child labour of June 2010⁷⁶⁴ highlights that, while child labour continues to decline globally, there remain 215 million children caught in child labour.⁷⁶⁵ The continued existence of child labour is a significant indicator of major gaps in decent work. Ensuring that every child is free of the compulsion to work and has access to quality education is thus a crucial first step towards achieving decent work for the most vulnerable in society.

329. At the international level, action to combat the economic exploitation of children began in earnest with the creation of the ILO. At the very first session of the International Labour Conference (ILC) in 1919, the delegates of governments and of employers' and workers' organizations, aware of the need to protect children against economic exploitation, adopted the first ILO standard regulating the minimum age in industry.⁷⁶⁶ Prior to the adoption of Convention No. 138, the ILO instruments on the

⁷⁶⁴ *Accelerating action against child labour*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), ILC, 99th Session, Geneva, 2010, para. 19.

⁷⁶⁵ These children are either under the minimum age for work or above that age and engaged in work that poses a threat to their health, safety or morals, or are subject to conditions of forced labour. This does not include young persons engaged in economic activities which are permitted by the Convention (work permitted by the Convention does not constitute "child labour"). The experience of the ILO has shown that not all forms of work are necessarily harmful to children, and that when appropriately regulated, certain forms of activity are permitted. This is the underlying reason for a number of the provisions of Convention No. 138 authorizing permissible work by children below the specified minimum age.

⁷⁶⁶ Minimum Age (Industry) Convention, 1919 (No. 5).

minimum age for admission to employment or work only addressed specific sectors.⁷⁶⁷ This sectoral approach had advantages, but remained a piecemeal approach to regulating the work of young persons. A new instrument was therefore developed for concerted international action to promote the well-being of children in all sectors. In order to enable a greater number of member States to ratify it, this new Convention needed to be applicable to all sectors and be adaptable to unique national situations. In this spirit, the Convention was adopted in 1973, and has since achieved near universal ratification.

330. The primary objective of Convention No. 138 is the pursuit of a “national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work [...]”.⁷⁶⁸ Moreover, the Convention aims to protect children’s ability to attend school as well as to regulate the types of economic activity which are permissible for them (and the appropriate conditions for such work), and to protect their health, safety and morals. This Convention, together with the Worst Forms of Child Labour Convention, 1999 (No. 182), constitute the most authoritative international normative framework for the elimination of child labour. The emphasis placed by both Conventions on the abolition of child labour reflects the conviction of the ILO’s constituents that childhood is a period of life which should not be devoted to work, but to the full physical and mental development of children.

331. The only General Survey related to this Convention was undertaken in 1981, when 23 member States had ratified the Convention. This number has since increased sevenfold and there have been major changes in the worldwide approach to child labour in the last 30 years due to, inter alia, improved welfare and education systems, the development of an international framework on the rights of the child, the founding and operation of the International Programme on the Elimination of Child Labour (ILO–IPEC),⁷⁶⁹ increased global awareness regarding child labour, globalization and the recent global financial crisis. This chapter will examine the significant developments in the application of the Convention in both law and practice, as well as the Convention’s complementary relationship with Convention No. 182 and the other fundamental Conventions.

Scope of the Convention and methods of application

Scope of application

332. In general, Convention No. 138 applies to all sectors of economic activity and covers all forms of employment or work. The minimum age for admission to employment or work established by ratifying States (pursuant to *Article 2(1)*) should therefore apply to all persons engaged in economic activity, whether or not there is a contractual employment relationship and whether or not the work is remunerated, including unpaid work and work in the informal economy. This includes workers in family enterprises and farms, domestic workers, agricultural workers and self-employed workers.

⁷⁶⁷ These sectors were industry, maritime work, non-industrial work and underground work.

⁷⁶⁸ *Art. 1* of the Convention.

⁷⁶⁹ A large-scale ILO technical cooperation programme launched in 1992, which operates in 92 countries.

333. However, the Convention was initially conceived as a flexible instrument “aimed not only at setting a basic standard, but also at promoting the progressive elimination of child labour”.⁷⁷⁰ In this vein, member States may have recourse to the flexibility clauses contained in the Convention. *Articles 4 and 5* of the Convention permit countries to exclude certain limited categories of workers or particular economic sectors from the scope of the Convention, allowing a government to adapt the Convention to a particular national context.

334. *Article 4* allows the competent authority (in so far as necessary), after consultation with organizations of employers and workers,⁷⁷¹ to exclude from the application of the Convention limited categories of employment or work in respect of which special and substantial problems of application arise.⁷⁷² With a view to leaving a certain latitude to each country to adapt the application of the Convention to its national situation, the Convention does not enumerate the categories of employment or work which may be covered by such an exclusion.⁷⁷³ However, this cannot include types of employment determined as likely to jeopardize the health, safety or morals of young persons.⁷⁷⁴ Ratifying Members must list (in their first report⁷⁷⁵ submitted on the application of the Convention under article 22 of the ILO Constitution) the categories which have been excluded, and give the reasons for the exclusion. Some countries have also declared an intention for this limitation in the scope of application to apply only for a certain period of time.⁷⁷⁶ In subsequent reports submitted under article 22 of the Constitution, Members should state the position of their law and practice in respect of the categories excluded and the extent to which effect has been given to the Convention with respect to these excluded categories.⁷⁷⁷ The most frequently excluded limited categories of work are: work in family enterprises,⁷⁷⁸ work carried out in small-scale agriculture⁷⁷⁹ and

⁷⁷⁰ *Minimum age for admission to employment*, Report IV(2), ILC, 58th Session, Geneva, 1973, p. 7.

⁷⁷¹ The importance of consultation with the social partners has been emphasized by the Committee. See, for example, *Cambodia* – CEACR, direct request, 2010; *Egypt* – CEACR, direct request, 2002; *Lesotho* – CEACR, direct request, 2004; and *Syrian Arab Republic* – CEACR, direct request, 2004.

⁷⁷² *Art. 4(1)* of the Convention.

⁷⁷³ *Minimum age*, General Survey of the reports relating to Convention No. 138 and Recommendation No. 146, concerning minimum age, Report of the CEACR, Report III (Part 4B), ILC, 67th Session, Geneva, 1981, para. 74.

⁷⁷⁴ *Arts 3 and 4(3)* of the Convention. See for example, *Egypt* – CEACR, direct request, 2004.

⁷⁷⁵ Excluding particular categories of work subsequent to the first report is not possible under *Art. 4*. See, for example, *Plurinational State of Bolivia* – CEACR, observation, 2003; and *Republic of Korea* – CEACR, direct request, 2008. However, in cases where it is not clear from the Government’s first report as to whether it intended to exclude limited categories of work, the Committee has asked the Government to clarify if it intended to avail itself of *Art. 4*. This has occurred particularly in cases where the legislation implementing the Convention excludes particular categories. See, for example, *Gambia* – CEACR, direct request, 2009; *Papua New Guinea* – CEACR, direct request, 2009; and *Pakistan* – CEACR, direct request, 2009.

⁷⁷⁶ See, for example, *Bahamas* – CEACR, direct request, 2004. The Committee noted the Government’s indication that it intended to exclude from the scope of application of the Convention five types of work (grocery packers, gift wrappers, peanut vendors, newspaper vendors and work in films) for a period of five years.

⁷⁷⁷ *Art. 4(2)* of the Convention.

⁷⁷⁸ See, for example, *Barbados* – CEACR, direct request, 2010; *Egypt* – CEACR, direct request, 2004; *Fiji* – CEACR, direct request, 2005; *Iceland* – CEACR, direct request, 2003; *Japan* – CEACR, direct request, 2004; *Lesotho* – CEACR, direct request, 2006; *Philippines* – CEACR, direct request, 2004; *Syrian Arab Republic* – CEACR, direct request, 2004; and *Trinidad and Tobago* – CEACR, direct request, 2010. Some States which have not ratified the Convention have also indicated that the relevant minimum age provisions do not apply to family enterprises. The Governments of Australia and Canada both indicated in their reports submitted under art. 19 of the ILO Constitution that a number of jurisdictions in each country allow children under the minimum age to be employed in family enterprises.

domestic work.⁷⁸⁰ In line with the goal of progressive improvement in the application of the Convention, the Committee has noted with satisfaction when countries have adopted legislation applying the Convention to previously excluded categories.⁷⁸¹

335. While *Article 4* allows exceptions for limited categories of employment or work, *Article 5* permits the exclusion of entire economic sectors. In particular, *Article 5* allows a Member whose economy and administrative facilities are insufficiently developed, to initially limit the scope of application of the Convention, following consultation with the organizations of employers and workers concerned.⁷⁸² Unlike *Article 4*, where the exclusion of limited categories is outlined in the government's first report, each Member which avails itself of the flexibility clause contained in *Article 5(1)* shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention. Ratifying States must, at a minimum, apply the Convention to: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.⁷⁸³ Several countries have limited the Convention's application to these categories only.⁷⁸⁴ Professions from these sectors also cannot be excluded through *Article 4*.⁷⁸⁵

336. The Committee has emphasized on several occasions that this flexibility clause, used to limit the scope of application, can only be used at the time of ratification, and may not be invoked subsequently.⁷⁸⁶ However, Members may formally extend the scope of application by a declaration addressed to the Director-General.⁷⁸⁷ Similarly to *Article 4*, governments who avail themselves of *Article 5* must, in subsequent reports submitted under article 22 of the ILO Constitution, indicate the general position regarding the employment or work of young persons and children in the excluded branches of activity, in addition to any progress made towards the wider application of the provisions of the Convention.⁷⁸⁸

⁷⁷⁹ See, for example, *Egypt* – CEACR, direct request, 2004; and *Ethiopia* – CEACR, direct request, 2009.

⁷⁸⁰ See, for example, *Cambodia* – CEACR, direct request, 2010; *Iceland* – CEACR, direct request, 2003; and *Japan* – CEACR, direct request, 2004.

⁷⁸¹ See, for example, *Sweden* – CEACR, observation, 1997; and *Turkey* – CEACR, observation, 2009. The Committee has also noted such developments with interest. See, for example, *Fiji* – CEACR, direct request, 2008; and *Papua New Guinea* – CEACR, direct request, 2007.

⁷⁸² *Art. 5(1)*.

⁷⁸³ *Art. 5(2) and (3)*.

⁷⁸⁴ See, for example, *Angola* – CEACR, direct request, 2005; *Brazil* – CEACR, direct request, 2004; *Cameroon* – CEACR, observation, 2009; *Dominican Republic* – CEACR, direct request, 2003; *Gambia* – CEACR, direct request, 2009; *Lao People's Democratic Republic* – CEACR, direct request, 2009; *Mauritania* – CEACR, direct request, 2009; *Panama* – CEACR, direct request, 2005; *United Republic of Tanzania* – CEACR, direct request, 2005; *Thailand* – CEACR, direct request, 2007; and *Tunisia* – CEACR, direct request, 2003.

⁷⁸⁵ See, for example, *Turkey* – CEACR, observation, 2006.

⁷⁸⁶ See, for example, *Equatorial Guinea* – CEACR, direct request, 2010.

⁷⁸⁷ *Art. 5(4)(b)* states that any Member which has limited the scope of application pursuant to *Art. 5*, may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office. In cases where the implementing legislation appears to cover sectors that have been excluded, the Committee has drawn the government's attention to the possibility envisaged in *Art. 5(4)(b)*. See for example, *Brazil* – CEACR, direct request, 2004; *Thailand* – CEACR, direct request, 2007; and *Viet Nam* – CEACR, direct request, 2004.

⁷⁸⁸ *Art. 5(4)(a)*.

Methods of application

337. Convention No. 138 is applied by a combination of policy, legislative and programmatic measures. The application of the Convention through policy is rooted primarily in *Article 1* of the Convention, which states that each country in which the Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour. Between 1999 and 2009, approximately 70 countries formulated a national policy on child labour,⁷⁸⁹ and the Committee has continuously emphasized the importance of developing such a national policy for the application of the Convention.⁷⁹⁰ These national policies are then pursued through the development and implementation of national plans of action, national programmes and national strategies on child labour.⁷⁹¹ In some countries, policies to combat child labour are incorporated into broader policies and programmes on children⁷⁹² or Decent Work Country Programmes.⁷⁹³

338. The Convention may be applied through domestic legislation governing a variety of topics. The provisions stipulating the minimum age for admission to employment or work are, in the large majority of countries, found in the member State's primary piece of labour legislation, most frequently the labour code.⁷⁹⁴ However, some countries have enacted specific legislation governing the employment of young persons⁷⁹⁵ and, in some countries, the provisions governing the minimum age are contained in child protection legislation.⁷⁹⁶ In some countries, the legislative provisions governing the minimum age are contained in the national constitution.⁷⁹⁷ An essential component of Convention No. 138 is linking the minimum age for admission to work with the age of completion of compulsory education, and therefore education acts and other legislation governing compulsory education are also key methods of applying the Convention.⁷⁹⁸ Additional pieces of legislation which apply the Convention include regulations governing

⁷⁸⁹ *Accelerating action against child labour*, op. cit., fig. 1.10.

⁷⁹⁰ See, for example, *Bosnia and Herzegovina* – CEACR, direct request, 2008; *Central African Republic* – CEACR, observation, 2010; and *Chad* – CEACR, direct request, 2010.

⁷⁹¹ Recent examples of the implementation of national plans of action or programmes to address child labour include: *Brazil* – CEACR, observation, 2010; *Egypt* – CEACR, observation, 2010; *Lao People's Democratic Republic* – CEACR, direct request, 2010; *Madagascar* – CEACR, observation, 2010; *Nicaragua* – CEACR, observation, 2010; and *South Africa* – CEACR, direct request, 2009.

⁷⁹² See, for example, *Armenia* – CEACR, direct request, 2011; *Mongolia* – CEACR, observation, 2010; *Morocco*, CEACR, observation, 2010; *Sri Lanka* – CEACR, direct request, 2010; and *Yemen* – CEACR, direct request, 2010.

⁷⁹³ See, for example, *El Salvador* – CEACR, observation, 2009; *Honduras* – CEACR, observation, 2009; and *Nicaragua* – CEACR, observation, 2010.

⁷⁹⁴ See, for example, *Chad* – CEACR, direct request, 2009; *Republic of Moldova* – CEACR, direct request, 2009; *Oman* – CEACR, direct request, 2005; and *Viet Nam* – CEACR, direct request, 2005.

⁷⁹⁵ See, for example, *Ireland* – CEACR, direct request, 1997 (the Protection of Young Persons (Employment) Act); *Pakistan* – CEACR, direct request, 2010 (the Employment of Children Act); and *Trinidad and Tobago* – CEACR, direct request, 2008 (the Miscellaneous Provisions (Minimum Age for Admission to Employment) Act).

⁷⁹⁶ See, for example, *Jamaica* – CEACR, direct request, 2006 (Child Care and Protection Act); and *Bolivarian Republic of Venezuela* – CEACR, direct request, 1993 (the Protection of Children Act).

⁷⁹⁷ See, for example, *Romania* – CEACR, direct request, 1992; and *The former Yugoslav Republic of Macedonia* – CEACR, direct request, 2010.

⁷⁹⁸ See, for example, *Angola* – CEACR, direct request, 2010; *Barbados* – CEACR, direct request, 2011; *Nigeria* – CEACR, direct request, 2011; *Paraguay* – CEACR, direct request, 2009; *Seychelles* – CEACR, direct request, 2009; *Singapore* – CEACR, direct request, 2009; and *Thailand* – CEACR, direct request, 2011.

hazardous work,⁷⁹⁹ regulations governing apprenticeships and vocational training,⁸⁰⁰ regulations concerning artistic performances⁸⁰¹ and regulations on employers' registers.⁸⁰²

Difficulties of application concerning the scope

339. The Committee has consistently reminded governments that the Convention applies to all branches of economic activity and covers all kinds of employment or work. However, in many countries, the legislation giving effect to the Convention (containing provisions establishing the minimum age for admission to work) applies only to formal labour relationships between an employer and an employee, meaning that children working outside a formal labour relationship are excluded from the provisions giving effect to the Convention. This includes children working on their own account, in the informal economy or on an unpaid basis.⁸⁰³ In some countries, although the legislation giving effect to the Convention explicitly excluded family work, domestic work and agricultural work,⁸⁰⁴ these categories of work were not initially excluded by the member State under *Article 4*. These exclusions are particularly significant as, in many countries, the very activities not covered by the legislation are those in which the majority of economically active children under the minimum age are engaged. Globally, only 21 per cent of child labourers aged 5–17 are engaged in paid employment.⁸⁰⁵ Two-thirds of child labourers in the age group 5–17 years old are unpaid family workers and another 5 per cent of children in this age group perform work on their own account. Moreover, the sectors which are most often excluded from the legislation implementing the Convention are often particularly difficult to monitor through labour inspection,⁸⁰⁶ meaning that children working in these sectors have little protection. As the Convention applies to all working children, the Committee has frequently made recommendations to assist the concerned countries in overcoming such gaps in application.

⁷⁹⁹ *Art. 3* of the Convention. See paras 376–387 below.

⁸⁰⁰ Pursuant to *Art. 6* of the Convention. See, for example, *Jordan* – CEACR, direct request, 2005; and *Papua New Guinea* – CEACR, direct request, 2006.

⁸⁰¹ Pursuant to *Art. 8* of the Convention. See, for example, *Iceland* – CEACR, direct request, 2011; and *Latvia* – CEACR, direct request, 2009.

⁸⁰² Pursuant to *Art. 9(3)* of the Convention. See, for example, *Belarus* – CEACR, direct request, 2011; and *Bosnia and Herzegovina* – CEACR, direct request, 2009.

⁸⁰³ See, for example, *Burundi* – CEACR, observation, 2010; *Chile* – CEACR, direct request, 2011; *Comoros* – CEACR, direct request, 2010; *Ethiopia* – CEACR, observation, 2010; *Lao People's Democratic Republic* – CEACR, direct request, 2010; *The former Yugoslav Republic of Macedonia* – CEACR, direct request, 2011; *Montenegro* – CEACR, direct request, 2010; and *Russian Federation* – CEACR, observation 2010.

⁸⁰⁴ See also the sections on family workers, domestic workers (paras 356–361) and child labour in agriculture (paras 349–355).

⁸⁰⁵ *Accelerating action against child labour*, op. cit., para. 37.

⁸⁰⁶ *Labour inspection*, General Survey of the reports concerning the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), the Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), ILC, 95th Session, Geneva, 2006, pp. 17 and 85.

Thematic issues

Child labour in the informal economy

340. *In many countries, the legislation giving effect to the Convention does not include the informal economy.*⁸⁰⁷ *However, this sector has been identified as one of the areas in which child labour is most prevalent.*⁸⁰⁸ *It represents 52.2 per cent of total employment in Latin America, 78.2 per cent in Asia and 55.7 per cent in Africa*⁸⁰⁹ *and will continue to grow during times of economic crisis.*⁸¹⁰ *Moreover, many governments*⁸¹¹ *and social partners*⁸¹² *have identified combating child labour in the informal economy as one of the biggest challenges faced in the application of the Convention. Therefore, the Committee considers that addressing the issue of child labour in the informal economy, in both rural and urban areas, is essential to the application of the Convention.*

Legislative measures addressing child labour in the informal economy

341. Governments have taken various measures to ensure that the protection afforded by the Convention is enjoyed by children working in the informal economy. In cases where the general labour legislation excludes workers in the informal economy from its scope of application, this legislation may be amended to specifically stipulate that these exclusions do not apply to the provisions governing the work of children. For example, in *Kenya*, the Committee noted with satisfaction that the Employment Act of 2007 (which replaced legislation with a limited scope of application) extends the application of the minimum age for admission to employment to all undertakings.⁸¹³ Countries may also adopt specific regulations to govern the informal economy, as was done in *Spain*, where the Committee noted with satisfaction that pursuant to Statute 20/2007 on self-employed workers, children under 16 years may not work on a self-employed basis or be engaged in a professional activity, even within their own families.⁸¹⁴ Addressing this gap can also be accomplished through regulations specifically aimed at working children. This was done in *Argentina*, where the Committee noted with satisfaction that Act No. 26.390 of 25 June 2008 on the prohibition of child labour and protection of young workers provides that work involving children under 16 years of age is prohibited in all

⁸⁰⁷ The term “informal economy” comprises all economic activities that are – in law or practice – not covered or insufficiently covered by formal arrangements, in different sectors of the economy and across rural and urban contexts, including wage workers and own-account workers, contributing family members and those moving from one situation to another. See *Extending the scope of application of labour laws to the informal economy: Digest of comments of the ILO’s supervisory bodies related to the informal economy*, ILO (Geneva, 2010), p. 13 [hereinafter *Digest on the informal economy*].

⁸⁰⁸ *Accelerating action against child labour*, op. cit., paras 246 and 385.

⁸⁰⁹ *Digest on the informal economy*, op. cit., p. 5.

⁸¹⁰ *Tackling the global jobs crisis: Recovery through decent work policies*, Report of the Director-General, ILC, 98th Session, Geneva, 2009, para. 24.

⁸¹¹ See, for example, *Central African Republic* – CEACR, observation, 2010; *Nepal* – CEACR, direct request, 2010; and *Russian Federation* – CEACR, observation, 2010. In addition, the Government of Bangladesh, indicated in its report supplied under art. 19 of the ILO Constitution that child labour occurs in the informal economy.

⁸¹² See, for example, *Albania* – CEACR, observation, 2011; *Burundi* – CEACR, observation, 2008; *Indonesia*, – CEACR, observation, 2009; and *Senegal* – CEACR, observation, 2011.

⁸¹³ See *Kenya* – CEACR, observation, 2009.

⁸¹⁴ Section 9(1) of the Statute 20/2007. See *Spain* – CEACR, observation, 2010.

its forms, irrespective of whether or not there is a contractual employment relationship or whether or not the work is remunerated.⁸¹⁵

342. However, as the legislation implementing the Convention in many countries only covers formal labour relationships, children working in the informal economy often do not benefit from any legal protection. The absence of legislative protection is exacerbated by the fact that, without a legislative basis to proceed, labour inspectors in many countries are unable to monitor children in this sector.⁸¹⁶ Recalling that the Convention applies to all sectors of the economy and all forms of work, the Committee encourages governments to take the necessary measures to ensure that the protection afforded by the Convention is enjoyed by children working in the informal economy, including through taking legislative measures to address these gaps.⁸¹⁷ Such measures are particularly important in countries where a large number of children are found to be working in the informal economy.⁸¹⁸ The Committee also calls on governments undertaking a review of their labour legislation to consider, in this context, taking measures to address children working in the informal economy.

Monitoring mechanisms of child labour in the informal economy

Labour inspection

343. Child labour in the informal economy can also be addressed through monitoring mechanisms, including through labour inspection. Several countries have successfully undertaken measures to adapt and reinforce their labour inspectorate to address child labour in the informal economy, particularly in Latin America. For example, in *Nicaragua*, the labour inspection system was strengthened through links with various governmental and non-governmental organizations to increase labour inspection activities in the informal economy, particularly with a view to eliminating child labour.⁸¹⁹ In *Brazil*, the Ministry of Labour and Employment modified the functions of the Special Mobile Inspection Group and extended the scope of action of labour inspectors to combating child labour in both the formal and informal economies.⁸²⁰ In *Argentina*, Act No. 26.390 of 25 June 2008 stipulates that the labour inspection services must exercise their role to enforce the prohibition of work under the minimum age, including work in the informal sector.⁸²¹ Examples from other regions include *Benin*, where the Committee noted the Government's indication that the labour inspectorate is increasingly extending its actions in the informal economy, including through

⁸¹⁵ Section 2(3) of Act No. 26.390 of 25 June 2008. See *Argentina* – CEACR, observation, 2009.

⁸¹⁶ See, for example, *Morocco* – CEACR, observation, 2010 (The Committee noted the Government's indication that labour inspectors are only authorized to ensure the application of the labour legislation once there is an employment relationship and that consequently labour inspectors do not carry out any checks in the informal sector); and *Romania* – CEACR, observation, 2010 (The Government indicated that the labour inspectorate monitors only the work of persons employed by an individual labour contract, and has no competence with regard to persons working on their own account).

⁸¹⁷ See, for example, *Burundi* – CEACR, observation, 2008; *Côte d'Ivoire* – CEACR, observation, 2011; *Indonesia* – CEACR, observation, 2011; and *Russian Federation* – CEACR, direct request, 2010.

⁸¹⁸ See, for example, *Angola* – CEACR, direct request, 2011; *Central African Republic* – CEACR, observation, 2010; *Ethiopia* – CEACR, observation, 2010; *Indonesia* – CEACR, observation, 2011; and *Mongolia* – CEACR, observation, 2010.

⁸¹⁹ *Nicaragua* – CEACR, observation, 2010.

⁸²⁰ *Brazil* – CEACR, direct request, 2010.

⁸²¹ *Argentina* – CEACR, observation, 2009.

inspections of small-scale gravel and granite quarries⁸²² and *Bosnia and Herzegovina*, where labour inspection includes illegal work involving children and youth and the informal economy.⁸²³

Child labour monitoring systems

344. Non-traditional monitoring mechanisms play an important role in addressing child labour in the informal economy. As discussed by the Committee in its 2006 General Survey on labour inspection, ILO–IPEC has developed the concept of “child labour monitoring systems” (CLMS) to address the difficulties of monitoring the informal economy. These CLMS act in partnership with the labour inspectorate to extend its eyes and ears through locally developed teams of monitors.⁸²⁴ The Committee has noted the establishment of CLMS in several countries, including *Albania, Kenya, Malawi, Sri Lanka, Turkey* and *Ukraine*.⁸²⁵ Other institutions may also be involved in monitoring child labour in the informal economy. For example, in *Angola*, the Government indicated that due to the specificity of the informal economy, provincial monitoring units serve to supervise this sector, in addition to the Labour Inspectorate.⁸²⁶ In *Papua New Guinea*, the Ministry of Community Development (with the Consultative Implementation and Monitoring Council) monitors the implementation of the Informal Sector Control and Management Act, overseeing the situation of child labour in the informal economy throughout the country.⁸²⁷

345. *However, as discussed by the Committee in its 2006 General Survey on labour inspection, the limited number of labour inspectors in some member States, particularly developing countries, has made it difficult for inspectors to cover the informal economy and agriculture where most child labour is found.*⁸²⁸ ***Therefore, the Committee calls on governments to strengthen the capacity and expand the reach of the labour inspectorate in the informal economy to address child labour in this sector, and welcomes measures taken in this regard.***⁸²⁹ ***The Committee is of the view that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution.***

⁸²² *Benin* – CEACR, direct request, 2011.

⁸²³ *Bosnia and Herzegovina* – CEACR, direct request, 2009.

⁸²⁴ General Survey, 2006, para. 50.

⁸²⁵ *Albania* – CEACR, direct request, 2009; *Kenya* – CEACR, observation, 2009; *Malawi* – CEACR, direct request, 2011, Convention No. 182; *Sri Lanka* – CEACR, direct request, 2004; and *Turkey* – CEACR, observation, 2009.

⁸²⁶ *Angola* – CEACR, direct request, 2011.

⁸²⁷ *Papua New Guinea* – CEACR, direct request, 2010.

⁸²⁸ General Survey, 2006, para. 50.

⁸²⁹ See, for example, *Albania* – CEACR, observation, 2011; *Azerbaijan* – CEACR, observation, 2011; *Cameroon* – CEACR, observation, 2011; *Central African Republic* – CEACR, observation, 2010; *Colombia* – CEACR, observation, 2011; *Comoros* – CEACR, direct request, 2011; *Mozambique* – CEACR, direct request, 2010; *Nepal* – CEACR, direct request, 2010; *Philippines* – CEACR, observation, 2010; *Romania* – CEACR, observation, 2010; and *Ukraine* – CEACR, observation, 2010.

Good practices in reaching out to children working in the informal economy

346. In an effort to reach out to children working in the informal economy, several member States have implemented a variety of programmes to combat child labour in this sector. As noted in the *Digest on the informal economy*, most persons enter the informal economy not by choice, but out of a need to survive.⁸³⁰ This is of course particularly true of children working in this sector, and therefore programmatic measures which offer alternatives to this work have had some success in combating child labour in the sector.

347. These programmes may include specific measures to remove children from work in the informal economy, and often involve initiatives to reintegrate these children into school. For example, in *Viet Nam*, the Government has initiated several policies for children under 15 years working on their own account, including referring these children to social centres and encouraging their families to support their attendance in school or vocational training.⁸³¹ Addressing the needs of children engaged in, or at risk of becoming engaged in, the informal economy may also include social protection measures. This has been done in *Chile* through a component of the social protection scheme entitled “the Bridge Programme”, which benefits young persons from more than 5,700 families, and contains measures for their reintegration into school.⁸³² Several countries have also mainstreamed the issue of children working in the informal economy into national action plans to combat child labour, as has been done in *Namibia* through the Action Programme to Eliminate Child Labour 2008–12.⁸³³ Moreover, ILO–IPEC collaborates with several governments on projects to protect children working in the informal economy and withdraw them from this work, including in *Bangladesh*,⁸³⁴ *Senegal*,⁸³⁵ *Kenya*, *Ghana*, *Uganda* and the *United Republic of Tanzania*.⁸³⁶ Recognizing the success achieved in these countries, the Committee encourages governments to undertake, or to pursue, programmatic measures to ensure that the protection provided by the Convention is enjoyed, in practice, by children working in the informal economy.

Child labour in agriculture

348. The Global Report of 2010 indicates that approximately 60 per cent of child labourers worldwide are engaged in the agricultural sector in both the formal and informal sectors.⁸³⁷ Due to the prevalence of child labour in agriculture, the Committee has increasingly emphasized the importance of effectively applying the Convention to this sector. In this regard, the Committee wishes to underline that applying the Convention to the agricultural sector is not simply a question of aligning *national legislation* governing agriculture with the provisions of the Convention, but predominantly a question of the *practical* application of the Convention to this sector.

⁸³⁰ *Digest on the informal economy*, op. cit., p. 5.

⁸³¹ *Viet Nam* – CEACR, direct request, 2010.

⁸³² *Chile* – CEACR, direct request, 2011.

⁸³³ *Namibia* – CEACR, direct request, 2010.

⁸³⁴ ILO–IPEC Time-Bound Programme entitled “Prevention and elimination of the worst forms of child labour in the urban informal economy of Dhaka Metropolitan Area”, implemented from 2007 to 2011.

⁸³⁵ *Senegal* – CEACR, observation, 2011.

⁸³⁶ ILO–IPEC programme entitled “Kenya, Ghana, Uganda, Tanzania: Skills training strategies to combat the worst forms of child labour in the urban informal sector”, implemented from 2004 to 2007.

⁸³⁷ *Accelerating action against child labour*, op. cit., para. 34 and fig. 1.4.

Application of the Convention to the agricultural sector in law

349. In the majority of countries in which the Convention is in force, the legislation giving effect to it applies to all areas of the formal economy, including agricultural activities. Moreover, in cases where the general labour legislation does not cover the agricultural sector (or explicitly excludes this sector), various legislative initiatives have been taken by governments to ensure that children working in agriculture benefit from the protection provided for in the Convention. For example, in *Jordan*, the Labour Code previously excluded from its scope of application, inter alia, agricultural workers, and the Code's provisions on the minimum age therefore did not apply to children working in the agricultural sector. The Committee called on the Government to ensure that children working in agriculture benefited from the protection of the Convention. It subsequently noted with interest that the Labour Code was amended in 2008 to broaden the scope of application to include "all workers".⁸³⁸

350. However, in several countries, children working in agriculture remain excluded from the protection provided for in the Convention. The agricultural sector may be explicitly excluded from the scope of application of the State's implementing legislation,⁸³⁹ or implicitly excluded in countries where the implementing legislation only applies to the formal economy, but children work in informal agriculture (such as small-scale and informal undertakings or family farms). In both such cases, the Committee recalls that the Convention applies to all sectors and calls on governments to amend the legislation to ensure that children working in the agricultural sector benefit from the protection provided for in the Convention. The Committee emphasizes that the absence of an applicable minimum age to the agricultural sector is particularly problematic in countries where there are a large number of children engaged in this sector.⁸⁴⁰

Issues arising out of the application of the Convention in the agricultural sector

351. While the legislative application of the Convention in the agricultural sector is vital, the larger challenge lies in applying the Convention to this sector in practice. In this vein, the Committee has noted the information from various governments,⁸⁴¹ social partners⁸⁴² and statistical studies⁸⁴³ that the majority of working children in their country are engaged in the agricultural sector, or that child labour in agriculture remains prevalent in the country.⁸⁴⁴ This work can take many forms: in many countries, child

⁸³⁸ Section 3(d) of Law No. 8 of 1996 issuing the Labour Code. See *Jordan* – CEACR, direct request, 2003 and observation, 2011.

⁸³⁹ See, for example, *Swaziland* – CEACR, direct request, 2010; *United Arab Emirates* – CEACR, direct request, 2010; and *Yemen* – CEACR, direct request, 2010.

⁸⁴⁰ See, for example, *Philippines* – CEACR, observation, 2010; and *Swaziland* – CEACR, direct request, 2010.

⁸⁴¹ See, for example, *Cameroon* – CEACR, observation, 2011; *Côte d'Ivoire* – CEACR, observation, 2011; *Senegal* – CEACR, observation, 2011; and *Tajikistan* – CEACR, direct request, 2010.

⁸⁴² See, for example, *Colombia* – CEACR, observation, 2011; and *Georgia* – CEACR, observation, 2011.

⁸⁴³ See, for example, *Azerbaijan* – CEACR, observation, 2011; *Egypt* – CEACR, observation, 2011; *El Salvador* – CEACR, observation, 2009; *Guatemala* – CEACR, observation, 2009; *Honduras* – CEACR, observation, 2009; *Madagascar* – CEACR, observation, 2010; *Pakistan* – CEACR, direct request, 2010; and *Togo* – CEACR, observation, 2011.

⁸⁴⁴ See, for example, *Guyana* – CEACR, direct request, 2010; *Israel* – CEACR, direct request, 2009; *Kyrgyzstan* – CEACR, direct request, 2010; and *Republic of Moldova* – CEACR, direct request, 2010.

labour occurs mostly in small-scale farming and family farms,⁸⁴⁵ but children are also engaged in commercial agriculture in numerous States.⁸⁴⁶ Child labour in agriculture may also occur on a seasonal basis, only during a specific harvest time.⁸⁴⁷ Due to the various modalities in which child labour in agriculture occurs, there is no uniform solution for the effective application of the Convention to this sector. The Committee has therefore noted a wide range of positive initiatives taken by governments to address this challenge.

Monitoring child labour in agriculture through labour inspection

352. The Committee is of the view that labour inspection plays a key role in the application of the Convention to the agricultural sector.⁸⁴⁸ For example, in *Egypt*, a separate unit within the Ministry of Manpower and Migration is responsible for child labour investigations in the agricultural sector and inspections are carried out in small family enterprises in the agricultural sector. Moreover, the Egyptian child labour inspectorate coordinates with community-based organizations in each of the governorates, and a child labour monitoring and tracking system has been set up for children working in agriculture.⁸⁴⁹ With regard to specific sectors, the Government of *Belize* has hired additional labour inspectors for banana plantations, where much of the country's child labour occurs, while the Government of *El Salvador* undertook intense supervisory and inspection activities in the sugar cane sector.⁸⁵⁰

353. However, the monitoring of child labour in the agricultural sector remains difficult in many countries, particularly due to a lack of capacity.⁸⁵¹ To address these difficulties, the Committee calls on governments to take measures to adapt and strengthen the labour inspection services so that they can secure the protection set out in the Convention for children working in the agricultural sector.⁸⁵²

⁸⁴⁵ See, for example, *Morocco* – CEACR, observation, 2010; and *Zambia* – CEACR, observation, 2009.

⁸⁴⁶ See, for example, *Belize* – CEACR, direct request, 2009; *Cameroon* – CEACR, observation, 2011; and *Kenya* – CEACR, observation, 2009.

⁸⁴⁷ See, for example, *Georgia* – CEACR, observation, 2009; and *Tajikistan* – CEACR, direct request, 2010.

⁸⁴⁸ In this regard, the Committee has referred to its comments made under the Labour Inspection (Agriculture) Convention, 1969 (No. 129), in its examination of Convention No. 138. See, for example, *Egypt* – CEACR, observation, 2010; and *Madagascar* – CEACR, direct request, 2006.

⁸⁴⁹ *Egypt* – CEACR, observation, 2011.

⁸⁵⁰ *Belize* – CEACR, direct request, 2009 and 2011; and *El Salvador* – CEACR, observation 2007.

⁸⁵¹ For example, in *Tajikistan*, the budget of the labour inspectorate was too small to travel outside major cities, essentially making it impossible to monitor the agricultural industry (the largest sector employing children in the country). In *Namibia*, the periodic labour inspections carried out by the Ministry of Labour and Social Welfare occurred almost entirely in commercial agriculture, although many more children work in subsistence agriculture. See, *Namibia* – CEACR, direct request, 2010; and *Tajikistan* – CEACR, direct request, 2010.

⁸⁵² See, for example, *Azerbaijan* – CEACR, observation, 2011; *Philippines* – CEACR, observation, 2010; and *Uganda* – CEACR, direct request, 2010.

Programmatic measures to address child labour in agriculture

354. Many States endeavour to reduce the large number of children working in the agricultural sector by implementing programmatic measures aimed at this group. These programmes work to prevent children under the minimum age from prematurely entering the labour market, as well as serving to withdraw children already engaged in agricultural work. These include measures to strengthen the functioning of the education system in areas where children are most frequently engaged in agricultural production, primarily rural areas.⁸⁵³ Many ongoing ILO–IPEC programmes also focus on agriculture (or contain elements addressing child labour in agriculture)⁸⁵⁴ and several national action plans to combat child labour have prioritized action in the agricultural sector.⁸⁵⁵ The social partners may also play a key role in measures to combat child labour in agriculture. For example, in *Argentina*, the Committee noted with interest the National Plan for the Prevention and Elimination of Child Labour, which includes the increased participation of workers’ organizations and led to the signing of a Memorandum of Intent for the prevention and elimination of child labour in the agricultural sector on 12 June 2007.⁸⁵⁶ In *Turkey*, the Ministry of National Education implemented a direct action programme on child labour in seasonal commercial agriculture, with the participation of the Turkish Confederation of Employers’ Associations (TİSK) and the Confederation of Turkish Trade Unions (TÜRK-İŞ), from 2005 to 2007.⁸⁵⁷

355. *The Committee welcomes these initiatives and in cases where child labour in agriculture continues to be a serious issue the Committee strongly encourages governments to intensify their efforts to combat child labour in this sector. Regarding countries where child labour in agriculture remains prevalent the Committee expresses its serious concern at the continued engagement of children under the minimum age in agriculture, and calls on governments to take the necessary measures to combat this phenomenon. As noted in the Global Report of 2010, “[m]eeting ... the ultimate goal of the effective abolition of child labour requires a breakthrough in agriculture, where most child labourers work”.*⁸⁵⁸ *In this regard, the Committee will continue to call on governments to ensure the effective application of the Convention in the agricultural sector, in both law and practice.*

Family workers and domestic workers

356. In several member States, the legislation giving effect to the Convention explicitly excludes family work and domestic work, although these types of work have not been excluded by the respective governments through the flexibility clauses available in *Articles 4 and 5*. The Committee is of the view that addressing these gaps is essential to ensure the comprehensive application of the Convention to all working children.

⁸⁵³ See, for example, *Bolivarian Republic of Venezuela* – CEACR, observation, 2011.

⁸⁵⁴ See, for example, *Dominican Republic* – CEACR, observation, 2009; *Kenya* – CEACR, observation, 2009; *Togo* – CEACR, observation, 2011; and *Turkey* – CEACR, observation, 2011.

⁸⁵⁵ See, for example, *Argentina* – CEACR, observation, 2009; and *Philippines* – CEACR, observation, 2010.

⁸⁵⁶ *Argentina* – CEACR, observation, 2009.

⁸⁵⁷ *Turkey* – CEACR, observation, 2011.

⁸⁵⁸ *Accelerating action against child labour*, op. cit., p. xv. See, for example, *Colombia* – CEACR, observation, 2011; *Pakistan* – CEACR, direct request, 2010; *Uganda* – CEACR, direct request, 2010; and *Zimbabwe* – CEACR, observation, 2011.

Family workers, including unpaid family work

357. The Committee has noted the various measures taken by governments to ensure that children engaged in unpaid family work benefit from the protection provided for in the Convention. For example, in *Zambia*, having previously noted that the relevant legislation authorized employment under the minimum age in undertakings where only members of the same family were employed, the Committee subsequently noted with satisfaction that the Employment of Young Persons and Children Act was amended in 2004 to include family enterprises, and applies the Convention to children working in such a setting.⁸⁵⁹ In *Kenya*, the Committee previously noted that the term “child labour” in the Children Act, 2001, only applied in situations where children provided labour in exchange for payment and that unpaid workers (mostly family workers) did not benefit from the protection of the Convention. The Committee subsequently noted with satisfaction that the Employment Act of 2007 prohibits employing a child under the minimum age, whether gainfully or otherwise, thereby providing protection to children working on an unpaid basis.⁸⁶⁰

358. Nonetheless, many countries have yet to take action to ensure the application of the minimum age provisions to children engaged in family work.⁸⁶¹ As 67.5 per cent of children engaged in child labour globally are unpaid family workers,⁸⁶² these exclusions can result in the exclusion of the majority of working children in a country from benefiting from the protection of the Convention. Therefore, the Committee wishes to highlight the importance of ensuring the protection of children working in family undertakings and requests governments to take the necessary measures to ensure that the protection afforded by the Convention is applicable to children working in all sectors, including family undertakings.

Child domestic workers

359. The Committee has also noted certain positive measures taken by some governments to ensure that children engaged in domestic work benefit from the protection provided for in the Convention. In *Kuwait*, the Committee previously noted that Act No. 38 of 1964 on Labour in the Private Sector excluded domestic workers from its scope of application, and therefore the minimum age did not apply to persons working in this sector. However, the Committee subsequently noted with interest that Order No. 640 (relating to the Foreigners Residence Act) stipulates that the minimum age for domestic workers is 20 years of age.⁸⁶³ Similarly, in the *Philippines*, the Committee noted that Department Order No. 4 of 1999 stipulates that persons aged 15–18 years may be allowed to engage in domestic or household service, thereby applying the minimum age to this sector.⁸⁶⁴ The Committee has also noted the indications of several governments that draft legislation, currently under discussion in their respective countries, would apply the minimum age provisions to domestic workers,

⁸⁵⁹ Sections 3 and 4(a) of the Employment of Young Persons and Children (Amendment) Act of 2004. See *Zambia* – CEACR, direct request, 2002, and observation, 2009.

⁸⁶⁰ *Kenya* – CEACR, observation, 2009.

⁸⁶¹ See, for example, *Angola* – CEACR, direct request, 2011; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; *Sudan* – CEACR, direct request, 2010; and *Yemen* – CEACR, direct request, 2010.

⁸⁶² *Accelerating action against child labour*, op. cit., fig. 1.7.

⁸⁶³ *Kuwait* – CEACR, direct request, 2004, and observation, 2010.

⁸⁶⁴ Section 4 of Department Order No. 4 of 1999. See *Philippines* – CEACR, observation, 2010.

including *Lesotho*, *Indonesia* and *Swaziland*.⁸⁶⁵ Some other countries have taken steps to prohibit domestic work for children under 18.⁸⁶⁶ The Committee consequently encourages these governments to take the necessary measures to ensure the application of the Convention to domestic workers through the adoption of the relevant legislation.

360. However, the Committee has noted that, in several countries, domestic work remains excluded from the scope of application of the Convention.⁸⁶⁷ This is particularly problematic, as an estimated 15.5 million children are engaged in domestic work worldwide.⁸⁶⁸ Accordingly, the Committee calls on governments to take the necessary measures to ensure that children engaged in domestic work benefit from the protection provided for in the Convention, particularly in countries where there are a high number of children under the minimum age engaged in this sector.⁸⁶⁹

361. Child labour in domestic work and family work are both identified in the Global Report of 2010 as sectors that require strengthened action to eliminate child labour.⁸⁷⁰ The Committee also recognizes that addressing child domestic work will continue to be crucial in light of the recent adoption of the Domestic Workers Convention (No. 189) by the Conference in June 2011. Due to the large number of children engaged in family work globally, and the potential vulnerability of child domestic workers, the Committee wishes to underline the importance of applying the Convention to children working in both of these areas.

Minimum age for admission to employment or work

Setting the general minimum age for admission to employment or work

362. *Article 2(1)* of Convention No. 138 provides that each member State which ratifies the Convention shall specify a general minimum age for admission to employment or work at the time of ratification. In accordance with *Article 2(3)*, the general minimum age shall not be less than 15 years. However, the Convention allows more flexibility to member States whose economy and educational facilities are insufficiently developed.⁸⁷¹ Developing countries that face difficulty in enforcing a general minimum age of 15 may initially specify a minimum age of 14 provided that prior consultations with organizations of employers and workers have been held. Member States which avail themselves of this flexibility clause are further required to indicate, in subsequent reports submitted to the Office under article 22 of the Constitution, either that the reasons for maintaining a lower minimum age subsist or that they renounce availing themselves of the provision in question as from a stated date.⁸⁷²

⁸⁶⁵ *Lesotho* – CEACR, observation, 2011; *Indonesia* – CEACR, observation, 2011; and *Swaziland* – CEACR, direct request, 2010.

⁸⁶⁶ See, for example, *Benin* – CEACR, direct request, 2011; *Brazil* – CEACR, observation, 2010; and *Colombia* – CEACR, direct request, 2011.

⁸⁶⁷ See, for example, *Cyprus* – CEACR, direct request, 2011; *Nigeria* – CEACR, direct request, 2011; *Sudan* – CEACR, direct request, 2010; and *United Arab Emirates* – CEACR, direct request, 2010.

⁸⁶⁸ As of 2008, according to the ILO Statistical Information and Monitoring Programme on Child Labour (IPEC–SIMPOC). See *Domestic work: Policy brief: Global and regional estimates on domestic workers*, (Geneva, ILO, 2011), p. 9.

⁸⁶⁹ See, for example, *Chad* – CEACR, direct request, 2010; and *Mozambique* – CEACR, direct request, 2010.

⁸⁷⁰ *Accelerating action against child labour*, op. cit., paras 37, 141 and 254.

⁸⁷¹ *Art. 2(4)* of the Convention.

⁸⁷² *Art. 2(5)* of the Convention.

363. Of the 161 countries that have ratified Convention No. 138, nearly half, that is to say 72 countries, have set the general minimum age for admission to employment or work at 15 years of age⁸⁷³ and 40 member States have decided to go beyond the obligation laid down in *Article 2(3)* in fixing the general minimum age at 16 years. This mainly concerns industrialized countries, but includes a certain number of developing countries as well such as *Burundi, Djibouti, Gabon, Guinea, Kenya and Tajikistan*. A smaller number of member States, that is to say 49 developing countries, have availed themselves of the flexibility clause contained in *Article 2(4)* to set the minimum age at 14 years.⁸⁷⁴

Raising the general minimum age for admission to employment or work

364. Under *Article 2(2)*, member States have the opportunity to raise subsequently the general minimum age for admission to work or employment initially specified at the time of ratification. In this regard, Paragraph 7(1) of the Minimum Age Recommendation, 1973 (No. 146), indicates that raising progressively the general minimum age to 16 years should be taken as an objective. Furthermore, in accordance with Paragraph 7(2), where the minimum age for admission to employment or work is still below 15 years, urgent steps should be taken to raise it to that level. A Member showing a willingness to do so may notify its decision in a declaration addressed to the Director-General of the ILO.

365. The Committee has noted with satisfaction the cases of *Argentina, Colombia* and *Egypt* which have recently sent such a declaration to the Office. *Argentina* has officially raised the minimum age for admission to employment or work from 15 to 16 years.⁸⁷⁵ And both *Colombia* and *Egypt* have officially raised the minimum age for admission to employment or work from 14 to 15 years.⁸⁷⁶ On numerous occasions, the Committee has also observed that some countries have adopted new legislation establishing a general minimum age higher than that specified at the time of ratification and has thus drawn the attention of the governments concerned to the possibility of raising the minimum age initially specified by means of a declaration sent to the Office.⁸⁷⁷ Furthermore, in recent years, several countries have expressed their willingness to raise the general minimum age in the near future.⁸⁷⁸ However, while a sizeable number of member States have raised the general minimum age in national legislation, only a few have so far notified their decision to raise the minimum age by means of a new declaration.⁸⁷⁹

⁸⁷³ In their reports under art. 19 of the ILO Constitution, the Governments of Saudi Arabia and *Timor-Leste* have indicated that children below 15 years are not entitled to work.

⁸⁷⁴ In their reports under art. 19 of the ILO Constitution, the Governments of *Bangladesh* and India indicated that their legislation provides for a minimum age for admission to employment or work of 14 years of age.

⁸⁷⁵ See *Argentina* – CEACR, observation, 2011.

⁸⁷⁶ See *Colombia* – CEACR, direct request, 2009; and *Egypt* – CEACR, observation, 2011.

⁸⁷⁷ See, for example, *Bahamas* – CEACR, direct request, 2008; *Barbados* – CEACR, direct request, 2006; *Burkina Faso* – CEACR, direct request, 2009; *Chile* – CEACR, direct request, 2005; *Ecuador* – CEACR, observation, 2009; *Gambia* – CEACR, direct request, 2010; *Italy* – CEACR, direct request, 2011; *Panama* – CEACR, observation, 2011; *Rwanda* – CEACR, direct request, 2011; *Togo* – CEACR, observation, 2011; and *Yemen* – CEACR, direct request, 2010.

⁸⁷⁸ See, for example, *Dominican Republic* – CEACR, direct request, 2007; *Mali* – CEACR, direct request, 2010; *Mauritius* – CEACR, direct request, 2006; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; and *Uruguay* – CEACR, direct request, 2010.

⁸⁷⁹ Only three countries have done so in the last three years: *Argentina, Colombia* and *Egypt*.

366. Conversely, the Committee has observed on several occasions that the national legislation of some countries authorizes children to work at an age lower than the minimum age specified upon ratification of the Convention. It has examined situations in which the law allows younger children to work under special circumstances,⁸⁸⁰ for example, when parental consent is given⁸⁸¹ or if the authorities consider that it is indispensable to provide for their subsistence or that of their family; or situations in which part of or all of the legislation has not been brought into conformity with the Convention.⁸⁸² ***In this connection, the Committee emphasizes that, notwithstanding the exceptions provided for in the Convention,⁸⁸³ no child shall be admitted to work under the minimum age specified and emphasizes that Article 2(2) foresees the raising of the minimum age but does not allow the lowering of the minimum age once declared. Some countries still have not amended their legislation since they ratified the Convention and therefore do not comply with the requirements of the Convention.⁸⁸⁴ The Committee accordingly considers that the governments concerned should take immediate measures to fix the minimum age at the age specified at the time of ratification in order to comply with the Convention.***

*Minimum age for admission to work
and compulsory education*

367. During the elaboration of Convention No. 138, emphasis was placed by the tripartite constituents on the close relationship between education and the minimum age for admission to employment or work bearing in mind that depriving children of opportunities for education and training condemned them to remain unskilled and thus perpetuated the poverty of a society.⁸⁸⁵ Article 2(3) of Convention No. 138 thus provides that the specified minimum age shall not be less than the age of completion of compulsory schooling. Paragraph 4 of Recommendation No. 146 reinforces this principle by advocating that full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively guaranteed up to an age at least equal to that specified for admission to employment.

*Ensuring compulsory education
up to the minimum age*

368. A significant number of member States have adopted regulations fixing the age of completion of compulsory education in line with the minimum age for admission to employment or work. For example, in *Thailand*, the National Education Act provides for nine years of compulsory education and under the Compulsory Education Act, whoever, without reasonable cause, commits any act causing a juvenile not to be enrolled for education in an educational establishment shall be liable to a fine.⁸⁸⁶ In *Kyrgyzstan*, the

⁸⁸⁰ See, for example, *Honduras* – CEACR, observation, 2009; and *Senegal* – CEACR, observation, 2011.

⁸⁸¹ See, for example, *Tajikistan* – CEACR, observation, 2010; and *Ukraine* – CEACR, observation, 2010.

⁸⁸² See, for example, *Azerbaijan* – CEACR, observation, 2011; and *Costa Rica* – CEACR, observation, 2011.

⁸⁸³ See *Art. 4* (exclusion of limited categories of employment or work), *Art. 5* (exclusion of economic sectors), *Art. 6* (exception of work done as part of education and training), *Art. 7* (exception of light work) and *Art. 8* (exception of artistic performances).

⁸⁸⁴ See, for example, *Azerbaijan* – CEACR, observation, 2011; *Dominica* – CEACR, direct request, 1997; *Honduras* – CEACR, observation, 2009; *Kuwait* – CEACR, observation, 2010; *Malaysia* – CEACR, observation, 2010; *Senegal* – CEACR, observation, 2011; and *Tajikistan* – CEACR, observation, 2010.

⁸⁸⁵ *Record of proceedings*, ILC, 57th Session, Geneva, 1972 (Appendix IV: Minimum Age for Admission to Employment (first discussion)), para. 8, p. 537.

⁸⁸⁶ See *Thailand* – CEACR, direct request, 2010.

Kyrgyz Republic Education Law provides for free and compulsory education up to 16 years of age.⁸⁸⁷ Moreover, in its report supplied under article 19 of the ILO Constitution, the Government of New Zealand has indicated that employers are prohibited from employing school-age children (below 16) during school hours, or when it would interfere with their attendance at school. Similarly, according to the information provided by Australia in its report under article 19, all provinces of the country prohibit children of compulsory school age from working during school hours. The Government of Canada has also indicated in its report under article 19 that the employment of a school-age child (until 16) during school hours is prohibited in all jurisdictions of Canada. In the United States, according to the report submitted by the Government under article 19, all states have established the age of completion of compulsory education at least until the age of 16 and the majority of states have a general minimum age for admission to employment or work of 16.

369. However, the national legislation of some countries is not in conformity with *Article 2(3)*. In this regard, the Committee has observed different trends. It has noted that the national legislation of certain countries, especially developing countries, does not provide for compulsory schooling,⁸⁸⁸ although in certain cases it provides for free education.⁸⁸⁹ In this regard, the Committee recalls that compulsory education is one of the most effective means of combating child labour. It thus stresses the importance of adopting legislation providing for compulsory education up to the minimum age for admission to employment or work, because where there are no legal requirements establishing compulsory schooling, there is a greater likelihood that children under the minimum age will be engaged in child labour.

Linking the age of completion of compulsory education with the minimum age for admission to work

370. The Committee has also noted that while the national legislation of some countries provides for compulsory education, the age of completion of compulsory schooling is higher than that of the general minimum age for admission to employment or work, which is contrary to *Article 2(3)*.⁸⁹⁰ It points out 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 children required to attend school may also be legally authorized to work.⁸⁹¹ In such cases, the Committee calls on the governments concerned to take the necessary measures to raise the general minimum age in order to link it with the age of completion of compulsory schooling in conformity with the Convention. Some governments have taken corresponding measures. In the case of *Mauritius*, for example, the Committee has been able to note with satisfaction that an amendment of the Labour Act was subsequently adopted in order to raise the minimum age to 16.⁸⁹²

⁸⁸⁷ See *Kyrgyzstan* – CEACR, direct request, 2010.

⁸⁸⁸ These include: *Iraq* – CEACR, direct request, 2011; *Kenya* – CEACR, observation, 2010; *Lesotho* – CEACR, observation, 2011; *Pakistan* – CEACR, observation, 2011; *Papua New Guinea* – CEACR, direct request, 2010; and *Zimbabwe* – CEACR, observation, 2011.

⁸⁸⁹ These include: *Oman* – CEACR, direct request, 2010; and *Uganda* – CEACR, direct request, 2010.

⁸⁹⁰ See, for example, *Italy* – CEACR, direct request, 2011; *Lao People's Democratic Republic* – CEACR, direct request, 2010; *Rwanda* – CEACR, direct request, 2010; and *Saint Vincent and the Grenadines* – CEACR, direct request, 2010.

⁸⁹¹ General Survey, 1981, para. 140.

⁸⁹² See *Mauritius* – CEACR, observation, 2008.

371. Finally, in some countries, the age of completion of compulsory education is lower than the minimum age for admission to employment or work. Although this situation does not contravene *Article 2(3)* of the Convention, the Committee observes that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children.⁸⁹³ For these reasons, it strongly encourages member States to consider raising the age of completion of compulsory education to coincide with that of the minimum age for admission to employment or work.

Ensuring access to compulsory education for all children

372. The Committee not only attaches importance to the need to adopt legal provisions establishing compulsory education, but also underlines that compulsory schooling should be effectively implemented in practice. The Committee has taken due note that in order to achieve the goal of compulsory education for children up to the minimum age for admission to employment or work, a number of countries have implemented conditional cash transfer (CCT) programmes. These programmes are intended to provide grants to poor households with children on the condition, inter alia, of their school attendance.⁸⁹⁴ Most CCT programmes have so far been developed in the Latin American and Caribbean region.⁸⁹⁵ For example, in *Colombia*, the CCT programme *Familias en acción* provides grants to poor households with children, on the condition, inter alia, that children aged between 7 and 18 attend no less than 80 per cent of school classes during the school year.⁸⁹⁶

373. Other countries have decided to introduce free education, such as *China*, *Kenya* and *Zambia*,⁸⁹⁷ or offer tuition grants to students enrolled in basic education, such as *Mozambique* and *Nicaragua*,⁸⁹⁸ in order to provide universal access to compulsory education, thereby contributing to eradicating child labour.

374. *In some cases, although education is compulsory up to the minimum age for admission to employment or work, a substantial number of children do not attend school.*⁸⁹⁹ ***Therefore, where school attendance rates are particularly low, the Committee encourages member States to adopt policies aimed at improving the functioning of the education system in order to increase school attendance and***

⁸⁹³ See, for example, *Kenya* – CEACR, observation, 2010; *Lebanon* – CEACR, observation, 2010; *Madagascar* – CEACR, observation, 2010; *Niger* – CEACR, observation, 2011; *Pakistan* – CEACR, direct request, 2010; *Qatar* – CEACR, direct request, 2010; *Swaziland* – CEACR, direct request, 2010; and *Zimbabwe* – CEACR, observation, 2011.

⁸⁹⁴ Recent examples of the implementation of conditional cash transfer programmes noted by the Committee include: *Colombia* – CEACR, observation, 2011; *Costa Rica* – CEACR, observation, 2011; *Lebanon* – CEACR, direct request, 2010; *Panama* – CEACR, observation, 2011; and *Paraguay* – CEACR, direct request, 2011.

⁸⁹⁵ *Accelerating action against child labour*, op. cit., paras 226–232.

⁸⁹⁶ See *Colombia* – CEACR, observation, 2011.

⁸⁹⁷ See *China* – CEACR, observation, 2011; *Kenya* – CEACR, observation, 2010; and *Zambia* – CEACR, observation, 2010 (from grades 1 to 7). See also *China (Macau Special Administrative Region)* – CEACR, observation, 2011.

⁸⁹⁸ See *Mozambique* – CEACR, direct request, 2009; and *Nicaragua* – CEACR, observation, 2010. See also *Belize* – CEACR, direct request, 2009; and *Guatemala* – CEACR, direct request, 2009.

⁸⁹⁹ See, for example, *Angola* – CEACR, direct request, 2011; *Benin* – CEACR, direct request, 2011; *Central African Republic* – CEACR, observation, 2010; *Côte d’Ivoire* – CEACR, observation, 2011; *Eritrea* – CEACR, observation, 2011; *Paraguay* – CEACR, direct request, 2011; *Peru* – CEACR, direct request, 2010; *Sudan* – CEACR, direct request, 2010; *Bolivarian Republic of Venezuela* – CEACR, observation, 2011; and *Yemen* – CEACR, direct request, 2009.

completion rates and reduce drop-out rates to the level corresponding to the age of completion of compulsory education.

375. The Committee is of the view that to prevent and combat child labour, compulsory education should be effectively implemented so as to ensure that all children under the minimum age are attending school and not engaged in economic activities.

Minimum age for hazardous work

Minimum age of 18 for admission to hazardous work

376. *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”. Paragraph 9 of Recommendation No. 146 indicates that where the minimum age for admission to hazardous work is below 18 years, immediate steps should be taken to raise it to that level. The Convention does not provide any specific definition of hazardous work but, by virtue of *Article 3(2)*, these types of employment or work must be determined by national laws or regulations or by the competent authority after consultation with the organizations of employers and workers concerned. The issues surrounding the types of hazardous work and their determination will be discussed in the next chapter on Convention No. 182, which includes a provision prohibiting hazardous work for persons below the age of 18 years.

Minimum age of 16 for admission to hazardous work and determination of such types of hazardous work

377. The Convention, however, offers yet another flexibility clause. Indeed, *Article 3(3)* sets out conditions under which certain types of employment or work, notwithstanding the provisions of *paragraph 1*, may be performed as from the age of 16 years, provided the following conditions are met: (1) the organizations of employers and workers concerned must have been consulted beforehand; (2) the health, safety and morals of the young persons concerned must be fully protected; and (3) they must have received adequate specific instruction or vocational training in the relevant branch of activity.

378. Some member States, while expressly prohibiting work that is hazardous to the health, safety and morals of children under 18 years of age, have also availed themselves of the flexibility clause provided by *Article 3(3)* and set a minimum age of 16 for certain types of hazardous work, adopting both a list of types of hazardous work prohibited for young persons under 18 years and another for young persons under 16 years, under the conditions required by the Convention.⁹⁰⁰ For instance, in *Turkey*, the Committee noted with satisfaction the adoption of Regulation No. 25494 on hazardous and arduous work of 16 June 2004 which includes a list of hazardous types of work which may be performed by young workers between 16 and 18 years of age.⁹⁰¹ It also noted that, under the terms of section 4 of Regulation No. 25494, the conditions set out in *Article 3(3)* of the Convention are respected, namely that the health, safety and morals of the young persons concerned are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. In *Ireland*,

⁹⁰⁰ See, for example, *Cambodia* – CEACR, direct request, 2009; *Democratic Republic of the Congo* – CEACR, direct request, 2009; *Finland* – CEACR, direct request, 2004; *Kenya* – CEACR, observation, 2010; *Mali* – CEACR, direct request, 2010; *Portugal* – CEACR, direct request, 2006; and *Sudan* – CEACR, direct request, 2010.

⁹⁰¹ *Turkey* – CEACR, observation, 2009.

regulations have been made to permit young persons between 16 and 18 years to become employed in the fishing or shipping sectors, provided that any young person so employed who is assigned to work between 10 p.m. on any one day and 6 a.m. on the following day is allowed equivalent compensatory rest time; in general duties during the summer or other holidays or for part-time work in licensed premises; and as an apprentice in a full-time capacity in licensed premises, and required to work up to midnight on any one day and not before 8 a.m. on the following day, provided that the young person is supervised by an adult.⁹⁰²

Absence of a general prohibition on hazardous work

379. *Some member States have only provided for types of hazardous work in which young persons from 16 to 18 years may participate, but have not adopted a general prohibition on hazardous work for children under 18. The Committee emphasizes that the authorization to undertake hazardous work from the age of 16 years is a limited exception to the general rule on the prohibition of young persons under 18 years performing hazardous work, and that it does not constitute an unqualified authorization to engage in hazardous work as from the age of 16 years. The governments concerned must therefore take the necessary measures to ensure that no one under 18 years of age, other than in the exceptional cases allowed by the Convention, shall be authorized to engage in hazardous work, in accordance with Article 3(1).*⁹⁰³

Absence of a minimum age of 16 for prohibited types of hazardous work

380. Some countries have provided that young persons may undertake hazardous work under the conditions provided for in *Article 3(3)*, but have not specified a minimum age or have specified an age lower than that of 16 years. In those cases, the Committee requests the governments concerned to take measures to raise the minimum age for admission to hazardous work to 16 years, even if the required protective conditions are adequately provided.⁹⁰⁴ As a result, in *Mauritius*, the Committee noted with satisfaction the adoption and coming into force of the Occupational Safety and Health Act No. 28 of 2005 in September 2007, which raised from 15 to 16 years the minimum age from which young persons may be authorized to work on hazardous machines on condition that their health and safety are fully protected and that they have received adequate training in the relevant branch of activity.⁹⁰⁵

⁹⁰² *Ireland* – CEACR, direct request, 2009.

⁹⁰³ See, for example, *Djibouti* – CEACR, direct request, 2009; *Dominican Republic* – CEACR, direct request, 2005; and *Saint Vincent and the Grenadines* – CEACR, direct request, 2010.

⁹⁰⁴ See, for example, *Colombia* – CEACR, observation, 2011; *Cyprus* – CEACR, direct request, 2011; *Ethiopia* – CEACR, observation, 2010; *Japan* – CEACR, direct request, 2005; *Latvia* – CEACR, direct request, 2010; *Namibia* – CEACR, direct request, 2010; *Panama* – CEACR, observation, 2011; *Paraguay* – CEACR, direct request, 2011; *Syrian Arab Republic* – CEACR, direct request, 2010; *Ukraine* – CEACR, observation, 2010; *United Arab Emirates* – CEACR, observation, 2010; and *Bolivarian Republic of Venezuela* – CEACR, observation, 2011. Moreover, in its report supplied under art. 19 of the ILO Constitution, for example, New Zealand has indicated that an employer must take all practicable steps to ensure that no one aged under 15 years works in any area that is likely to cause harm to the health and safety of a person, and must ensure that any employee under 15 years of age does not, among other things, operate heavy machinery, lift heavy loads or drive any vehicle. However, the New Zealand Council of Trade Unions has indicated that there is an unacceptably high rate of farm-based accidents involving tractors and other equipment. In the same vein, Australia has also indicated, in its report supplied under art. 19, that though the conditions for their protection are provided for, children may become engaged in certain types of hazardous work starting at 15 years of age in some provinces.

⁹⁰⁵ *Mauritius* – CEACR, observation, 2010. On the other hand, in *Belgium* – CEACR, observation, 2011, the Committee has noted with regret that the Government's report contained no information on the incorporation of

Non-compliance with the conditions required for carrying out hazardous work from the age of 16

381. The Committee has observed that certain countries have availed themselves of the possibility to establish a minimum age of 16 years for admission to hazardous work, but have not laid down the conditions required by the Convention in this respect.⁹⁰⁶ For example, in *Saint Kitts and Nevis*, the Committee noted that the Employment of Women, Young Persons and Children Act prohibits the performance of night work by persons under 18, and that the Employment of Children (Restriction) Ordinance prohibits children under 16 years of age from being employed in any occupation likely to be injurious to their life, limbs, health or education, with regard being had only to their physical condition.⁹⁰⁷ In this regard, the Committee stresses that the exception contained in *Article 3(3)* permits the competent authority to authorize hazardous work from the age of 16 years only on the condition that the health, safety and morals of the young persons concerned are fully protected and that they have received adequate specific vocational training in the relevant branch of activity, following consultation with the employers' and workers' organizations concerned. In such cases, the Committee calls on the governments concerned to take measures to adopt legislation providing for all the appropriate provisions ensuring the protection of the young person, as required by *Article 3(3)* of the Convention.⁹⁰⁸

Work done by children and young persons in general, vocational or technical education or in an apprenticeship programme

382. *Article 6* of Convention No. 138 allows member States to exclude from the application of the Convention work done in school for general, vocational or technical education or in training institutions or work done by children at least 14 years of age as apprentices in undertakings. However, the exemption can only apply if such work is an integral part of: (i) a course of education or training for which a school or training

the Royal Order of 1999 into the Code on Wellbeing at Work, which raises the minimum age for admission to work (including certain types of hazardous work) from 15 to 16 years. The Committee therefore urged the Government to take immediate and effective measures to ensure that the performance of hazardous work may not under any circumstances be authorized for children under 16 years of age. Furthermore, in *Greece – CEACR*, observation, 2011, the Committee noted with concern that Presidential Decree No. 62/1998 continues to permit the performance of hazardous work by persons as of the age of 15 under certain conditions, pursuant to sections 2(c) and 7(5) and that no new legislative, administrative or other measures have been taken to prohibit the performance of hazardous work by persons as of the age of 15 under certain conditions. The Committee therefore strongly urged the Government to take the necessary measures to bring its national legislation into conformity with *Art. 3(3)* of the Convention.

⁹⁰⁶ See, for example, *Benin – CEACR*, direct request, 2011; *Burundi – CEACR*, direct request, 2008; *Chad – CEACR*, direct request, 2010; *Comoros – CEACR*, direct request, 2010; *Democratic Republic of the Congo – CEACR*, direct request, 2009; *Denmark – CEACR*, direct request, 2009; *Dominican Republic – CEACR*, direct request, 2009; *Republic of Korea – CEACR*, direct request, 2008; *Malaysia – CEACR*, observation, 2010; *Mali – CEACR*, direct request, 2010; *Mauritania – CEACR*, direct request, 2010; *Niger – CEACR*, observation, 2011; *Papua New Guinea – CEACR*, direct request, 2010; *Peru – CEACR*, direct request, 2010; and *Senegal – CEACR*, observation, 2011. Similarly, in its report supplied under art. 19 of the ILO Constitution, the Government of the United States indicated that children who are 16 years of age may perform all farm work *with no restrictions* under the child labour laws.

⁹⁰⁷ *Saint Kitts and Nevis – CEACR*, direct request, 2011.

⁹⁰⁸ See, for example, *Congo – CEACR*, direct request, 2010. Order No. 2224 prohibits the employment of young workers under the age of 16 years in certain types of hazardous work, and provides that the labour and social legislation inspectors may require any young worker to undergo a medical examination in order to determine whether the work in which she or he is employed exceeds her or his capacities. The Committee recalled, however, that the Convention also requires that young persons aged between 16 and 18 years receive specific instruction or vocational training in the relevant branch of activity.

institution is primarily responsible; (ii) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or (iii) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training. In all cases, the work must be carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned. Furthermore, Paragraph 12(2) of Recommendation No. 146 indicates that measures should be taken to safeguard and supervise the conditions in which children and young persons undergo vocational orientation and training and to formulate standards for their protection and development.

The minimum age for admission to apprenticeship

383. The Committee has noted that the national legislation of many countries meets the requirements of *Article 6* of the Convention.⁹⁰⁹ In certain countries, the minimum age for entry into an apprenticeship relationship is even higher than that required under this provision. For example, in *Hungary*, training contracts may only be concluded with students who have reached the age of 16 years,⁹¹⁰ and in *Bosnia and Herzegovina* an apprentice shall not be younger than 18.⁹¹¹ In cases where the legislation does not provide for a minimum age for admission to apprenticeship or authorizes children under 14 years to undertake an apprenticeship, member States have subsequently amended their legislation to ensure the protection afforded by the Convention to children under 14. For example, in *Georgia*, apprenticeship programmes could begin as from the age of 12 years, but the Committee subsequently noted with interest the adoption of the Law on professional education which provides for the vocational training and apprenticeship for children over 15 years.⁹¹² Other examples include *Central African Republic* and *Chile*, where the Committee has noted with interest that regulations governing apprenticeship contracts have been adopted in accordance with the conditions set out in *Article 6* of the Convention.⁹¹³

384. However, the Committee has found in some cases that either there are no provisions stipulating a minimum age for entry into apprenticeship,⁹¹⁴ or minors under 14 years may be legally engaged in apprenticeships.⁹¹⁵ The Committee therefore emphasizes the importance of setting a minimum age for admission to apprenticeship of at least 14 years to ensure that no child under that age undertakes an apprenticeship, as required by the Convention.

⁹⁰⁹ See, for example, *Cameroon* – CEACR, observation, 2009; *Czech Republic* – CEACR, direct request, 2011; *Latvia* – CEACR, direct request, 2010; *Namibia* – CEACR, direct request, 2010; *Paraguay* – CEACR, direct request, 2011; *Qatar* – CEACR, direct request, 2010; *The former Yugoslav Republic of Macedonia* – CEACR, direct request, 2011; and *Trinidad and Tobago* – CEACR, direct request, 2009.

⁹¹⁰ See *Hungary* – CEACR, direct request, 2009.

⁹¹¹ See *Bosnia and Herzegovina* – CEACR, direct request, 2011.

⁹¹² See *Georgia* – CEACR, direct request, 2009.

⁹¹³ See *Central African Republic* – CEACR, observation, 2010; and *Chile* – CEACR, direct request, 2009.

⁹¹⁴ See, for example, *Plurinational State of Bolivia* – CEACR, observation, 2009; *Burkina Faso* – CEACR, direct request, 2009; *Estonia* – CEACR, direct request, 2011; *Pakistan* – CEACR, direct request, 2011; and *Saint Kitts and Nevis* – CEACR, direct request, 2011.

⁹¹⁵ See, for example, *Albania* – CEACR, observation, 2011; *Gambia* – CEACR, direct request, 2010; *Guatemala* – CEACR, direct request, 2009; *Kenya* – CEACR, observation, 2010; *Lesotho* – CEACR, observation, 2011; *Mozambique* – CEACR, direct request, 2010; *United Arab Emirates* – CEACR, observation, 2010; and *Zimbabwe* – CEACR, observation, 2011.

Apprenticeship and hazardous work

385. In some countries, the prohibition on young persons under 16 from carrying out hazardous activities does not apply to apprentices or to young persons following courses in vocational schools, and consequently children may be engaged in such activities before reaching the age of 16, which is contrary to *Article 3(3)* of the Convention.⁹¹⁶ In these cases, the Committee has urged the governments to take the necessary measures to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work.

Problems of application of the legislation relating to work done as part of education and training

386. In some countries, although national legislation regulates work in educational and training institutions and apprenticeships, it is not always enforced in practice. In *Kyrgyzstan*, for example, school-age children are required to participate in the tobacco harvest for the profit of educational institutions run by the State.⁹¹⁷ The Committee has recently expressed its concern at the alleged abuse of the apprenticeship system in *China*, where children under the minimum age for apprenticeship (16 years pursuant to the Provisional Regulation 1958) are recruited to work as apprentices in factories and work long hours for low pay.⁹¹⁸ In the case of *Benin*, although a significant number of apprentices under the age of 14 are exploited in the informal sector in carpentry workshops, sawmills, vehicle repair, welding and hair dressing, the Committee has nonetheless noted with interest that an ILO–IPEC project has been implemented to withdraw children from this type of work.⁹¹⁹

387. The Committee is of the view that work in educational institutions and apprenticeships must be regulated by law, and that the law must be applied effectively in practice. Moreover, the minimum age for admission to apprenticeship must be applied in all circumstances and sectors,⁹²⁰ including in the informal economy.⁹²¹

Employment in light work

Minimum age for light work

388. According to the 2010 Global Report, 61,826,000 children aged 12–14 years are child labourers.⁹²² *Article 7* of the Convention aims to take into consideration the many instances of countries where children below the minimum age for admission to employment or work are compelled to participate in economic activities for a number of reasons, including poverty, and pertains to cases where children and young persons may be authorized to become engaged in certain types of work, under certain conditions, at an age that is lower than the minimum age for employment or work specified at the time of ratification. This was done in an “attempt to combine the measure of flexibility

⁹¹⁶ These include *Ethiopia* – CEACR, observation, 2010; *Israel* – CEACR, direct request, 2011; and *Ukraine* – CEACR, observation, 2010.

⁹¹⁷ See *Kyrgyzstan* – CEACR, direct request, 2010.

⁹¹⁸ See *China* – CEACR, direct request, 2011.

⁹¹⁹ See *Benin* – CEACR, direct request, 2011.

⁹²⁰ See *China* – CEACR, direct request, 2011.

⁹²¹ See *Gambia* – CEACR, direct request, 2010.

⁹²² *Accelerating action against child labour*, op. cit., table 1.2.

necessary to permit the wide application of the Convention, especially in view of its general scope, with the restrictions necessary to ensure adequate protection”.⁹²³

Lower minimum age of 13 for light work

389. *Article 7(1)* is a flexibility clause which provides that national laws or regulations may permit the employment or work of persons 13–15 years of age on light work which is not likely to be harmful to their health or development, and not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. Under *Article 7(2)*, the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling may be permitted, subject to the same conditions indicated under *Article 7(1)*.⁹²⁴

390. Many countries have availed themselves of the option provided by *Article 7(1)*. Where the general minimum age specified is 15, member States have generally indicated a minimum age of 13 years for light work.⁹²⁵ Where the general minimum age is higher (16 years), member States have often accordingly indicated a higher minimum age for light work, that is to say 14 years.⁹²⁶

Lower minimum age of 12 for light work

391. *Article 7(4)* of the Convention permits member States who have specified a general minimum age for admission to employment or work of 14 years to substitute a minimum age for admission to light work of 12–14 years to that of the usual 13–15 years. The Committee has noted several instances in which countries which have specified a minimum age for employment or work of 14 years have availed themselves of the exception allowed for under this provision.⁹²⁷ Similarly, in its report supplied under article 19 of the ILO Constitution, the Government of Bangladesh indicated that its legislation provides that children aged 12 years may be employed in light work that does not endanger their health and development or interfere with their education and school attendance, in conformity with the Convention.

392. However, some member States which had specified a general minimum age of 15 or 16 years at the time of ratification have also adopted legislation which provides for a

⁹²³ *Minimum age for admission to employment*, op. cit., p. 20.

⁹²⁴ See, for example, *Belarus* – CEACR, direct request, 2004; and *Bulgaria* – CEACR, direct request, 2005.

⁹²⁵ See, for example, *Fiji* – CEACR, direct request, 2011; *Iceland* – CEACR, direct request, 2010; *Indonesia* – CEACR, observation, 2011; *Japan* – CEACR, direct request, 2005; *Lesotho* – CEACR, observation, 2011; *Latvia* – CEACR, direct request, 2009; and *Norway* – CEACR, direct request, 2001. In its report supplied under art. 19 of the ILO Constitution, the Government of Saudi Arabia indicates that its legislation provides for a minimum age of 13 years for light work. Furthermore, some member States have specified a minimum age for admission to light work of 14, and not 13 years, even if their general minimum age for admission to employment or work is 15 years. See, for example, *Madagascar* – CEACR, direct request, 2008 (the Committee took note of the Government’s information with interest); and *Turkey* – CEACR, direct request, 2006.

⁹²⁶ See, for example, *Albania* – CEACR, observation, 2011; *Argentina* – CEACR, observation, 2009; *Armenia* – CEACR, direct request, 2011; *Azerbaijan* – CEACR, direct request, 2011; *Belarus* – CEACR, direct request, 2006; *Lithuania* – CEACR, direct request, 2004; *Malta* – CEACR, direct request, 2007; *Russian Federation* – CEACR, direct request, 2010; *Tajikistan* – CEACR, direct request, 2010; and *Ukraine* – CEACR, observation, 2010.

⁹²⁷ See, for example, *Belize* – CEACR, direct request, 2011; *Cambodia* – CEACR, direct request, 2009; *Côte d’Ivoire* – CEACR, direct request, 2009; *El Salvador* – CEACR, direct request, 2007; *Mauritania* – CEACR, direct request, 2010; *Peru* – CEACR, direct request, 2009; *Uganda* – CEACR, direct request, 2010; and *Bolivarian Republic of Venezuela* – CEACR, direct request, 2004. In *Benin* – CEACR, direct request, 2011, where the minimum age for light work was initially 12 years, the Committee noted the Government’s indication that it was envisaging increasing this minimum age to 13 years with the imminent adoption of a draft order.

minimum age for admission to light work of 12 years or less. In these cases, the Committee emphasizes that the governments in question should take the necessary measures to amend their legislation in order to ensure that the age for admission to light work is in conformity with *Article 7(1)* of the Convention, that is to say 13 years.⁹²⁸ As a result, in *Mali*,⁹²⁹ the Government indicated that it undertook to raise the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years, and in *Austria*,⁹³⁰ the Committee noted with interest that draft legislation proposes to raise the minimum age for light work and occasional work from 12 to 13 years.

Absence of a lower minimum age for light work

393. Many member States do not provide for a lower minimum age for light work.⁹³¹ In some cases, this is because the country has chosen not to avail itself of the flexibility clause offered by *Article 7* and does not regulate employment in these types of work.⁹³² However, in others, the country does choose to regulate light work for children under the general minimum age for admission to employment or work, but simply does not specify the minimum age required for children to become engaged in these types of work. In these cases, the Committee underlines that governments must take measures to ensure that the national legislation establishes a minimum age for admission to light work, in conformity with the Convention.⁹³³ Some member States have responded positively, including in *Argentina*, where the Committee took note with satisfaction that section 189bis(1) of the Act on labour contracts, as added by the Act on the prohibition of child labour and protection of young workers, establishes that young persons aged over 14 years and less than 16 years may be employed in certain types of light work.⁹³⁴

394. *While member States are generally not required to do so, adopting legislation regulating light work for children under the minimum age for admission to employment or work is encouraged by the Committee to ensure that children who in*

⁹²⁸ See, for example, *Burkina Faso* – CEACR, direct request, 2009; *Burundi* – CEACR, direct request, 2010; *Dominica* – CEACR, observation, 2011; *Guinea* – CEACR, direct request, 2010; *Mozambique* – CEACR, direct request, 2010; *Saint Kitts and Nevis* – CEACR, direct request, 2011; *Seychelles* – CEACR, direct request, 2010; and *Viet Nam* – CEACR, direct request, 2010.

⁹²⁹ *Mali* – CEACR, direct request, 2010.

⁹³⁰ *Austria* – CEACR, observation, 2011.

⁹³¹ In its report supplied under art. 19 of the ILO Constitution, the Government of Australia provided information on the legislation pertaining to the employment of children in light work activities in several provinces, according to which there is no minimum age for light work in New South Wales, South Australia, Victoria, Tasmania, the Northern Territory, and the Australian Capital Territory. In the report supplied by Canada under art. 19, several provinces seem to regulate light work without providing a minimum age for admission. Moreover, in its report supplied under art. 19, New Zealand indicated that it does not provide a minimum age for light work, although a number of provisions restrict the employment of young persons in such activities.

⁹³² See, for example, *Brazil* – CEACR, direct request, 2005; *China* – CEACR, direct request, 2006; *Oman* – CEACR, direct request, 2008; and *Serbia* – CEACR, direct request, 2008.

⁹³³ See, for example, *Angola* – CEACR, direct request, 2011; *Democratic Republic of the Congo* – CEACR, direct request, 2009; *Grenada* – CEACR, direct request, 2009; *Malaysia* – CEACR, observation, 2010; *Nigeria* – CEACR, direct request, 2010; *Pakistan* – CEACR, direct request, 2011; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; and *Swaziland* – CEACR, direct request, 2007.

⁹³⁴ *Argentina* – CEACR, observation, 2009. See also *Papua New Guinea* – CEACR, direct request, 2010 (the Government indicated that it was envisaging amending its legislation in order to raise the minimum age for light work from 11 to 13 years). In *Slovakia* – CEACR, direct request, 2006, the Committee noted the Government's statement that a proposal was being submitted to Parliament to supplement a section of the Labour Code which allowed light work, but did not indicate a minimum age. In the *United Kingdom* – CEACR, direct request, 2006, the Government confirmed, at the Committee's request, that by virtue of section 135 of the Children (Northern Ireland) Order, 1995, children under 13 years of age shall not be employed in light work.

*practice work under the minimum age are better protected. Indeed, the Committee has invited certain governments to take measures to avail themselves of the option provided for by Article 7 of the Convention in light of large numbers of children under the minimum age engaged in economic activity in practice.*⁹³⁵ In some cases, member States have responded positively and have taken the Committee's comments into consideration, including in *Paraguay*, where the Committee noted the Government's indication that the National Committee for the Prevention and Elimination of Child Labour and the Protection of the Work of Young Persons considered necessary the determination of light work and that a debate on the issue would take place in 2010.⁹³⁶

Determination of the types and conditions of light work activities

Types of light work activities

395. By virtue of *Article 7(3)* of the Convention, the competent authority shall determine the activities in which employment or work may be permitted for children 13–15 years (or 12–14 years) of age. When determining types of light work, member States have frequently specified the following:⁹³⁷

- (a) agricultural work, such as the gathering of flowers, herbs, mushrooms or fruit; picking, gathering, or sorting work performed in agricultural undertakings; harvesting; manual husking of fruits and seeds, the sorting of vegetable products; gardening and weeding; preparing, cleaning and packaging in small packets; picking tobacco; providing fodder and water to animals;
- (b) domestic work, such as light domestic tasks corresponding to the work of a kitchen assistant, assistant cook, houseboy or childminder; errand running;
- (c) work in commercial enterprises, such as shelving or pricing; work as a shop assistant, as well as service work, such as dishwashing or serving tables; clerical and cleaning work; the delivery of newspapers, milk, groceries, foodstuffs, flowers or drapery goods;
- (d) work in undertakings other than industrial undertakings, such as establishments, businesses or undertakings engaged in the sale and distribution of goods; administrative services; newspaper production and publication; the operation of hotels, restaurants and other places of public entertainment.

⁹³⁵ See, for example, *Bosnia and Herzegovina* – CEACR, direct request, 2011; *Cameroon* – CEACR, direct request, 2007; *Comoros* – CEACR, direct request, 2010; *Eritrea* – CEACR, observation, 2011; *Gambia* – CEACR, direct request, 2010; *Iraq* – CEACR, direct request, 2011; *Lao People's Democratic Republic* – CEACR, direct request, 2010; *The former Yugoslav Republic of Macedonia* – CEACR, direct request, 2011; *Mongolia* – CEACR, observation, 2010; *Montenegro* – CEACR, direct request, 2010; *Namibia* – CEACR, direct request, 2010; *Sao Tome and Principe* – CEACR, direct request, 2011; *South Africa* – CEACR, direct request, 2010; *Sudan* – CEACR, direct request, 2010;; and *Trinidad and Tobago* – CEACR, direct request, 2011. In *Czech Republic* – CEACR, direct request, 2011, the Committee noted that no provisions regulate light work for children aged 13–15 years and requested the Government to indicate whether, in practice, children under the age of 15 years are employed in light work activities.

⁹³⁶ *Paraguay* – CEACR, direct request, 2011. See also *Bahamas* – CEACR, direct request, 2008, where, after previously requesting the Government to provide information on measures envisaged to regulate light work activities considering the important number of children under 14 years who were economically active, the Committee noted that the newly adopted Child Protection Act, 2007, 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.

⁹³⁷ *Austria* – CEACR, observation, 2011; *Chad* – CEACR, direct request, 2010; *Congo* – CEACR, direct request, 2010; *Côte d'Ivoire* – CEACR, direct request, 2009; *Democratic Republic of the Congo* – CEACR, direct request, 2009; *Estonia* – CEACR, direct request, 2011; *Guinea* – CEACR, direct request, 2010; *Singapore* – CEACR, direct request, 2010; *Swaziland* – CEACR, direct request, 2007; *Syrian Arab Republic* – CEACR, direct request, 2008; and *United Kingdom* – CEACR, direct request, 2006.

Conditions of light work activities

396. *Article 7(3)* further provides that member States shall prescribe the number of hours during which and the conditions in which light work activities may be undertaken. In this respect, the Committee has consistently referred to Paragraph 13(1) of Recommendation No. 146, which provides that, in giving effect to *Article 7(3)*, special attention should be given to several key indicators, including the strict limitation of the hours spent at work in a day and in a week, the prohibition of overtime, the granting of a minimum consecutive period of 12 hours' night rest,⁹³⁸ and the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision.

397. The Committee has observed that in many cases member States have adopted legislation providing that the types of light work which children can undertake shall not be likely to be harmful to their health, safety, morals or development, nor 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, as required by the Convention.⁹³⁹ Many have also laid down the hours permitted for light work, namely between two and four-and-a-half hours per day and between ten and 25 hours per week,⁹⁴⁰ while others prohibit night work.⁹⁴¹ Certain countries have established that the time spent at school and on light work shall not exceed a certain number of hours per day (four to seven hours) or per week;⁹⁴² others prohibit employment in light work during school term time, or permit it only during school holidays.⁹⁴³ Some countries have established that children may be allowed to perform light work activities by virtue of regulations or permits granted by a certain authority, such as the Ministry of Labour or of Education, labour inspectors or medical officers,⁹⁴⁴ only with parental consent,⁹⁴⁵ or only within family enterprises.⁹⁴⁶

398. However, in a large number of cases, member States do not provide for all the conditions required by *Article 7* of the Convention when regulating light work. For example, a number of member States have not specified the number of hours during which and the conditions in which children may engage in light work activities, or the

⁹³⁸ *Art. 2* of the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90), defines the term "night" as a period of at least 12 consecutive hours, and states that, in the case of young persons under 16 years of age, this period shall include the interval between 10 p.m. and 6 a.m.

⁹³⁹ See, for example, *Botswana* – CEACR, direct request, 2010; *Chile* – CEACR, direct request, 2005; *Kazakhstan* – CEACR, direct request, 2011; *Lebanon* – CEACR, observation, 2010; *Malta* – CEACR, direct request, 2007; *Slovenia* – CEACR, direct request, 2005; *Switzerland* – CEACR, direct request, 2010; and *Uganda* – CEACR, direct request, 2010.

⁹⁴⁰ See, for example, *Argentina* – CEACR, observation, 2009; *Armenia* – CEACR, direct request, 2011; *Azerbaijan* – CEACR, observation, 2009; *Chad* – CEACR, direct request, 2011; *Switzerland* – CEACR, direct request, 2010; and *Tajikistan* – CEACR, direct request, 2011.

⁹⁴¹ See, for example, *Azerbaijan* – CEACR, observation, 2009; and *Hungary* – CEACR, direct request, 2009.

⁹⁴² See, for example, *Botswana* – CEACR, direct request, 2010; *Côte d'Ivoire* – CEACR, direct request, 2009; *Japan* – CEACR, direct request, 2005; *Kyrgyzstan* – CEACR, direct request, 2010; and *Mauritania* – CEACR, direct request, 2010.

⁹⁴³ See, for example, *Albania* – CEACR, observation, 2011; and *Chad* – CEACR, direct request, 2010.

⁹⁴⁴ See, for example, *Barbados* – CEACR, direct request, 2010; *Belize* – CEACR, direct request, 2009; *Chad* – CEACR, direct request, 2010; *Congo* – CEACR, direct request, 2010; *Egypt* – CEACR, direct request, 2005; *Guatemala* – CEACR, direct request, 2009; and *Singapore* – CEACR, direct request, 2010.

⁹⁴⁵ See, for example, *Côte d'Ivoire* – CEACR, direct request, 2009; *Hungary* – CEACR, direct request, 2009; *Republic of Korea* – CEACR, direct request, 2006; and *Kyrgyzstan* – CEACR, direct request, 2010.

⁹⁴⁶ See, for example, *Argentina* – CEACR, observation, 2009; *Austria* – CEACR, observation, 2011; and *Sri Lanka* – CEACR, direct request, 2007.

types of light work in which children shall be permitted to be employed, in accordance with *Article 7(3)* of the Convention. The Committee has therefore requested many member States to take measures in order to ensure the protection of children participating in light work activities.⁹⁴⁷ As a result, some countries have indicated that they would adopt legislative measures to apply these requirements.⁹⁴⁸ The Committee encourages member States to take account, if they have not already done so, of the positive measures enumerated in the preceding paragraph.

Issues of application regarding legislation on light work

399. While it is up to the competent authorities of each member State to determine the conditions and types of light work in which children may be engaged, the Committee is of the view that certain activities or the conditions under which they are exercised do not constitute light work. In these cases, the Committee recalls the indications provided in Paragraph 13(1) of Recommendation No. 146 and expresses the hope that the governments concerned will take measures to determine the appropriate conditions, the number of hours or types of activities which constitute light work.⁹⁴⁹

400. Finally, the Committee has observed that some countries have availed themselves of the possibility of regulating light work by virtue of *Article 7*, but that a large number of children under the general minimum age for employment are found to be working in activities that do not constitute light work. In such cases, the Committee requests the governments concerned to take measures to strengthen the enforcement of their legislation pertaining to light work and to bring their national practice into conformity with the Convention by permitting employment in light work only for children who have reached the age specified for admission to these types of work, and by ensuring that children aged 13–15 (or 12–14) are only engaged in light work activities.⁹⁵⁰

Enforcement and impact

Monitoring mechanisms

401. The Committee wishes to underline the key role the labour inspectorate plays in implementing the Convention as a public authority which monitors compliance with

⁹⁴⁷ See, for example, *Albania* – CEACR, observation, 2011; *Angola* – CEACR, direct request, 2011; *Armenia* – CEACR, direct request, 2011; *Azerbaijan* – CEACR, observation, 2011; *Guinea* – CEACR, direct request, 2010; *Kazakhstan* – CEACR, direct request, 2011; *Republic of Moldova* – CEACR, direct request, 2010; and *Uganda* – CEACR, direct request, 2010.

⁹⁴⁸ See, for example, *Bahamas* – CEACR, direct request, 2009; *Botswana* – CEACR, direct request, 2010; *Cambodia* – CEACR, direct request, 2009; *Jamaica* – CEACR, direct request, 2011; *Kenya* – CEACR, observation, 2010; *Lebanon* – CEACR, observation, 2010; *Lesotho* – CEACR, observation, 2011; *Malaysia* – CEACR, observation, 2010; *Mauritania* – CEACR, direct request, 2010; *Netherlands (Aruba)* – CEACR, observation, 2010; *Peru* – CEACR, direct request, 2009; *United Republic of Tanzania* – CEACR, direct request, 2010; *Tunisia* – CEACR, direct request, 2010; *Ukraine* – CEACR, observation, 2010; *Yemen* – CEACR, direct request, 2010; *Zambia* – CEACR, observation, 2010; and *Zimbabwe* – CEACR, observation, 2011.

⁹⁴⁹ See, for example, *Fiji* – CEACR, direct request, 2011 (the Committee expressed the view that permitting children aged 13–15 to work up to eight hours a day did not constitute light work). In *Georgia* – CEACR, observation, 2011, the Committee, noting that the legislation made it possible for young workers to work from 6 a.m. to 10 p.m. and for about eight hours per day, excluding school hours and night work, urged the Government to take the necessary measures to determine light work activities permitted for children aged 14–16 years and to prescribe the number of hours during which and the conditions in which light work may be undertaken by such persons.

⁹⁵⁰ See *Indonesia* – CEACR, observation, 2011; and *Israel* – CEACR, direct request, 2011.

child labour-related provisions in each country.⁹⁵¹ Weak labour inspection machinery not only reduces the likelihood of the detection of violations related to child labour, but also hinders the appropriate punishment of those responsible.⁹⁵²

402. The vital role of the labour inspectorate is reflected in Paragraph 14(1) of Recommendation No. 146, which states that measures to ensure the effective application of the Convention should include the strengthening (as necessary) of labour inspection and related services. Moreover, the crucial nature of labour inspection in applying the Convention is reflected in the Committee's frequent references in relation to Convention No. 138 to its comments under the Labour Inspection Convention, 1947 (No. 81), and Convention No. 129.⁹⁵³

Good practices: Child labour and labour inspection

Child labour related inspections

403. An encouraging development is the growing number of countries providing child labour training to labour inspectors,⁹⁵⁴ or specifically assigning labour inspectors to monitor child labour. An example of this specific training is in *Argentina* where the National Plan for the Prevention and Elimination of Child Labour includes training workshops for labour inspectors.⁹⁵⁵ In *Kazakhstan*, the National Information Resource Centre on child labour has organized training seminars for state labour inspectors on child labour issues.⁹⁵⁶ Moreover, the Committee has noted with interest that in *Turkey*, six action programmes were implemented by the labour inspectorate in collaboration with ILO–IPEC, and that 108 labour inspectors were working full time on child labour.⁹⁵⁷ Furthermore, in countries such as *Ecuador* and the *Bolivarian Republic of Venezuela*, specific “child labour inspections” are carried out.⁹⁵⁸ In addition, in some member States, the role of the labour inspectorate in combating child labour has expanded beyond monitoring. Labour inspectors may be involved in raising awareness on issues related to child labour,⁹⁵⁹ in addition to measures for the rehabilitation of removed child labourers or their reintegration into school.⁹⁶⁰

⁹⁵¹ See, for example, *Georgia* – CEACR, observation, 2011 (the Committee expressed concern that, following the abolishment of the labour inspectorate, there existed no public authority to monitor the implementation of child labour-related provisions in the country).

⁹⁵² *Pakistan* – CEACR, observation, 2011.

⁹⁵³ See, for example, *Comoros* – CEACR, direct request, 2010; *Egypt* – CEACR, observation, 2011; *Nigeria* – CEACR, direct request, 2010; and *Uganda* – CEACR, direct request, 2010.

⁹⁵⁴ Paragraph 14(1) of Recommendation No. 146 states that the strengthening of the labour inspectorate can take place through the special training of inspectors to detect abuses in the employment or work of children and young persons and to correct such abuses.

⁹⁵⁵ *Argentina* – CEACR, observation, 2011.

⁹⁵⁶ *Kazakhstan* – CEACR, direct request, 2011.

⁹⁵⁷ *Turkey* – CEACR, observation, 2006.

⁹⁵⁸ *Ecuador* – CEACR, observation, 2009; and *Bolivarian Republic of Venezuela* – CEACR, observation, 2011.

⁹⁵⁹ See, for example, *Benin* – CEACR, direct request, 2011. In addition, the Government of Australia, in its report submitted under art. 19 of the Constitution, indicated that the Industrial Inspectorate in Western Australia implemented an education campaign relating to employment of under-age labour. The Government of Bangladesh also indicated in its report submitted under art. 19 that the Department of Inspection for Factories and Establishments implements preventive measures, such as motivational measures and counselling.

⁹⁶⁰ *Jordan* – CEACR, observation, 2011.

Employers' registers

404. One important tool used by labour inspectors to monitor the employment of young persons is employers' registers of employment. These registers (or similar documents) are required under *Article 9(3)* of the Convention and should contain the names and ages (or dates of birth) of all persons employed under the age of 18. These registers are to be made available to labour inspectors, and consulting these registers may aid labour inspectors in the detection of violations related to child labour. In some countries, these registers are sent directly to the labour inspectorate.⁹⁶¹ In countries where such records are kept, but not made available to inspectors, the Committee emphasizes that these registers must be made available.⁹⁶²

Collaboration with other bodies

405. Paragraph 14(3) of the Recommendation states that the labour administration services should work in close cooperation with the services responsible for the education, training, welfare and guidance of children and young persons. In this regard, the Committee wishes to emphasize that cooperation with other bodies, including teachers and health professionals, may help to strengthen the effectiveness of the labour inspectorate in detecting and eliminating child labour. For example, in *Italy*, the General Directorate for Inspection collaborates with the local authorities, social services, schools and police forces to monitor child labour in areas where this phenomenon is most prevalent.⁹⁶³

Role of the social partners

Trade unions and employers' organizations alike have an important role to play in bringing to light activities where child labour occurs. In this respect, the Committee highlights that full respect for organizational rights in all sectors provides an important cross-cutting impact between the fundamental Conventions on freedom of association and efforts to combat child labour. It is therefore opportune to draw attention to the positive trend in the collaboration between the labour inspectorate and the social partners to better address child labour. For example, in *Albania*, the local action committees of the child labour monitoring system include labour inspectors, as well as trade unions and employment officers.¹ In *Kazakhstan*, the Ministry of Labour and Social Security conducted nationwide mass action against child labour, including planned investigations by inspection agencies with the participation of trade unions, and this action resulted in the detection and remedying of several child labour violations.² Moreover, the Government of Australia indicates, in its report submitted under article 19 of the ILO Constitution, that in New South Wales the body responsible for inspecting child labour in the state frequently meets with employers to discuss child labour compliance issues.

¹ *Albania* – CEACR, direct request, 2009. ² *Kazakhstan* – CEACR, direct request, 2011.

Labour inspectorate and data dissemination

406. The labour inspectorate also plays an additional role of collecting and disseminating essential information on child labour violations, which is useful in assessing the implementation of the Convention.⁹⁶⁴ Accordingly, the Committee

⁹⁶¹ *Romania* – CEACR, observation, 2010.

⁹⁶² *Indonesia* – CEACR, observation, 2011.

⁹⁶³ *Italy* – CEACR, direct request, 2010.

⁹⁶⁴ See, for example, *Albania* – CEACR, observation, 2011; and *Croatia* – CEACR, direct request, 2011.

consistently requests governments to provide information in their reports submitted under article 22 of the ILO Constitution on the number of inspections, the number and nature of violations detected relating to child labour (disaggregated, where possible, by sex and age) and the penalties applied. The reception of such information has allowed the Committee to make a more complete assessment of the application of the Convention.⁹⁶⁵

Strengthening the effectiveness of the labour inspectorate

407. Increasingly, governments are identifying the weak capacity of the labour inspectorate as a major barrier to the effective implementation of the Convention.⁹⁶⁶ This lack of capacity is generally attributed to a lack of financial and human resources.⁹⁶⁷ These limitations may also severely hamper the capacity of the labour inspectorate to monitor child labour in particular regions or sectors. The Committee is of the view that the inability of the labour inspectorate to monitor outside a given area (such as outside the state capital) is particularly problematic when child labour is concentrated in regions⁹⁶⁸ or sectors⁹⁶⁹ outside the coverage of the labour inspectorate. In such cases, the Committee emphasizes the importance of ensuring that the labour inspection system effectively monitors working children in all areas and sectors.⁹⁷⁰ However, it is important to underline that the weak capacity of the labour inspectorate is not only caused by limited resources; the Committee has, on several occasions, noted with concern indications from the social partners that labour inspection is ineffective in some countries due to corruption.⁹⁷¹

408. *Moreover, in some countries the data from the labour inspectorate does not accurately reflect the prevalence of child labour in the country, due to a weak inspection system. Statistical studies indicate that child labour exists in a country, although the labour inspection has yet to detect any related violations.*⁹⁷² ***To address all of these weaknesses, the Committee has systematically called on governments to take the necessary measures to adapt and strengthen the labour inspection services in***

⁹⁶⁵ See, for example, *Egypt* – CEACR, observation, 2010; *Republic of Korea* – CEACR, direct request, 2010; *Pakistan* – CEACR, direct request, 2010; *Romania* – CEACR, observation, 2010; and *Viet Nam* – CEACR, direct request, 2010.

⁹⁶⁶ For example, the Committee noted the indication by the Government of *Sudan* that the weak labour inspectorate contributed to the difficulty in applying the Convention. *Sudan* – CEACR, direct request, 2010.

⁹⁶⁷ For example, the Committee noted the indication by the Government of *Netherlands (Aruba)* that control and enforcement of the labour legislation by labour inspectors was weak due to regulatory and financial challenges, and that labour inspection had not revealed any cases of child labour. The Government of *Saint Vincent and the Grenadines* indicated that the insufficient number of labour inspectors had limited the number of inspections conducted every year. In *Uruguay*, the Committee noted the Government's indication that one of the two main institutions responsible for monitoring the application of the Convention faced a shortage of human resources and had only five inspectors covering the entire country. See *Netherlands (Aruba)* – CEACR, observation, 2010; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; and *Uruguay* – CEACR, direct request, 2010.

⁹⁶⁸ For example, in *Mozambique*, the Committee has noted that the labour inspectorate does not have the capacity to monitor areas outside the country's capital. See *Mozambique* – CEACR, direct request, 2010.

⁹⁶⁹ Regarding sectors outside the reach of the labour inspectorate, reference may be made to child labour in the informal economy and in the agricultural sector.

⁹⁷⁰ See, for example, *Albania* – CEACR, observation, 2011; and *Colombia* – CEACR, observation, 2011.

⁹⁷¹ See *China* – CEACR, observation, 2011 (the Committee noted the ITUC's allegation that collusion between private enterprises and local officials resulted in factory owners receiving advance warning of inspections, allowing the owners to hide working children or give the children the day off, which renders inspections meaningless). See also *Pakistan* – CEACR, observation, 2011.

⁹⁷² See, for example, *Cameroon* – CEACR, observation, 2011; *Panama* – CEACR, observation, 2011; and *Serbia* – CEACR, direct request, 2010.

*order to improve their capacity to detect cases of child labour.*⁹⁷³ *This is particularly important in countries where the legislation complies with the Convention, but the application of the Convention in practice is weak. Due to the importance of the labour inspectorate in applying the Convention, the Committee has, in cases where limited resources contribute to the weakness of the labour inspectorate, encouraged the allocation of additional resources to address the capacity of this institution.*⁹⁷⁴ *Moreover, in cases where labour inspectors do not appear to have adequate sensitivity to child labour issues, the Committee has called on governments to take measures to ensure that labour inspectors have received adequate training in this area.*⁹⁷⁵

409. In addition to the detection of cases of child labour, a strong labour inspectorate is crucial for the effective application of penalties for violations related to child labour. This complementary role is reflected in the case of *Mauritius*, where the Committee has noted with interest that the Labour and Industrial Relations Officers undertook systematic inspections at all places of work, including the formal and informal sectors of employment, and that where cases of child labour were detected, criminal action was taken against the offenders, including the application of appropriate penalties.⁹⁷⁶ As labour inspectors on the ground are often responsible for imposing the penalties contained in legislation, laxity in this regard jeopardizes the implementation of the Convention. For example, in some countries, labour inspectors offer advice upon the detection of violations related to child labour, rather than applying penalties.⁹⁷⁷ In this regard, the Committee emphasizes the importance of ensuring that child labour violations detected by the labour inspectorate are met with appropriate penalties.

Penalties

410. *Article 9(1)* of the Convention requires that all necessary measures, including the provision of appropriate penalties, be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention. While the adoption of national legislation is essential as it establishes a framework within which society determines its responsibilities with regard to young persons, even the best legislation only takes value when it is applied effectively.⁹⁷⁸ Moreover, Paragraph 15(a) of Recommendation No. 146 specifies that special attention should be paid to the enforcement of provisions concerning employment in hazardous types of employment or work.

⁹⁷³ See, for example, *Netherlands (Aruba)* – CEACR, observation 2010; *Lesotho* – CEACR, observation, 2011; *Panama* – CEACR, observation, 2011; and *Uganda* – CEACR, direct request, 2010.

⁹⁷⁴ See, for example, *Mozambique* – CEACR, direct request, 2010.

⁹⁷⁵ See, for example, *Armenia* – CEACR, direct request, 2011.

⁹⁷⁶ *Mauritius* – CEACR, observation, 2010.

⁹⁷⁷ For example, in *Morocco* – CEACR, observation, 2010, the Committee has noted that labour inspectors provide advice and information to employers on the dangers of child labour before resorting to penalties. Similarly, the Committee has noted that, in *Jordan* – CEACR, observation, 2011, the great majority of child labour violations detected in the course of investigations did not result in penalties, but in advice and guidance, and that inspectors often handled child labour cases informally rather than issuing citations and fines.

⁹⁷⁸ *Fundamental rights at work and international labour standards* (Geneva, ILO, 2003), p. 102.

Adopting appropriate penalties to ensure the effective enforcement of the Convention

Penalties for violations of the prohibitions on minimum age and hazardous work

411. Many countries have adopted penalties that have been deemed appropriate by the Committee, and these have been provided for in a wide range of ways – through the application of labour and/or penal legislation, resulting in fines and/or administrative penalties and/or prison sentences.⁹⁷⁹ For example, in *Côte d’Ivoire*, the Committee noted with satisfaction that, under section 19 of Act No. 2010-272 of 30 September 2010, anyone who has a child in their care or supervises a child if they are in charge of the child’s education or his or her intellectual development or vocational training, who knowingly forces or allows that child to carry out hazardous work, shall be liable to a prison sentence of between one and five years.⁹⁸⁰ In *Grenada*, the Committee observed that section 35 of the Employment Act establishes that any person who contravenes section 32 of this Act, which pertains to the prohibition of child labour, commits an offence and is liable on summary conviction to a fine not exceeding US\$10,000 or to a term of imprisonment not exceeding three years, or both.⁹⁸¹

Penalties for non-enrolment and non-attendance at school

412. Some countries have also adopted penalties to which parents may be liable when their children are not enrolled or do not attend school. For example, the Committee noted that an Education Bill, subsequently enacted as the Education Act, makes primary school free and compulsory in *Lesotho*, and that this Bill includes sanctions for parents if they do not send their children to school.⁹⁸² Similarly, the Education Act of *Jamaica* imposes fines or penalties of imprisonment in case of violations of the provisions regarding compulsory education, and in *Morocco*, the Dahir of 13 November 1963 on compulsory

⁹⁷⁹ See, for example, *Belize* – CEACR, direct request, 2006; *Brazil* – CEACR, direct request, 2005; *Central African Republic* – CEACR, observation, 2010; *China (Macau Special Administrative Region)* – CEACR, direct request, 2005; *Djibouti* – CEACR, direct request, 2009; *Egypt* – CEACR, direct request, 2005; *El Salvador* – CEACR, direct request, 2005; *Estonia* – CEACR, direct request, 2011; *Fiji* – CEACR, direct request, 2006; *Hungary* – CEACR, direct request, 2009; *Israel* – CEACR, direct request, 2011; *Lao People’s Democratic Republic* – CEACR, direct request, 2010; *Lebanon* – CEACR, direct request, 2008; *Lithuania* – CEACR, direct request, 2002; *The former Yugoslav Republic of Macedonia* – CEACR, direct request, 2011; *Mauritania* – CEACR, direct request, 2005; *Republic of Moldova* – CEACR, direct request, 2010; *Montenegro* – CEACR, direct request, 2010; *Oman* – CEACR, direct request, 2008; *Qatar* – CEACR, direct request, 2009; *Romania* – CEACR, direct request, 2004; *Senegal* – CEACR, direct request, 2006; *Serbia* – CEACR, direct request, 2006; *Singapore* – CEACR, direct request, 2008; *Sri Lanka* – CEACR, direct request, 2004; *Sudan* – CEACR, direct request, 2007; *Thailand* – CEACR, direct request, 2010; *Trinidad and Tobago* – CEACR, direct request, 2009; *Turkey* – CEACR, observation, 2006; *United Arab Emirates* – CEACR, direct request, 2010; *United Republic of Tanzania* – CEACR, direct request, 2007; and *Viet Nam* – CEACR, direct request, 2006. In its report submitted under art. 19 of the ILO Constitution, the Government of Australia provided information about a variety of penalties to which persons who violate the laws pertaining to the employment of children, such as the minimum age for admission to work and the prohibition of hazardous work, are liable according to each province’s legislation, and which are accumulated through a system of penalty units. Similarly, in its report submitted under art. 19, the Government of the United States indicated that for child labour violations, employers are subject to a civil monetary penalty of up to US\$11,000 per worker for each violation of the child labour provisions. In addition, employers are subject to a civil monetary penalty of US\$50,000 for each violation that causes the death or serious injury of any minor employee – such penalties may be doubled, up to US\$100,000, when the violations are determined to be wilful or repeated.

⁹⁸⁰ *Côte d’Ivoire* – CEACR, observation, 2011.

⁹⁸¹ *Grenada* – CEACR, direct request, 2007.

⁹⁸² *Lesotho* – CEACR, observation, 2011.

schooling, as amended by Act No. 04.00 of 25 May 2000, requires parents to enrol their children in school, failing which they face penalties.⁹⁸³

Issues of application regarding penalties

Absence of penalties in national legislation

413. Certain countries have indicated that, according to their legislation, persons who violate the national provisions giving effect to the Convention commit an offence, but their legislation has not established the specific penalties applicable in cases of violation, or has not provided penalties for every potential child labour offence. In these cases, the Committee has requested the governments concerned either to indicate the provisions which establish penalties for breaches of the provisions giving effect to the Convention,⁹⁸⁴ or to take measures to establish such penalties in order to ensure the effective enforcement of the Convention.⁹⁸⁵

Insufficiently deterrent penalties

414. Moreover, while it is up to each country to determine its own penalties, some have established sanctions that are not dissuasive enough to ensure the enforcement of the Convention and deter employers from resorting to child labour, and are therefore inadequate. In such cases, the Committee has requested the governments concerned to take the necessary measures to adopt legislation that will establish appropriate and effective penalties for violations of the provisions relating to child labour.⁹⁸⁶ For example, in *Kuwait*, after noting that the fines imposed on employers violating the provisions of Act No. 38 of 1964 on labour in the private sector were low and inviting the Government to take measures to revise and increase those penalties in accordance with *Article 9(1)* of the Convention, the Committee subsequently noted that the draft Labour Law included harsher sanctions than the ones set out in the previous Labour Code.⁹⁸⁷ Moreover, in order to assess the adequateness of the penalties established by some member States, the Committee has requested governments to provide information on the application of these penalties in practice in cases of violations of the provisions on the employment of children and young persons, including the number and nature of the

⁹⁸³ *Jamaica* – CEACR, direct request, 2009; and *Morocco* – CEACR, observation, 2010. Similarly, in its report submitted under art. 19 of the ILO Constitution, the Government of New Zealand indicated that the Education (National Standards) Amendment Act of 2008 introduced increased penalties for non-enrolment and non-attendance at school. Section 24 increases the maximum financial penalty for non-enrolment of compulsory school-age children from NZD\$1,000 to NZD\$3,000, and section 29 increases the financial penalty for irregular attendance from NZD\$150 to NZD\$300 for a first offence and from NZD\$400 to NZD\$3,000 for a second or subsequent offence. Furthermore, an offender of the Health and Safety in Employment Act is liable to a fine up to NZD\$250,000.

⁹⁸⁴ *Azerbaijan* – CEACR, observation, 2011; *Belarus* – CEACR, observation, 2007; *Bosnia and Herzegovina* – CEACR, direct request, 2011; *Burkina Faso* – CEACR, direct request, 2009; and *Paraguay* – CEACR, direct request, 2011. In its report submitted under art. 19 of the ILO Constitution, the Government of Bangladesh indicated that the use of all forms of child labour is prohibited by virtue of section 4 of the Bangladesh Labour Act of 2006 and that the breach of this provision is a punishable offence, as envisaged under section 284 of the Act. The Government of Canada also indicates, in its report under art. 19, that all provincial jurisdictions have appropriate enforcement and penalty provisions under occupational safety and health and employment standards legislation.

⁹⁸⁵ *Czech Republic* – CEACR, direct request, 2011.

⁹⁸⁶ See, for example, *Bahamas* – CEACR, direct request, 2009; *Burundi* – CEACR, direct request, 2010; *Kyrgyzstan* – CEACR, direct request, 2010; *Mongolia* – CEACR, observation, 2010; and *Nigeria* – CEACR, direct request, 2010.

⁹⁸⁷ *Kuwait* – CEACR, observation, 2008.

penalties imposed.⁹⁸⁸ The Committee requests the governments concerned to adopt penalties that are sufficiently dissuasive.

Statistical information

Global picture

Incidence of child labour in the world

The Global Report of 2010 indicates that, in general, child labour in the age group 5–17 years has continued to decline over the last four years. However, the rate of decline has slowed down and child labour was still affecting 215 million children in the world in 2008. In the age group 5–14 years, there were 153 million children engaged in child labour in 2008.¹ Little more than one third of them, that is to say 53 million or 4.3 per cent of all children aged 5–14, were involved in hazardous activities, and approximately 63 million, or 16.9 per cent of all children aged 15–17, were involved in hazardous work.² Between 2004 and 2008, a decline of 10 per cent in the number of children aged 5–14 in child labour and a decline of 31 per cent in the number of these children engaged in hazardous work was observed in all regions,³ except for sub-Saharan Africa.⁴ In contrast, the trends for the older age group (15–17 years old) reversed, as child labour in this age group increased globally by 20 per cent between 2004 and 2008.⁵ As for regional estimates, the Global Report of 2010 highlights that the Asia and the Pacific region has the largest numbers of child labourers aged 5–17 years (113.6 million), followed by sub-Saharan Africa (65.1 million) and Latin America and the Caribbean (14.1 million). However, in terms of relative extent, the incidence of child labour is more prevalent in sub-Saharan Africa, where one-in-four children and adolescents are child labourers, compared to around one-in-eight in Asia and the Pacific and one-in-ten in Latin America and the Caribbean.⁶

¹ *Accelerating action against child labour*, op. cit., para. 22, and table 1.1. ² *ibid.* ³ *ibid.*, para. 24 and table 1.1. ⁴ *ibid.*, para. 33 and table 1.5. In sub-Saharan Africa, the number of children in employment increased from 49.3 million to 58.2 million between 2004 and 2008. ⁵ *ibid.*, para. 25 and table 1.1. ⁶ *ibid.*, para. 30.

Achieving universal primary education by 2015:

A global overview⁹⁸⁹

415. The goal of universal primary education by 2015 is a key target of the global community under the umbrella of the Millennium Development Goals. This provides an important opportunity to maximize respect for ILO Conventions with regard to the protection of children. In its General Report in 2009, the Committee devoted a section to highlights relating to Convention No. 138 in which it emphasized that the primary school attendance rate is one of the factors that is bound to influence the situation of children who are compelled to work. In this regard, the Committee has analysed trends in school enrolment, attendance and drop-out rates in respect of children under the minimum age and the relationship between progress towards achieving education for all and the progressive elimination of child labour.

⁹⁸⁸ See, for example, *Armenia* – CEACR, direct request, 2011; *Benin* – CEACR, direct request, 2005; *Colombia* – CEACR, observation, 2011; *Cuba* – CEACR, direct request, 2011; *Gambia* – CEACR, direct request, 2010; *Hungary* – CEACR, direct request, 2009; *Latvia* – CEACR, direct request, 2010; *Pakistan* – CEACR, observation, 2011; *Paraguay* – CEACR, direct request, 2011; *Saint Kitts and Nevis* – CEACR, direct request, 2011; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; *Sao Tome and Principe* – CEACR, direct request, 2011; *Swaziland* – CEACR, direct request, 2007; and *Uganda* – CEACR, direct request, 2010.

⁹⁸⁹ The information provided in this section is drawn from UNESCO *Education for All Global Monitoring Report 2011: The hidden crisis: Armed conflict and education* (Paris, 2011), pp. 40–41.

416. According to the UNESCO *Education for All Global Monitoring Report 2011*, there has been rapid progress in the past decade towards the goal of universal primary education.⁹⁹⁰ Between 1999 and 2008, the net primary enrolment rate increased globally by 7 per cent. However, the rate of progress appears to have slowed down between 2004 and 2009. There were globally 68 million children out of school in 2008 and, despite the progress made in sub-Saharan Africa and South-West Asia, 69 per cent of all out-of-school children still live in these two regions. The 15 countries with the largest out-of-school population of children in 2008 are mostly developing countries, but also include middle-income countries.⁹⁹¹

General picture of the situation in practice in member States

Measuring the magnitude of child labour

417. Statistical information on the number of children working is available for a considerable number of member States. In most cases, this information is either provided by national child labour or labour force surveys conducted by national institutes of statistics, IPEC–Statistical Information and Monitoring Programme on Child Labour (SIMPOC), IPEC studies, UNICEF Multiple Indicator Cluster Surveys (MICS) or Understanding Children’s Work (UCW) country reports.⁹⁹² In their reports supplied under article 19 of the ILO Constitution, the Governments of Australia and Bangladesh also indicated that surveys on child labour have been recently conducted.

418. Furthermore, the Committee has recently noted that new surveys were about to be conducted or data compiled in the following countries: *Albania, Belize, Chile, Egypt, Malawi, Niger, Pakistan and Zimbabwe*.⁹⁹³ In the cases of *Mozambique and Trinidad and Tobago*, child labour surveys are planned to be conducted in the near future.⁹⁹⁴

419. However, in some countries, the Committee has found that statistical information on the employment of children and young persons is lacking and has therefore encouraged the governments concerned to take the necessary measures to ensure that sufficient up-to-date data on the situation of working children is made available.⁹⁹⁵

⁹⁹⁰ Great strides have been made in sub-Saharan Africa and South-West Asia. In the past decade, Sub-Saharan Africa has increased its net primary enrolment ratio by 31 per cent and drop-out rates have decreased by 32 per cent, while the number of out-of-school children has halved in South-West Asia.

⁹⁹¹ These are Bangladesh, *Brazil, Burkina Faso, Ethiopia, Ghana, India, Kenya, Mozambique, Niger, Nigeria, Pakistan, Philippines, South Africa, Thailand* and *Yemen*.

⁹⁹² The UCW Programme is an inter-agency research cooperation initiative involving the ILO, UNICEF and the World Bank.

⁹⁹³ See *Albania* – CEACR, observation, 2011; *Belize* – CEACR, direct request, 2011; *Chile* – CEACR, direct request, 2011; *Egypt* – CEACR, observation, 2011; *Malawi* – CEACR, observation, 2011; *Niger* – CEACR, observation, 2011; *Pakistan* – CEACR, observation, 2011; and *Zimbabwe* – CEACR, observation, 2011.

⁹⁹⁴ See *Mozambique* – CEACR, direct request, 2010; and *Trinidad and Tobago* – CEACR, direct request, 2011.

⁹⁹⁵ See *Chad* – CEACR, direct request, 2010; *Estonia* – CEACR, direct request, 2011; *Gambia* – CEACR, direct request, 2010; *Jamaica* – CEACR, direct request, 2011; *Kazakhstan* – CEACR, direct request, 2011; *Malaysia* – CEACR, observation, 2010; *Republic of Moldova* – CEACR, direct request, 2010; *Netherlands* – CEACR, direct request, 2010; *Paraguay* – CEACR, direct request, 2011; *Saint Kitts and Nevis* – CEACR, direct request, 2011; *Saint Vincent and the Grenadines* – CEACR, direct request, 2010; *Sudan* – CEACR, direct request, 2010; *Trinidad and Tobago* – CEACR, direct request, 2011; and *Bolivarian Republic of Venezuela* – CEACR, observation, 2011.

Magnitude of child labour

420. With regard to cases of progress, in *Turkey*, the percentage of working children between the ages of 6–14 fell from 8.8 per cent in 1994 to 5.1 per cent in 1999 and to 2.6 per cent in 2006.⁹⁹⁶ In *Kenya*, the incidence of child labour decreased from 1.9 million in 1998 to 951,273 in 2005, and in *Nicaragua* child labour has fallen by around 6 per cent since 2000.⁹⁹⁷

421. ***However, in some countries the incidence of child labour is relatively high and often affects one in three children or even more.***⁹⁹⁸ ***Moreover, in a few countries, child labour even affects more than one in two children.***⁹⁹⁹

422. ***In such cases, the Committee must express its serious concern at the high number of children working under the minimum age and accordingly strongly urges the governments concerned to intensify their efforts to tackle the situation of child labour in the country and put an end to the economic exploitation of children.***

Education

423. The Committee has observed that in some countries more children have been integrated into the educational system in recent years, thus contributing to the fight against child labour. For example, according to the UNESCO 2010 *Education for All Global Monitoring Report*, *Benin* is one of the countries that has made the most rapid progress towards the objective of universal primary education.¹⁰⁰⁰ The Committee has also observed that the total number of out-of-school children at primary school age has

⁹⁹⁶ *Turkey* – CEACR, observation, 2011.

⁹⁹⁷ See *Kenya* – CEACR, observation, 2010; and *Nicaragua* – CEACR, observation, 2009.

⁹⁹⁸ For example, UNICEF statistics indicate that 29 per cent of children between the ages of 5–14 years are engaged in work in *Togo*. See *Togo* – CEACR, observation, 2011. Recent national surveys have revealed that nearly one third of children under 11 years of age were engaged in child labour out of which two-thirds undertook hazardous activities in *Benin* in 2008; more than 30 per cent of children in the 10–14 age group were economically active in *Madagascar* in 2007; and 31.1 per cent of children aged from 5 to 14 years were involved in economic activity in *Uganda* in 2005. See *Benin* – CEACR, direct request, 2011; *Madagascar* – CEACR, observation, 2010; and *Uganda* – CEACR, direct request, 2010. The *Malawi* MICS for 2006 indicates that over 30 per cent of children between 5 and 14 years, i.e. 1.4 million children, are involved in an economic activity. See *Malawi* – CEACR, observation, 2011. In *Côte d'Ivoire*, approximately 35 per cent of children between 5–14 years were working in 2008 according to UNICEF statistics and, according to ILO statistics for 2000, over 36 per cent of children between 10–14 years of age were economically active in 2000 in *Chad*. See *Côte d'Ivoire* – CEACR, observation, 2011; and *Chad* – CEACR, direct request, 2010. Finally, 42 per cent of children between the ages of 5–14 years were involved in child labour in *Zimbabwe* in 2004 and, according to the ILO–IPEC Rapid Assessment Survey, 68 per cent of child agricultural workers surveyed and 53 per cent of child domestic workers surveyed were 14 years old and younger. See *Zimbabwe* – CEACR, observations, 2008 and 2011.

⁹⁹⁹ This is particularly the case of *Cameroon*, where 51 per cent of children aged 10 to 14 years are working according to a national survey on child labour published in 2008; *Central African Republic*, where 57 per cent of children between the ages of 5 and 14 years are engaged in work according to UNICEF statistics for 2007; *Mali*, where the National Survey Report on child labour of 2005 shows that 65.4 per cent of children between the ages of 5 and 14 years are engaged in work; and *Ethiopia*, where the Committee has noted with serious concern that according to a National Child Labour Survey of 2001, 84.5 per cent of the child population were engaged in economic activities and 81.2 were under the age of 15. See *Cameroon* – CEACR, observation, 2011; *Central African Republic* – CEACR, observation, 2010; *Mali* – CEACR, direct request, 2010; and *Ethiopia* – CEACR, observation, 2010.

¹⁰⁰⁰ See *Benin* – CEACR, direct request, 2011.

dropped from 1,574,000 children in 1999 to 954,000 in 2006 in *Mozambique* and from 3.4 per cent in 1998 to 1.6 per cent in 2008 in *Tunisia*.¹⁰⁰¹

Differences in enrolment rates between boys and girls

424. Even though important advances have been registered in the past decade, the situation remains alarming and a large number of countries are far from reaching the goal of universal primary education by 2015. Among the difficulties observed, the Committee has noted that there is an important gap between school enrolment ratios for girls and boys.¹⁰⁰²

Enrolment rates in primary and secondary education and out-of-school children

425. In other countries, while the enrolment rate in primary education is relatively high, in secondary education it is very low, even though children of secondary education age may be under the minimum age for admission to employment or work.¹⁰⁰³ Finally, in some countries a very high proportion of school-age children are not attending school.¹⁰⁰⁴

426. Considering that free and compulsory education is one of the most effective means of combating child labour, the Committee calls on the governments concerned to take the necessary measures to improve the functioning of the education system, in particular by increasing school enrolment and attendance rates of both boys and girls under the minimum age for admission to employment or work at the primary as well as the secondary level, so as to prevent the engagement of these children in child labour.

¹⁰⁰¹ See *Mozambique* – CEACR, direct request, 2010; and *Tunisia* – CEACR, direct request, 2010.

¹⁰⁰² This is the case in *China*, where two-thirds of non-enrolled school-age children are girls; in *Côte d'Ivoire*, where the net school attendance rate in primary education is 66 per cent for boys compared to 57 per cent for girls and 32 per cent for boys in secondary school compared to only 22 per cent for girls; and in *Yemen*, where the overall gross enrolment rate was 83 per cent for boys, and only 64 per cent for girls in 2007–08. See *China* – CEACR, observation, 2011; *Côte d'Ivoire* – CEACR, observation, 2011; and *Yemen* – CEACR, direct request, 2010.

¹⁰⁰³ This was found in *Mauritania*, where only 15 per cent of girls and 16 per cent of boys are enrolled in secondary education, and in *Uganda*, where the net enrolment rate in primary education is 95 per cent, while the net enrolment rate in secondary education is only 23.5 per cent. See *Mauritania* – CEACR, observation, 2010; and *Uganda* – CEACR, observation, 2010.

¹⁰⁰⁴ For example, in *Lesotho*, where there were approximately 100,000 out-of-school children between the ages of 6–12 in 2007; in *Philippines*, where the number of children who are not able to go to school is increasing and is estimated at 4.2 million; and in *Oman*, where the total number of out-of-school children rose from 61,000 in 1999 to 82,000 in 2006. See *Lesotho* – CEACR, observation, 2011; *Philippines* – CEACR, observation, 2010; and *Oman* – CEACR, observation, 2010.