

after they were found to be "not guilty" by the Public Service Disciplinary Board. It states that under the terms of the 1977 Regulations, disciplinary proceedings do not end before the Board, but the Board is required (under Regulation 17) to communicate its findings to the Public Service Commission. The final decision is then taken by the Prime Minister, acting on the recommendation of the Commission in accordance with article 113 of the Constitution of the Republic of Malta. The Government confirms that the Public Service Commission had made no recommendations regarding the disciplinary cases in question.

142. As regards the other allegations, the Government states that the Joint Negotiating Council established under the Industrial Relations Act of 1976 has in fact been dealt with previously by the Committee on Freedom of Association (Case No. 949) as well as by the Committee of Experts on the Application of Conventions and Recommendations. It explains that the latest position is as follows: as the Joint Negotiating Council is a top negotiating body on which groups of unions are represented, and as the present law only recognises individual trade unions and not groups of unions, the unions have held discussions about the proposed establishment of a recognised body to represent them as a group; they did not however reach agreement, thus presenting the Government with a major difficulty in the setting up of the Council. In its annual report on Convention No. 87, the Government states that the question is being actively studied.

143. As regards the alleged curtailment of vacation leave entitlement and the abolition of a number of public holidays, the Government states that when the number of public holidays was reduced, the minimum annual vacation leave entitlements of the great majority of government employees was raised to four working weeks by appropriate amendments to the wage regulation orders.

144. As regards the 1977 amendment to the Industrial Relations Act, the Government states that the complainant's interpretation is incorrect. This legislation specifically lists those posts, the occupants of which are required to provide an essential service; these posts are few in number, of a senior nature and have to be manned at all times for the continued provision of essential services to the community.

145. The Government states that the complainant is incorrect in asserting that the amendment to the Code of Organisation and Civil Procedures restricts the right of public service employees to seek legal redress on any matter concerning their conditions of employment. On the contrary, it explains that the procedure as amended helps to expedite the administration of justice and does not in any way diminish the right of public officers to seek legal redress on such matters.

146. Finally, the Government states that the complainant has misinterpreted the Foreign Interference Act of 1982. It encloses a copy of the Act, section 2 of which defines "foreign activity" to mean anything done by, or sponsored, promoted or in any manner whatsoever assisted or encouraged by, any foreign person and includes in particular, ..., the provision of money, equipment or other material or thing whatsoever, but does not include an activity which is purely commercial or industrial ... The Government

explains that this Act prevents undue foreign political interference in the internal affairs of Malta, but is not meant to restrict international trade union solidarity. It points out that the Confederation of Trade Unions met with no restrictions when it invited the Executive Committee of the World Confederation of Labour to hold a meeting in Malta during October 1982, one month after the entry into force of this Act.

C. The Committee's conclusions

147. This case concerns allegations of anti-union reprisals taken against government employees after absences from work on 29 June 1982 and, more generally, the adoption of anti-union legislation.

148. The Committee notes that, according to the complainant, disciplinary action was instituted against teachers, public employees and employees of parastatal organisations for having taken a day off or for having reported themselves ill on 29 June in response to a call for such action by an opposition political party. Without going into the question of the forced signature of declarations in lieu of disciplinary procedures, or even when such procedures had terminated, the Committee must first point out that the complainant does not claim that the absences from work on 29 June were connected with trade union activities, nor does it claim that only members of its affiliate were victimised. On the contrary, the complainant itself states that its affiliate and other trade unions did not support or oppose the political party's directive. The Committee notes, furthermore, that the Government explains in detail the way in which disciplinary procedures were instituted and emphasises the reinstatement of suspended public employees who signed, of their own free will, certain declarations. In view of the lack of evidence proving that such action was taken against trade unionists for trade union activities, the Committee considers that this aspect of the case does not call for further examination.

149. As regards the allegations concerning the Industrial Relations Act, 1976 and the 1977 amendments thereto, the Committee notes that it has already examined this question in the context of Case No. 949.¹ It refers to its conclusions adopted in that case, in particular, that while the refusal to permit or encourage the participation of trade union organisations in the implementation of new legislation or regulations affecting their interests does not necessarily constitute an infringement of trade union rights, the principles of consultation and co-operation between public authorities and workers' organisations at the national level is one to which importance should be attached. The Committee would also recall its previous statement as regards the 1977 amendments, to the effect that the right to strike could be restricted or even prohibited in the civil service or in essential services in the strict sense of the term, i.e. services whose interruption would endanger the existence or well-being of the whole or part of the

¹ See 202nd Report, paras. 263 to 281, approved by the Governing Body at its 213th Session (May-June 1980).

population. On this criterion it considers that the Schedule to the Act in question - as it stands - does not constitute an infringement of freedom of association.

150. As regards the 1981 amendments to the Code of Organisation and Civil Procedure Act, the Committee considers that the creation of a commission to regulate the professional conduct of lawyers does not violate the principles of freedom of association and, moreover, new section 743(5) providing that government employment shall be regulated by special provisions and by such laws as so provide does not in itself discriminate against public servants.

151. The Committee is of the opinion that the Foreign Interference Act of 1982, in broadly defining "foreign activity", could be interpreted in such a manner as to restrict the freedom, guaranteed by Article 5 of Convention No. 87, ratified by Malta, to join and undertake activities with confederations of trade union organisations whether within the country or without. However, in view of the Government's explanation that, in practice, the Act has not at all interfered in trade union affiliation or activities, the Committee does not intend to pursue this question.

The recommendations of the Committee

152. In these circumstances, the Committee recommends the Governing Body to approve this report, in particular the following conclusions:

- (a) The Committee considers that the action taken against public employees for having absented themselves from work on 29 June 1982 in response to a political directive does not call for further examination.
- (b) As regards the allegations concerning the Industrial Relations Act of 1976 and the 1977 amendments thereto, the Committee refers to the conclusions it reached on the same issue in Case No. 949, in particular as regards the refusal to permit or encourage the participation of trade union organisations in the implementation of new legislation or regulations affecting their interests.
- (c) The Committee considers that, as regards the allegations relating to the recent amendments to the Code of Organisation and Civil Procedure Act and the Foreign Interference Act, these do not call for further examination.

Case No. 1165

COMPLAINTS PRESENTED BY THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, THE JAPANESE CONFEDERATION OF LABOUR, THE GENERAL COUNCIL OF TRADE UNIONS OF JAPAN AND VARIOUS OTHER TRADE UNION ORGANISATIONS AGAINST THE GOVERNMENT OF JAPAN

153. Complaints concerning violations of trade union rights in Japan were presented on 5 October 1982 by the International Confederation of Free Trade Unions (ICFTU), the Japanese Confederation of Labour (DOMEI) and the National Council of Government and Public Corporation Workers' Unions and on 12 October 1982 by the Public Services International (PSI), the World Confederation of Organisations of the Teaching Profession (WCOTP), the International Federation of Free Teachers Unions, the Japan Teachers Union, the Japan Confederation of National Public Service Employees Unions, the Agriculture Forestry Ministry's Workers' Union, the General Council of Trade Unions of Japan (SOHYO) and the All-Japan Prefectural and Municipal Workers Union. Further information relating to the complaints was provided by the following organisations: the WCOTP (on 14 October 1982), the DOMEI (28 October 1982 and 8 February 1983), the SOHYO jointly with four of the national complainant organisations (10 November 1982). On 22 November 1982 the Japan Senior High School Teachers' Union presented a similar complaint against the Government of Japan. The Government replied in a communication received by the ILO on 4 February 1983.

154. Japan has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); it has not ratified the Labour Relations (Public Service) Convention, 1978 (No. 151).

A. The complainants' allegations

155. In their various letters, the complainants allege that the Government has violated the principles of freedom of association by deciding against implementation of the 1982 salary increase recommendation made by the National Personnel Authority (NPA), an independent body which was set up under the National Public Service Law to make recommendations concerning wages as compensation for the lack of the right to bargain collectively and to strike of public servants in Japan. Several of the complainants also allege that the 1981 NPA recommendation was not fully implemented. The WCOTF complains that this measure is particularly unfair to teaching staff, who, in its opinion, should not be covered by the National Public Service Law in any case.

156. The complainants explain the background to the situation as follows: in March 1982 they presented claims for salary increases to be implemented from April 1982 to the NPA, the Government and the local authorities as employers; the Government's response of 14 and 19 April (copies of which are supplied) states that "sincere efforts" will be made to implement this year's NPA

recommendations "notwithstanding the tight fiscal situation and other difficulties"; on 6 August the NPA recommended that salaries and wages of national public servants should be increased by 4.58 per cent per person per month, backdated to 1 April 1982; some of the complainants did not consider this a satisfactory increase but urged the Government to implement it speedily and in full; on 24 September the Government - without any consultation with the public service unions - decided to defer indefinitely the recommended salary revision. The complainants supply copies of a statement issued by the President of the NPA in which he deeply regrets the decision as it ignores the fact that the NPA system compensated for the restriction of the trade union rights of public employees. In this connection the complainants stress that, apart from the already-mentioned restrictions on the trade union rights of public service employees, the relevant legislation contains no provisions relating to conciliation or arbitration procedures. Moreover, according to the complainants, the situation is near to impossible as the Government's draft budget of October 1982 reduces wages funds.

157. In conclusion the complainants point out that the Government had, in the past, respected and fully implemented the NPA's recommendations and that a refusal of them now in view of the already existing restrictions on the trade union rights of public servants violates Conventions Nos. 98 and 151.

B. The Government's reply

158. In its communication received on 4 February 1983, the Government states that it firmly maintains the basic policy of respecting recommendations by the NPA - which it considers to be a fully compensatory measure counterbalancing restrictions on the trade union rights of public employees - and has so far made the utmost efforts to implement them. However, it points out that the decision to withhold the recommended wage increase for 1982 is an extremely exceptional measure due to the Government's unprecedentedly critical financial situation.

159. According to the Government, on three occasions the Conference of Cabinet Ministers Concerned With Pay met (6 August and 1 and 20 September 1982) to examine the way the recommendation was to be handled, but the decision was taken on 24 September to withhold its implementation in view of the fact that the national public employees are expected to show their readiness to co-operate in reform during the critical financial situation and in view of the fact that the pay gap between these workers and private sector workers was less than 5 per cent. (The Government points out that pay for its own Cabinet members has not been increased since 1978 and in November 1982 all Cabinet members agreed to return to Treasury 10 per cent of their present salary.) It states that this difficult decision was made after several meetings with the organisations of the workers concerned; 34 took place between 3 March and 4 October according to a list supplied by the Government. The Government confirms that the Diet approved the Government's budget on 25 December 1982, no provision being made for implementation of the NPA's recommendation.

160. As regards the particular complaint of the WCOTF, the Government states that public servants as referred to in Article 6 of Convention No. 98 are considered in Japan to be those who "benefit from statutory terms and conditions of service" so that public employees in the non-operational sectors, such as teachers, are considered not to be covered by the Convention.

161. The Government presents detailed statistics as evidence of the severe financial situation facing the Japanese nation in 1982, including such problems as massive dependency upon deficit-covering bonds and a shortfall of tax revenue. It states that the solution of these problems will, in the long run, secure and improve the standard of living of all workers, including public servants. In addition, the Government states that a system of periodic once-a-year pay increments applies to national public employees (except a small proportion such as those who have been subjected to disciplinary punishment) and that in 1982 the increment represented a little over 2 per cent, which almost corresponds to the 2.8 per cent increase in consumer prices.

162. The Government concludes by stressing that it will make the utmost efforts not to repeat such measures and that the 1982 decision does not mean a denial either of the inherent significance of the role or of the system of NPA recommendations.

C. The Committee's conclusions

163. The Committee notes that this case concerns the non-implementation by the Government of a recommendation by the National Personnel Authority to increase, by 4.58 per cent, the wages of national public servants in the non-operational sector of the public service with effect from 1 April 1982. According to the complainants, the failure to implement the recommendation fully and promptly constitutes an infringement of the principles of freedom of association and, in particular, of those guarantees which should be provided where the right to strike and to bargain collectively is prohibited in the civil service or in essential services. For its part, the Government argues that, in conformity with ILO principles, recommendations of the NPA have always been fully implemented in the past, and that every effort will be made to do so in the future. For the year 1982, however, the exceptional decision not to implement the NPA recommendation was necessitated by the existence of a critical financial situation.

164. The Committee considers it appropriate to recall in the present case, as it has done in similar cases concerning Japan,¹ that whenever such basic rights as the right to bargain collectively or to strike in essential services, or in the civil service, are forbidden or subject to restriction - as in the case in question - adequate guarantees, such as speedy and impartial conciliation and arbitration procedures in which the parties can take part at every

¹ See, for example, 139th Report, Cases Nos. 737 to 744, para. 122; Case No. 724, para. 330; 142nd Report, Cases Nos. 745, 753 and 755, para. 125.

stage and in which the awards, once made, are fully and promptly implemented, should be ensured to safeguard to the full the interests of the workers thus deprived of an essential means of defending their occupational interests.

165. As regards the category of public servants affected by recommendations of the National Personnel Authority, the Committee notes that, in addition to being denied the right to strike, they do not enjoy any right to participate in any negotiating machinery for the determination of their terms and conditions of employment, including wages. The sole compensatory factor for the denial of these rights would appear to be the existence of the National Personnel Authority and the benefits that the workers enjoy as a result of the implementation of the recommendations of that Authority to increase wages. The adequacy of this compensatory factor, accordingly, depends on the full and prompt implementation of wage increases recommended by the National Personnel Authority, a principle that has been recognised by the Supreme Court of Japan itself. It appears to the Committee that in the past the recommendations of the National Personnel Authority and their subsequent implementation by the Government have provided the workers concerned with compensation for the restrictions placed on their trade union rights.

166. In the present case, the Committee notes that the Government's decision to withhold implementation of the NPA recommendation for salary increases in 1982 was endorsed by the Diet when, on 25 December 1982, a revised budget containing no provision for implementation of the NPA's recommendation was adopted. It therefore appears that no useful purpose would be served in requesting the Government to reconsider its position with regard to this particular recommendation of the NPA.

167. The Committee notes the Government's assurances that it firmly maintains its basic policy of respecting the recommendations of the NPA, that the non-implementation of these recommendations in 1982 was an exceptional measure taken in an unprecedentedly critical state of the national economy, and that the Government intends to do its utmost to avoid the repetition of such measures in the future.

168. The Committee, while regretting that the National Personnel Authority's recommendation has not been implemented in 1982, expresses the firm hope that future recommendations of the NPA will be fully and promptly implemented, thereby ensuring to the public employees concerned a measure of compensation for the restrictions placed on their trade union rights as regards collective bargaining and the right to strike.

The Committee's recommendations

169. The Committee recommends the Governing Body to approve this report and, in particular, the following conclusions:

- (a) The Committee recalls the principle that whenever such basic rights as the right to bargain collectively or to strike in essential services or in the civil service are forbidden or

subject to restriction - as in the case in question - adequate guarantees, such as speedy and impartial conciliation and arbitration procedures in which the parties can take part at every stage and in which the awards, once made, are fully and promptly implemented, should be ensured to safeguard to the full the interests of the workers thus deprived of an essential means of defending their interests.

- (b) The Committee notes the Government's assurances that it firmly maintains its basic policy of respecting the recommendations of the National Personnel Authority and that it intends to do its utmost to respect them in the future.
- (c) The Committee regrets that the recommendation of the National Personnel Authority has not been implemented in 1982 and expresses the firm hope that future recommendations of the NPA will be fully and promptly implemented, thereby ensuring to the public employees concerned a measure of compensation for the restrictions placed on their trade union rights as regards collective bargaining and the right to strike.

CASE IN WHICH THE COMMITTEE REQUESTS TO BE KEPT
INFORMED OF THE DEVELOPMENTS

Case No. 1037

COMPLAINT PRESENTED BY THE WORLD FEDERATION OF TRADE
UNIONS AGAINST THE GOVERNMENT OF SUDAN

170. The Committee examined this case at its meeting in February 1982 and submitted an interim report to the Governing Body.¹

171. Sudan has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); it has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

172. After the Committee's examination of this case in February 1982 the following allegations remained outstanding: the dismissal, around June 1981, of some 124 workers - apparently all public servants serving in various ministries or in schools and the railways - during a wave of anti-union repression carried out by the Government and the dissolution by administrative decree of the agronomists' trade union and the railway workers' trade union in May 1981.

¹ See 214th Report, paras. 575 to 584, approved by the Governing Body at its 219th Session (March 1982).

173. In its previous examination of the case, the Committee noted that the Government had stressed the need to have the precise names of the persons alleged by the complainant to have been dismissed, but in view of the seriousness of the allegations, it requested the Government to send its observations even if detailed investigations into the incidents had not yet been carried out.

B. The Government's reply

174. In its communication of 14 January 1983, the Government states that the Agronomist Trade Union formed, on 25 February 1982, a preparatory eight-man election committee and the elections for the union were completed on 3 July 1982, the Executive Committee being elected under the chairmanship of Mr. Mahdi Osman Elmardi with Mr. Abdalla Mohamed Ahmed Abustin as its Secretary-General. According to the Government, the Agronomist Trade Union is practising its domestic and international activities in full freedom and it is a member of the Executive Committee of the Sudan Federation of Employees and Professionals Trade Unions.

175. The Government further states that the Sudan Railways Preparatory Elections Committee, formed on 24 June 1982, completed all the electoral procedures and elections started on 5 January 1983; the list of names of eligible voters and contestants has been published and the results will be announced in the first week of February 1983. The Government states that it will communicate the results to the ILO.

C. The Committee's conclusions

176. The Committee, while noting the information provided by the Government that elections - apparently freely organised by trade union election committees - have recently taken place in the two organisations mentioned by the complainant, observes that no comment is made on the allegation that they were dissolved by administrative decree. It would therefore draw the Government's attention to the importance which it attaches to the generally accepted principle that workers' organisations should not be subject to dissolution by administrative authority.¹ The Committee requests the Government to keep it informed of the results of the February 1983 elections in the Railways Trade Union as soon as these are available.

177. As regards the alleged dismissal of more than 120 public servants around June 1981, the Committee regrets that the Government has not provided any information in this connection. On the other hand, the complainant organisation, although given the opportunity to do so, has not provided the names of the persons who are said to have been dismissed, nor has any evidence been supplied to show that these dismissals were linked with the trade union activities of the

¹ See, for example, 208th Report, Case No. 984 (Kenya), para. 318; 211th Report, Case No. 965 (Malaysia), para. 196.

officials concerned. In these circumstances the Committee would draw the Government's attention to Article 1 of Convention No. 98, ratified by Sudan, which provides for the protection of workers against acts of anti-union discrimination in respect of their employment, in particular against dismissal based on union activities. It trusts that appropriate steps will be taken, where necessary, to reinstate any workers who may have been dismissed on account of trade union activities.

The recommendations of the Committee

178. In these circumstances, the Committee recommends the Governing Body to approve this report, in particular the following conclusions:

- (a) As regards the alleged dismissal of more than 120 public servants around June 1981, the Committee draws the Government's attention to Article 1 of Convention No. 98, ratified by Sudan; it trusts that appropriate steps will be taken, where necessary, to reinstate any worker who may have been dismissed on account of trade union activities.
- (b) The Committee draws the Government's attention to the importance which it attaches to the principle that occupational organisations should not be subject to dissolution by administrative authority; it requests the Government to keep it informed of the results of the February 1983 elections in the Railways Trade Union as soon as they are available.

CASES IN WHICH THE COMMITTEE HAS REACHED INTERIM CONCLUSIONS

Case No. 1040

COMPLAINT PRESENTED BY THE INTERNATIONAL CONFEDERATION
OF FREE TRADE UNIONS AND THE GENERAL UNION OF CENTRAL
AFRICAN WORKERS AGAINST THE GOVERNMENT OF THE
CENTRAL AFRICAN REPUBLIC

179. The Committee already examined this case at its November 1981 and February 1982 meetings, when it presented interim reports to the Governing Body.¹

180. Since then, one of the complainant organisations, the General Union of Central African Workers (UGTC), supplied further information on the case on 27 March 1982. In a cable of 2 April

¹ See 211th Report, paras. 552 to 571, approved by the Governing Body at its 218th Session (November 1981), and 214th Report, paras. 585 to 603, approved by the Governing Body at its 219th Session (March 1982).

1982, the Government regretted that it was unable to supply the information requested by the Committee and assured the Committee that it would do so without delay. At its May 1982 meeting, in the absence of a reply on the substance of the case, the Committee decided to adjourn its examination pending receipt of the additional information and observations of the Government.¹ On 24 August 1982, the ILO sent a cable requesting such information. At its November 1982 meeting, the Committee again decided, in the absence of a reply, to adjourn an examination of the case² and to make an urgent appeal to the Government, pointing out that it would present a report at its next meeting on the substance of the case even if the Government's observations had not been received by then, in accordance with the procedural rules set out in paragraph 17 of its 127th Report.

181. The Committee took note of documentation transmitted by a government representative during the 68th Session of the International Labour Conference in June 1982, relating to the complaints by the ICFTU and the UGTC. The Government sent a communication concerning this case dated 5 January 1983. The ICFTU sent a cable containing a further allegation on 7 February 1983 concerning the arrest of Mr. Sonny Cole, Secretary-General of the UGTC. The Director-General intervened immediately and cabled the Government concerning this allegation.

182. The Central African Republic has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

183. The complaint presented in this case related mainly to the administrative dissolution of the General Union of Central African Workers (UGTC). It also concerned the occupation of the UGTC's premises, the freezing of its assets and the censorship imposed on it, as well as the dismissal of four persons and other disciplinary measures taken against them.

184. The complainants had explained that the UGTC, a trade union organisation affiliated to the ICFTU, with 15,000 members, had been dissolved by a Presidential Decree of 16 May 1981.

185. In addition to its own dissolution by administrative authority, the UGTC alleged that 48 hours earlier a new central trade union organisation, the National Confederation of Central African Workers (CNTC), had been recognised by the Government.

186. The UGTC explained that on 15 May 1981, after due notice had been given, it called a general strike throughout the private

¹ See 217th Report, para. 5, approved by the Governing Body at its 220th Session (May-June 1982).

² See 218th Report, para. 11, approved by the Governing Body at its 221st Session (November 1982).

sector following unsuccessful attempts at collective bargaining with the Government and the employers. The Government had, according to the Union, rejected the list of grievances presented by the workers on the occasion of May Day although the list contained demands relating for the most part to the working conditions of all wage earners.

187. On 16 May 1981, the day after the strike had been called, the President of the Republic dissolved the organisation by decree, on the grounds of its alleged uncompromising attitude in the negotiations with the employers and the Government, its alleged secret dealings abroad and its illegality arising from the trade union monopoly status set out in its constitution.

188. More recently, the UGTC also alleged the dismissal or suspension of a number of trade unionists and attached to its communication a Ministerial Order of 23 May 1981 suspending four senior officials, Mr. Possiti, Mr. Gallo, Mr. Mamadou Sabo and Mr. Sakouma, for dereliction of duty, and a memorandum from the Director of Education relieving Mr. Solamosso, a school headmaster, of his duties. It also enclosed a note from the Ministry ordering the Director-General of the National Savings Bank of Central Africa to block the account of the UGTC.

189. The Government confirmed that the UGTC had been dissolved but explained that, in its opinion, the general strike of 15 May 1981 had no connection with the working conditions of wage earners; the excuse that was seized on to call a strike - which had very little support - was a court case of a political nature being heard under ordinary law. It affirmed that it had dissolved the UGTC, which was exercising a trade union monopoly, in order to allow the Central African workers freely to create the trade unions of their own choosing.

190. In November 1981, the Governing Body noted with concern that the General Union of Central African Workers had been dissolved by administrative authority. It recalled the principles relating to the dissolution of organisations and expressed the firm hope that the Government would, as a matter of priority, rescind the administrative measures by which the UGTC had been dissolved, and requested the Government to keep it informed of developments in the situation.

191. With regard to the allegations concerning the occupation of the premises, the freezing of the assets and the censorship imposed on the UGTC, and the allegations of dismissals or suspensions of workers mentioned by the complainants, the Committee asked the Government to communicate its observations on these aspects of the case and to keep it informed of any measures that might be taken.

192. In its communication of 23 December 1981, the Government reiterated that the UGTC had been dissolved to allow workers the freedom to join or not to join a trade union of their own choosing and stated that, since the dissolution of the UGTC, several central trade union organisations had been set up by the workers themselves: the National Confederation of Central African Workers (CNCA), the Central African Confederation of Free Trade Unions (CCSL) and the Central African Federation of Labour (FCT). It acknowledged that it

had blocked the UGTC's bank accounts as a measure to safeguard the workers' assets and explained that the Bangui Court of First Instance was making an inventory of the assets of the former union and would decide how they were to be allocated to the organisations pursuing the same ends. According to the Government, the suspension of certain officials was a disciplinary measure taken against senior administrative officials found guilty of dereliction of duty, whose professional misconduct constituted lawful grounds for terminating their contracts of employment.

193. At its February 1982 meeting, the Committee accordingly noted that, since the events referred to in the complaint, three central trade union organisations had been established and that the Bangui Court of First Instance was to decide on the transfer of the assets of the former UGTC to organisations pursuing the same ends. It observed that it was not clear from the Government's reply whether one of these organisations corresponded, as far as its aims and international affiliation were concerned, to the former UGTC, and recalled that the workers who had belonged to UGTC should, if they wish, be able to set up an organisation carrying on from the UGTC, provided of course that its by-laws conformed with the law and did not attempt to establish any trade union monopoly.

194. In these circumstances, the Committee requested the Government to supply information on the three new central trade union organisations, in particular on their by-laws and international affiliation if any, and to send it a copy of the judgement of the Bangui court on the transfer of the assets of the former UGTC.

B. Subsequent developments

(a) New allegations

195. In a communication received from Bangui, dated 27 March 1982, the Secretary-General of the UGTC, Mr. Sonny Cole, denounces the Government's replies as groundless. He reiterates that the dissolution of the UGTC was illegal since it was contrary to the Labour Code of 2 June 1961 and to Convention No. 87, ratified by his country, which lays down the principle that a court decision is needed to dissolve or suspend a trade union organisation.

196. According to the complainant, the central trade union organisations to which the Government refers in its communication of 23 December 1981 are sham organisations that represent no one and it would be pertinent to ask whether they have first-degree unions in any undertakings. The complainant reiterates the information already supplied by it to the effect that the CNTC was recognised 48 hours before the UGTC was dissolved by administrative authority. According to it, the CCSL is an attempt to set up a trade union organised by the former Prime Minister Bozanga, an attempt which had previously failed before a meeting of trade union delegates in the CCAM conference hall. The complainant has no knowledge of the third central trade union organisation.

197. Furthermore, according to the complainant, the UGCI lodged a complaint against the Government before the Bangui court,

which was to be heard on 17 March 1982. However, three judges of the Bangui court were arrested, including the President of the Administrative Court.

198. As regards the legal question of the UGCT's dissolution and the transfer of its assets, the complainant points out that article 36 of the organisation's by-laws, registered in 1964, provides that the UGTC may be dissolved only by a congress by a two-thirds majority of the members present or represented and that, in the event of dissolution, its assets are to be transferred to an organisation concerned with social welfare.

199. The complainant hopes that a mission will be sent to the country to look into the central trade union organisations now in operation since, according to it, the workers have no valid representative to protect their interests. It states that it will continue to take legal action and that only the congress which elected the union's management can decide the dissolution of the organisation, adding that at all events if the Government claims to have recognised three central trade union organisations, it fails to see why the UGTC should not continue its activities.

200. In a cable dated 7 February 1983, the ICFTU states that the Secretary-General of the UGTC, Mr. Sonny Cole, was arrested on 2 February 1983 for having incited a strike.

(b) The Government's observations

201. The Government's cable of 2 April 1982 stating that it would supply without delay the information requested by the Committee has only been followed up by a written communication addressed to the Committee on 5 January 1983. However, in the meantime, during the June 1982 Session of the International Labour Conference, a Government representative made statements before the Committee on the Application of Standards concerning the complaints by the ICFTU and the UGTC and supplied documentation to the ILC.

202. According to the statements which the Government representative made to the Conference, the National Confederation of Central African Workers (CNTC), established on 10 August 1980, was affiliated to the WCL, the Central African Federation of Labour (FCT), established on 12 July 1981 and the by-laws of which were being studied by the Ministry of the Interior, would be affiliated to the WFTU, and the Central African Confederation of Free Trades Unions (CCSL), established in 1981 and the by-laws of which were also being studied by the Ministry of the Interior, would be affiliated to the ICFTU. The incomplete by-laws of the CNTC and the by-laws of the FCT had been communicated to the Office; on the other hand, those of the CCSL which, according to the Government representative, was to become affiliated to the ICFTU, the complainant organisation, had not. According to the Government representative, the judgement of the Bangui Higher Court concerning the transfer of the assets of the former UGTC had not yet been handed down, but it would be communicated to the ILO in due course. The Government representative also explained to the Committee on the Application of Standards that the UGTC's bank deposits had disappeared after the UGTC was dissolved, its officers with the power of signature having rushed to the banks to draw cheques for

their own benefit, the traces of which could be verified. He also stated that there was nothing to prevent the members of the former UGTC from constituting a new trade union organisation of their own choosing.

203. During the debate before the Committee on the Application of Standards, a Workers' member of the Central African Republic recalled that he had been the first secretary-general of the UGTC in the past. Since then, he added, a break had taken place within the UGTC on 10 August 1980, and the UGTC leaders had become instruments of political parties. He stated that his own confederation, the National Confederation of Central African Workers (CNTC), was affiliated to the WCL. While he regretted that the UGTC had been dissolved by administrative authority, he considered that political activities had become mixed up with trade union activities and that the leaders of the former UGTC, by drawing funds after its dissolution, had not respected the by-laws. He confirmed that workers in the country could form organisations of their own choosing.

204. With its communication of 5 January 1983 the Government transmits a copy of a letter it claims to have sent to the ILC on 24 May 1982. It appears from the letter of 24 May, signed by Brigadier General Yangongo, that the Government reiterates its explanations on the illegality of the UGTC (the sole central organisation created under the 1964 Act setting up a single party system) which was dissolved because it could no longer exercise its monopoly on representation of the working class. The Government again states that the UGTC leaders, manipulated by external forces, had perpetrated numerous conflicts disorganising the national economy and seriously upsetting the social order. Thus the UGTC was dissolved by virtue of Article 22 of the Constitution of 5 February 1981. Moreover, according to the letter of 24 May 1982, no provision prohibits workers from forming trade unions of their own choosing, for example the CNTC and the CCSI have been created. The CNTC was recognised once the usual formalities required by law had been fulfilled.

205. However, the letter also states that the Military Committee of National Reconstruction, anxious to restore social peace and to recommence economic activity in the country in unity and harmony, suspended - when it came to power on 1 September 1981 - all activities by political parties and national organisations, including trade unions, throughout the national territory. It cannot therefore recognise the Central African Confederation of Free Trade Unions, or any other new organisation to be set up at the present time because of the objectives of its policy of national reconstruction.

206. In the letter dated 5 January 1983, Colonel Ouedone from the Ministry of the Public Service, Labour and Social Security states that the decree dissolving the UGTC allows every citizen to create a union and every worker the right to join freely any union of his choosing, from which were formed the CNTC and the CCSI, but since 1 September 1981 the activities of these two central organisations have been temporarily suspended.

207. In a telegram of 22 February 1983, the Government states that Mr. Sonny Cole, former Secretary-General of the ex-UGTC, has

been accused of acts of a political nature and that this is a simple coincidence of events as far as the ICFTU's communication of 4 February 1983 is concerned. The Government considers that it has supplied sufficient information on the case since the dissolution of the UGTC on 15 May 1981. It requests the Committee to refer to the declaration made in this respect by the Government representative to the Conference Committee on the Application of Standards at the 68th Session of the International Labour Conference.

C. The Committee's conclusions

208. The Committee notes that the present case relates to the dissolution by administrative authority of the UGTC, affiliated to the ICFTU, contrary to Article 4 of Convention No. 87, which has been ratified by the Central African Republic. It also relates to the general suspension of trade union activities and to the arrest of the Secretary-General of the UGTC. In November 1981, the Committee noted with concern that the UGTC had been dissolved by administrative authority; nevertheless, in February 1982, it noted the Government's statement that since the events referred to in the complaint, three central trade union organisations had been established and that the Bangui court was to decide on the transfer of the assets of the former UGTC.

209. In February 1982, consequently, the Committee, while recalling that any workers who so wished should be able to set up an organisation carrying on from the dissolved organisation, requested the Government to supply information on the three new central trade union organisations, in particular on their by-laws and international affiliation, and to send it a copy of the judgement of the Bangui court concerning the transfer of the assets of the former UGTC.

210. The Committee notes that, since then, the complainant, Mr. Sonny Cole, continued to protest against the dissolution of the UGTC, a decision which was not taken by a two-thirds majority of the members present or represented as provided for by its by-laws, and stated that he had lodged a complaint with the Bangui court against the Government for having dissolved the UGTC but that the hearing which was to be held on 17 March 1982 did not take place since three judges of the court were arrested, including the President of the Administrative Court. Moreover, according to the ICFTU, Mr. Cole - Secretary-General of the UGTC - was arrested on 2 February 1983 for having incited a strike.

211. The Committee also notes that the Government has belatedly replied to the Committee's request but communicated oral information to the Committee on the Application of Standards of the International Labour Conference at its June 1982 Session. It has also supplied the incomplete text of the by-laws of the CNIC (established on 10 August 1980 and affiliated to the WCL), an organisation which is now recognised by the government authorities, and the by-laws of the FCT (still under study at the time by the Ministry of the Interior) which, according to the Government, will be affiliated to the WFTU. It has not communicated the by-laws - still under study - of the CCSI which, according to it, is to be

affiliated to the ICFTU, which is one of the complainant organisations in this case. It has affirmed that nothing prevents the members of the former UGTC from constituting a new trade union organisation of their own choosing. In addition, it has reported that funds were withdrawn by the officers of the former UGTC after its dissolution and stated that the judgement of the Bangui court has not yet been handed down but will be communicated to the IIC in due course. It has not commented on the allegation that judges were arrested.

212. A Workers' member of the Central African Republic has explained that, on 10 August 1980, a break did in fact occur within the UGTC; while regretting the administrative dissolution by the Government, he considered that political activities had become mixed up with trade union activities and that the withdrawal of funds after the Union's dissolution had been made in violation of its by-laws. He confirmed that workers in the country may form organisations of their own choosing.

213. The Committee notes with great concern the information provided by the Government according to which, being anxious to restore social peace and to recommence economic activity in the country in unity and harmony, the Military Committee on National Reconstruction since it came to power on 1 September 1981 has suspended all activities of national organisations including the trade unions throughout the national territory and that consequently it cannot recognise the CCSL or any other new organisation which might be set up at the present time. It also notes with concern the arrest on 2 February 1983 of Mr. Sonny Cole, Secretary-General of the UGTC for having incited a strike.

214. In these circumstances, the Committee stresses the particular gravity of the suspension of trade union activities, which has been affecting all aspects of trade union life since September 1981. The Committee notes the Government's statement that the suspension is only temporary and therefore expresses the firm hope that the trade union organisations in the Central African Republic will be able to recommence as rapidly as possible their activities and, in particular, that all workers will be able to set up the organisations of their own choosing, including organisations carrying on from the ex-UGTC, if they so wish.

215. The Committee also requests the Government to supply a copy of the judgement of the Bangui court concerning the dissolution of the UGTC and the transfer of its assets when that decision is handed down and to reply to the allegation that judges of the Bangui court, including the President of the Administrative Court, have been arrested.

216. As regards the arrest of the Secretary-General of the UGTC who allegedly incited workers to strike and who, in any case, was in conflict with the Government over the dissolution by administrative authority of the trade union organisation of which he was the leader, the Committee recalls that the arrest of trade union leaders and activists on the sole grounds of having carried out activities for the defence of the occupational interests of the workers they represent is a serious attack on trade union rights. While noting that the Government indicates that the person concerned has been accused of acts of a political character, the Committee

nevertheless requests it to communicate information on the present situation of the Secretary-General of the UGTC, including any judgement which might be handed down in this affair.

217. In view of the confused nature of the trade union situation, the Committee requests the Government to consent to a direct contacts mission to the country by a representative of the Director-General so as to examine all the issues in question.

The Committee's recommendations

218. In these circumstances, the Committee recommends the Governing Body to approve this interim report, in particular the following conclusions:

- (a) The Committee would generally express its great concern over the seriousness of the suspension of trade union activities which has been affecting all aspects of trade union life since September 1981.
- (b) The Committee notes the Government's statement that this measure is only temporary. It therefore expresses the firm hope that the trade union organisations in the Central African Republic will be able to recommence as rapidly as possible their activities and that all workers will be able to set up the organisations of their own choosing including organisations carrying on from the ex-UGTC if they so wish. It requests the Government to inform it of any measures taken with a view to restoring the activities of all trade union organisations that wish to exist in the country.
- (c) The Committee notes with concern the arrest on 2 February 1983 of the Secretary-General of the UGTC for having incited a strike. It recalls that the arrest of trade union leaders and activists for having carried out activities in the defence of the occupational interests of the workers they represent is a serious attack on trade union rights. While noting that the Government indicates that the person concerned has been accused of acts of a political character, the Committee nevertheless requests it to communicate information on the present situation of the Secretary-General of the the UGTC, including any judgement which might be handed down in this affair.
- (d) It also requests the Government to supply a copy of the judgement of the Bangui court concerning the dissolution of the UGTC and the transfer of its assets when that decision is handed down, and to reply to the allegation that judges of the Bangui court, including the President of the Administrative Court, have been arrested.
- (e) In view of the confused nature of the trade union situation in the country, the Committee requests the Government to consent to a direct contacts mission to the Central African Republic by a representative of the Director-General in order to examine all of the issues in question.

Case No. 1066COMPLAINT PRESENTED BY THE WORLD CONFEDERATION OF
LABOUR AGAINST THE GOVERNMENT OF ROMANIA

219. The Committee has examined this case on two previous occasions, most recently at its meeting in November 1982 when it submitted an interim report to the Governing Body.¹

220. In response to the Committee's requests for further information in connection with several aspects of the case the Government communicated further information in a letter dated 9 February 1983.

221. Romania has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

222. When it last examined this case in November 1982 the Committee recalled that the complaint made by the World Confederation of Labour concerned the alleged establishment, in February 1979, of an occupational organisation known as the "Free Trade Union of Romanian Workers" (SIOMR) against which repressive measures were said by the complainant to have been taken, in particular against the founder and other members following the creation of that organisation. In a document that was said to have constituted the SIOMR, which the Committee examined, it was stated that the organisation, legally established under Romanian law, was affiliated to the World Confederation of Labour. The names of the 20 founder members of SIOMR, with their occupations and addresses, was appended to the document.

223. The Committee noted that, in addition to reiterating previous statements concerning the various provisions in the Romanian Constitution and other legislative texts which, according to the Government, guarantee the right of association to workers, the Government had supplied information regarding certain of the allegations relating to the fate of the founder members of the SIOMR and other persons mentioned in the complaint as having suffered from repressive measures as a result of their connections with the new trade union organisation.

224. In particular, the Committee noted that, according to the Government, 15 of the named founder members of SIOMR were fictitious, no trace of them having been found. Only 5 of the 20 named founder members could be traced (Ionel Gheorghe Cana, Gheorghe Brasoveanu, Nicolae Guqu, Gheorghe Fratila and Iona Grigore). The

¹ See 218th Report, paras. 573 to 597, approved by the Governing Body at its 221st Session (November 1982).

Government had added that the first two of these (Ionel Cana and Gheorghe Brasoveanu), both retired, had been sentenced for disseminating fascist propaganda. Both had been amnestied and, according to the Government, were now living in Bucharest. The three remaining founder members (Nicolae Guqu, Gheorghe Fratila and Ioana Griqore) were said by the Government to have had no knowledge of the union mentioned in the complaint.

225. As regards other militants of the SLOMR, viz. Virgil Chander and members of the union of the town of Sighisoara, Vasile Paraschiv of Bucharest, Melania Mateescu of Constantanza, and Constantin Acrinei, who, according to the complainant organisation had disappeared, and in respect of whom the Committee had requested the Government to supply detailed information, the Government had only provided information concerning Vasile Paraschiv, who, it stated, was living and working in Ploiesti and had even been interviewed recently by French and Italian journalists.

226. The complainant organisation had also referred to the arrest, sentencing and expulsion from the country of a number of named persons, who lived in Timisoara, and who were stated to have founded a new free trade union in that town. According to a statement signed by one of these persons (Karl Gibson), all these persons had been arrested only four days after the setting up of the union and sentenced to six months' imprisonment. The Committee observed that the Government, while refraining from any comments on their alleged arrest and imprisonment, had confirmed that these persons had been authorised to leave Romania.

227. Finally, the Committee noted that the Government had supplied no information or comments concerning the circumstances of the strike at the Jiu Valley colliery in 1977 and on the repressive measures that were alleged to have been taken against the strikers. However, as regards the alleged deaths of Yon Dobre and G. Yurca, two engineers who were said to have led the strike, the Government stated that it had not been able to trace these persons in the towns in which they were said to have lived.

228. In the light of all the information at its disposal, the Committee concluded that, in February 1979, an attempt seemed to have been made to establish a trade union organisation named the "Free Trade Union of Romanian Workers" (SMCLR). There was evidence of the existence of a document, signed by 20 persons, by which the union was said to have been established. Only five of these persons, according to the Government, could be traced. Two of these persons, now freed, had served sentences for "disseminating fascist propaganda" and another three, although their names, professions and addresses appeared amongst the 20 founder members, were stated by the Government not to have any knowledge of the new union. The Committee also noted the evidence produced by the complainant organisation concerning those persons from the town of Timisoara who had left Romania, as well as the absence of any comments by the Government concerning the circumstances of their arrest. On the basis of the information at its disposal the Committee was unable to reach any conclusion as to whether their alleged arrest and imprisonment prior to their eventual departure from the country may have been linked with their attempts to form a local independent trade union.

229. Generally, as regards all the allegations made concerning the attempts to organise the "Free Trade Union of Romanian Workers" and the repressive measures that were said to have been taken against the many thousands of workers who wished to adhere to it the Committee noted that the Government had confined its replies to outlining the legal provisions relating to trade unions and to supplying information on some of the individuals mentioned in the complaint.

230. In these circumstances the Committee requested the Government to supply more detailed information concerning the attitude of the authorities, as well as the measures that were said to have been taken by them, when the Free Trade Union of Romanian Workers was set up in February 1979. More particularly, the Committee requested the Government to supply information concerning those persons in respect of whom no information had been provided, viz. Virgil Chender, and other trade unionists of the town of Sighisoara, Melania Mateescu and Constantin Acrinei. The Committee also requested the Government to supply detailed information concerning the strike that was said to have occurred at the Jiu Valley colliery in 1977 and on the alleged repressive action taken against the strikers thereafter.

231. As regards the persons from the town of Timisoara who had left the country, the Committee, noting that, according to the information supplied by the complainant organisation, these persons had been arrested and sentenced for attempting to form a trade union, requested the Government to provide information concerning the circumstances in which these persons had been arrested and the grounds on which they had been sentenced.

232. In these circumstances, the Committee recommended the Governing Body to approve its report and, in particular, the following conclusions:

- "(a) the Committee can only note the information supplied by the Government which concerns 5 of the 20 named founder members of the Free Trade Union of Romanian Workers (SLOMR) who have been identified;
- (b) the Committee emphasises the importances which it attaches to the principle that workers and employers should have the right to establish and join organisations of their own choosing without previous authorisation (Article 2 of Convention No. 87); in this respect, the Committee requests the Government to inform it of the present situation of the SLOMR, the existence of which has not been denied by the Government. It draws the attention of the Committee of Experts on the Application of Conventions and Recommendations to this aspect of the case;
- (c) the Committee requests the Government to supply detailed information on the following matters:
 - (i) the alleged repressive measures taken by the authorities against workers when the Free Trade Union of Romanian Workers was set up in February 1979;
 - (ii) the fate of Virgil Chender and other trade unionists in the town of Sighisoara, Melania Mateescu and Constantin Acrinei;

- (iii) the strike which took place at the Jiu Valley colliery in 1977 and the alleged repressive action that was taken against the strikers thereafter;
- (iv) the reasons for and circumstances surrounding the arrest and imprisonment of persons from Timisoara, who - according to the Government - have now been authorised to leave Romania."

B. Further reply of the Government

233. In response to the requests made by the Committee for further information the Government transmits an additional communication, dated 9 February 1983, in which it states that, although it is supplying supplementary information in a spirit of dialogue, it is nevertheless to be hoped that the examination of these false and unfounded allegations may now be brought to a conclusion.

234. It is untrue, contends the Government, that it never denied the existence of the so-called trade union mentioned in the complaint. The existence of such a union cannot seriously be upheld by the extremely vague and general statements advanced by the complainants, nor from a list containing the names of 20 persons, 15 of whom do not exist, the other 5 (4 of whom are retired) having nothing to do with the so-called union. The allegations concerning the so-called "repressive measures", therefore, according to the Government, are groundless.

235. As regards the alleged disappearance of certain persons, in particular Virgil Chender and other trade unionists of the town of Sighisoara, Melania Mateescu and Constantin Acrinei, the Government supplies the following information:

- Virgil Chender works in a factory in Sighisoara and has not been involved in any activity related to the allegations concerning the so-called trade union; in 1968 he was sentenced to two years' imprisonment for fraud and bribery;
- Melania Mateescu, was a medical assistant, divorced in 1976, and known for her disorganised way of life; she died in 1980 from alcoholic poisoning (as noted in her death certificate No. 452/1980); she was never known to have carried out any activity whatsoever that could in any way be linked to the allegations concerning the so-called trade union;
- as regards Constantin Acrinei, no person bearing this name has been identified.

236. As regards the allegations concerning the strike at the Jiu Valley colliery in 1977 the Government strongly contests and deplores such allegations that "repressive measures were taken against tens of thousands of workers". Such allegations have nothing in common with reality nor with the constructive manner in which Romanian workers and the authorities settle any labour problems that may arise. What are particularly significant are the

statements made and published in the press, including the foreign press, by one of the so-called "leaders" of the strike Mr. C. Dobre, a former miner who is presently studying at the Stefan Gheorghiu Academy in Bucharest.

237. As regards the "persons from Timisoara", the Government states that these persons have now left the country and are living abroad, as the complainants themselves pointed out. Their departure from Romania took place within the context of the policy of the Romanian authorities to reunite families in certain cases. Before their departure, states the Government, none of these persons had been the object of so-called measures of arrest and imprisonment which may have been linked to the application of international Conventions on freedom of association.

C. The Committee's conclusions

238. The Committee has again examined the various aspects of this case in the light of all the information initially supplied by the complainant organisation and the most recent information transmitted by the Government. The Committee recalls that the complaint related to the repressive measures that were said to have been taken by the Romanian authorities against the founder and other members of an organisation that was alleged to have been established in 1979 under the name of "The Free Trade Union of Romanian Workers (SLOMR)"; the fate of certain persons in the town of Sighisoara who were said to be militants of the SLOMR; the alleged repressive action that was taken against strikers at the Jiu Valley colliery in 1977, and the alleged arrest and imprisonment of certain persons in the town of Timisoara for trade union activities.

239. The complainant organisation had alleged that, in 1979, an organisation known as the "Free Trade Union of Romanian Workers (SLOMR)" had been founded by 20 persons whose names appeared on a document that was said to be the constituent document of the new organisation. The complainant had alleged in general terms that this attempt to form a trade union organisation was followed immediately by a wave of repression by the authorities against the union and its members, including the arrest, internment in psychiatric hospitals, exile, beatings and summary sentencing. For its part, the Government has strenuously denied the existence of any such new organisation and consequently any repressive measures that may have been taken against it or its members. In addition, as regards the 20 founder members of the SLOMR, the Government has stated that 15 cannot be traced and that of the remaining five, two are retired and presently living in Bucharest (having previously been sentenced for disseminating fascist propaganda, and subsequently amnestied), and three (two of whom are retired, the other a seamstress) are living in Bucharest and Otopeni respectively and have no knowledge of the new union referred to in the complaint.

240. On this aspect of the case the Committee is confronted with a general allegation that there was a repression by the authorities and a general denial by the Government that any such repression took place. In the absence of more specific information in support of the allegations made, the Committee, considering the

sericusness of the allegations, must note with regret that it does not have at its disposal adequate information on which to base any firm conclusions on this aspect of the case. As regards the more specific information supplied by the complainant regarding the founder members and the constitution of a new organisation the Committee must note that, since it last examined the case, the complainant organisation has supplied no new information in response to the Government's previous denial of the existence of the organisation, nor as regards the specific information previously supplied by the Government following its inquiries into the present status of the 20 persons named by the complainants as being the founder members of the organisation in question. In these circumstances, the Committee regrets once again that the information at its disposal is insufficient to enable it to reach any conclusion on this aspect of the case and again requests the Government and the complainant to supply more precise information on this aspect of the case.

241. The complainant had alleged that a number of militants had disappeared, in particular Vasile Paraschiv, Virgil Chender, Melania Mateescu and Constantin Acrinei. In addition to the information previously transmitted by the Government concerning Vasile Paraschiv (now working and living in Ploiesti), the Government supplies specific information concerning Virgil Chender (now working in Sighisoara) and Melania Mateescu (now deceased). According to the Government, Constantin Acrinei cannot be traced. Having regard to the general nature of the allegations concerning these persons, and the more specific information provided by the Government, the Committee considers that this aspect of the case does not call for further examination.

242. When it last examined the case the Committee observed that the Government had not replied to the allegation - made in general terms - that a strike in the Jiu Valley colliery had been followed by repressive measures, including the transfer or demotion of some 3,000 workers. The Committee notes that, in its latest reply, the Government denies this allegation and repeats certain information concerning one miner (C. Dobre) who was alleged to have led the strike and who had died as a result. According to the Government this person (a former miner), is a student of the Stefan Gheorghiu Academy in Burcharest. Again, the Committee considers that, in the absence of more specific information in support of the allegations made, which is particularly regrettable in view of their seriousness, it does not have at its disposal adequate evidence upon which to base any firm conclusions on this aspect of the case. It again requests the Government and the complainant to supply more precise information on this aspect of the case.

243. As regards the alleged arrest and imprisonment of a number of persons in the town of Timisoara for their involvement in trade union activities the Committee notes the Government's explanation that these persons have left the country, having requested and been authorised to do so. The Committee notes that the Government does not specifically deny that these persons were at any time arrested and sentenced, as alleged by the complainants. The Committee would therefore request the Government to supply precise information concerning the reasons for their alleged arrest and detention.

The recommendations of the Committee

244. In all these circumstances, the Committee recommends the Governing Body to approve this interim report, and in particular the following conclusions:

- (a) As regards the alleged repression of the founder and other members of an organisation known as the "Free Trade Union of Romanian Workers", the Committee notes with regret that, despite the seriousness of the allegations, it does not have at its disposal adequate information on which to base any firm conclusions on this aspect of the case.
- (b) As regards the allegation concerning the attempt to form the organisation known as the "Free Trade Union of Romanian Workers" the Committee again regrets that the information at the Committee's disposal is insufficient to enable it to reach any conclusion on the matter and again requests the Government and the complainant to supply more precise information on this aspect of the case.
- (c) As regards the alleged disappearance of a number of named militants of the new organisation, that this aspect of the case calls for no further examination.
- (d) With regard to the alleged repression of the strike at the Jiu Valley Colliery in 1977, the Committee considers that it does not have at its disposal adequate evidence upon which to base any firm conclusions on this aspect of the case and again requests the Government and the complainant to supply more detailed information on this aspect of the case.
- (e) With regard to the alleged arrest and imprisonment of certain persons in the town of Timisoara, the Committee again requests the Government to supply precise information concerning the reasons for their arrest and detention.

Case No. 1135

COMPLAINTS PRESENTED BY THE INTERNATIONAL CONFEDERATION OF
FREE TRADE UNIONS, THE ORGANISATION OF AFRICAN TRADE
UNION UNITY AND VARIOUS OTHER TRADE UNION ORGANISATIONS
AGAINST THE GOVERNMENT OF GHANA

245. By communications dated respectively, 5, 13 and 17 May 1981, the Organisation of African Trade Union Unity (OATUU), the International Confederation of Free Trade Unions (ICFTU) and the International Federation of Building and Woodworkers (IFBWW) presented complaints of violations of trade union rights in Ghana. The International Metalworkers Federation associated itself with the ICFTU complaint by a communication of 13 May 1981. Further information in support of their complaints was transmitted by the OATUU on 19 May and by the IFBWW on 26 May and 29 July 1981. The Government sent its observations in a communication dated November 1982.

246. Ghana has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

247. In its communication of 5 May 1981 the OATUU alleges that the Government has allowed people who are not constitutionally elected to occupy the Trades Union Congress offices; that most of the unionists' passports have not been returned and their accounts and those of their unions, including the Trades Union Congress, are still frozen; and that the movement of trade union leaders is restricted and normal trade union operations made impossible.

248. The ICFTU complaint of 13 May 1982 alleges the impounding by the Government, in February 1982, of the passports of most of the general secretaries of the 17 national trade unions affiliated to the Ghana Trades Union Congress (TUC), as well as the freezing of the bank accounts of three unions. It further alleges the arrest and detention of ten general secretaries of national unions, including Mr. Kofi, General Secretary of the Railway and Engineering Workers' Union, Mr. Yankey, General Secretary of the Transport and Chemical Workers' Union and the National Chairman of the Road Transport Workers' Union. These events took place, according to the ICFTU, following a violent assault on the TUC headquarters on 29 April 1982 and the brutal beating by the police of a protest delegation. Lastly, the ICFTU states that the Government condoned the attack on the TUC headquarters and its occupation by persons other than the democratically elected leadership of the TUC.

249. The IFBWW, in its communication of 17 May 1982, states that its two affiliates in Ghana - the Construction and Building Workers' Union and the Timber and Woodworkers' Union - had their headquarters on the TUC's premises when they were violently attacked and taken over by an armed mob on 29 April. According to the IFBWW, the General Secretary of the Construction and Building Workers' Union, Mr. Charles Attah, has been compelled to flee the country and the General Secretary of its other affiliate, Mr. Sam Akem-Mensah, is in hiding. The IFBWW is concerned for his security, as well as for the security of other officials and members of its affiliates who are still in Ghana. It suspects that the Government inspired or condoned the attack on Ghana's trade unions: for example, it did not intervene to stop the events of 29 April 1982; the police violently held up a delegation sent from Takoradi to protest the takeover; at least ten top union officials have been arrested; since early February 1982, Mr. Attah's passport has been impounded, which has prevented him from functioning as a member of the IFBWW's Executive Committee.

250. On 19 May 1982 the CATUU sent the following further information: the trade union leaders arrested on 5 May include Mr. C. Ahiable of the Teachers' Union; Mr. Albert Tevie of the Seamen's Union; Mr. A.K. Yankey of the Transport and Petroleum Workers' Union; Mr. Akoto of the Health Workers' Union; Mr. Asante of the Agricultural Workers' Union; and Mr. Adjei of the Electricity Corporation.

251. The further information provided by the IFBWW includes documentation describing the background to the 29 April takeover, pointing out that since the military took power on 31 December 1981 - despite the TUC's declarations of support for the new Government - the trade union movement has been continually harassed. For example, attempts to hold meetings with representatives of the party in power were thwarted by angry mobs who prevented the TUC Executive from keeping appointments. The documentation adds another name to the list of detained union leaders: Mr. Yaw Ntoah of the Private Road Transport Union; he has apparently been held, with other leaders, at Regional Police Headquarters since 1 May. The most recent information from the IFBWW, dated 29 July 1982, states that the situation remains the same, with the arrested general secretaries still on bail of 100,000 cedi each and still obliged to report to the police every day. According to the IFBWW, the authorities intend to hold trade union elections organised by a government-appointed interim committee; the modalities of the elections are still being discussed.

B. The Government's reply

252. In its communication of November 1982, the Government states that the workers' attack on the TUC premises had nothing to do with any government decision and that the freezing of the assets of the 17 national unions was not an isolated act, but a general measure to check corruption in several areas of Ghanaian society. It explains that, in fact, long before the 31 December Revolution, the rank-and-file workers had been unhappy with the TUC leadership and had often staged wildcat strikes without regard for the leadership. It states that the TUC was also plagued by demarcation problems.

253. It was against this background that the 29 April takeover took place and the Government, in pursuance of its responsibility for law and order, immediately intervened to protect life and property by assigning security personnel to protect the ousted TUC leaders and the Congress's offices. The Government states that it has requested the Registrar of Trade Unions (who is also the Chief Labour Officer of Ghana) to arrange for an audit of the accounts of all the national unions and the TUC under s. 25 of the Trade Union Ordinance, 1941. The examination of the accounts is currently in progress.

254. With regard to the alleged arrest and imprisonment of trade union leaders, the Government states that no union leader was arrested; as it states above, the ousted leaders were offered protective custody for their own safety, custody which was immediately withdrawn once the tension had ceased. The Government explains that the protection was offered in police facilities because this was the only means available to make it possible for the already fully stretched police officers to protect them properly. According to the Government, during this protection the trade union leaders were not denied any rights; they received visitors freely and were fed by their own families.

255. As regards the freezing of the bank accounts of the 17 national unions, the TUC and the general secretaries, the Government

points out that all Ghanaians holding positions of trust and some public institutions holding funds in trust had their assets and bank accounts frozen for investigation by Vetting Committees established under the laws of Ghana. It adds that individuals whose accounts are frozen are usually required to surrender their travel documents temporarily, such documents being returned when no adverse findings are made against them or when penalties for such offences as tax evasion are paid. The Government stresses that such action is aimed at getting rid of corruption.

256. The Government confirms that, following the persistent attacks on the TUC by the workers, a meeting was arranged for all parties to settle their differences on 29 January 1982, but that this meeting could not be held because the TUC leadership deserted their premises in fear of physical attack by the dissenting group.

257. Lastly, the Government points out that in its earnestness to assure the workers of their freedom of association, it held negotiations with the group that took over the TUC with a view to reaching agreement with them to democratise the TUC, previous attempts to establish a compromise interim body representing the two groups having failed. According to the Government, the negotiations resulted in the following agreement: each national union should establish a seven-member Interim Management Committee (IMC) the members of which should be democratically elected in regional consultative meetings; the elected chairman of each IMC would represent his union in an IMC of the TUC to be set up; an emergency delegates' conference would be held in October 1982 to form a 17-member IMC of the TUC and elect its chairman; the IMCs should manage the affairs of the unions and the TUC until the election of permanent officers takes place, after a review of the TUC's and the unions' constitutions and structure; the review should be undertaken by the IMC of the TUC within "a month or two"; local and foreign observers, including the ILO, should be invited to the conference.

258. The Government states that the elections of the IMCs of the national unions took place in September and October 1982 and the emergency national delegates' conference was held on 15-17 October 1982, resulting in the election of a 16-member IMC of the TUC, the 17th member being expected from the National Union of Seamen which is yet to resolve its demarcation problems. The Government stresses that the elections were open to all workers and that the subsequent TUC elections - which shall be held following the completion of the constitutional and structural review, sometime in December 1982 - shall also be open to all interested workers, subject only to disqualifications arising from offences against national laws. It gives the assurance that the trade union leaders who fled the country are free to return and participate in the workers' revolution. It states that it will communicate the dates of the elections when they are announced by the TUC.

C. The Committee's conclusions

259. The Committee notes that this case concerns alleged anti-union repression - directly or indirectly by the Government -

through the freezing of trade union bank accounts, the confiscation of trade union leaders' passports, the violent occupation of the IUC headquarters (which also house the headquarters of the national unions) and the arrest of at least ten general secretaries of the national unions (the names and posts of eight being supplied). The Committee further notes the Government's general statement that these events took place after the 31 December 1981 Revcluticr against a background of rank-and-file dissatisfaction with the union leadership in general.

260. As regards the freezing of union bank accounts in February 1982, the Committee observes from the Government's reply that this was not a measure aimed solely at the trade union movement, but that all Ghanaians holding positions of trust - and some public institutions holding funds in trust - were subjected to the same treatment. Moreover, according to the Government, this was done to allow for investigation by legally constituted committees in the face of widespread corruption. Although the complainants have not amplified this allegation with further information showing that this measure was of a purely anti-union character, the Committee would nevertheless request the Government to indicate the steps that are being taken to release the assets and funds of those trade unions affected by these measures.

261. The Committee notes that the Government explains the confiscation of union leaders' passports as an ancillary measure to the legal investigation of persons holding trust funds. It would, accordingly, also request the Government to supply more precise information on this aspect of the case.

262. As regards the violent attack upon and occupation of the trade unions' headquarters, the Committee notes that, while the complainants allege that the Government did not intervene to prevent these events, the Government claims that it acted immediately to protect life and property. The Committee notes from the information supplied by one of the complainants that this was not the first time that the trade unions' premises had been attacked or the personal security of trade union leaders threatened. Moreover, in view of the fact that it appears that the ousted leadership has not been able to regain possession of the premises, the Committee would draw the Government's attention to the Resolution concerning trade union rights and their relation to civil liberties (adopted by the International Labour Conference at its 54th Session, 1970) which includes the right to protection of the property of trade union organisations as one of the civil liberties which is essential for the normal exercise of trade union rights. As the Government states that free interim elections have taken place which will lead to full elections - probably after December 1982 - the Committee trusts that genuine democratically elected leaders are, or will soon be, in possession of the headquarters. It requests the Government to state what measures are being, or will be taken, to restore these premises to the unions in question.

263. Lastly, as regards the arrest of at least ten trade union leaders (including Mr. Kofi of the Railway and Engineering Workers' Union, Mr. Yankey of the Transport and Chemical/Petroleum Workers' Union, Mr. Ahiabile of the Teachers' Union, Mr. Tevie of the Seamen's Union, Mr. Akoto of the Health Workers' Union, Mr. Asante of the Agricultural Workers' Union, Mr. Adjei of the Electricity

Corporation and Mr. Ntoah of the Private Road Transport Union), the Committee notes that, according to information from one complainant dated July 1982, they were still on bail of 100,000 cedi each and obliged to report to the police every day. On the other hand, the Committee notes that, according to the Government, these persons were never actually arrested but had been offered protective custody - on police premises because of the shortage of staff available - which was immediately withdrawn once the tension had ceased. In view of these directly contradictory statements the Committee would recall that measures of preventive detention may involve a serious interference with trade union activities which it would seem necessary to justify by the existence of a serious situation or emergency and which would be open to criticism unless accompanied by adequate judicial safeguards applied within a reasonable period.¹ In view of the Government's statement that elections of free interim management committees have taken place, paving the way for further TUC elections which will be open to all interested workers ("subject only to disqualifications arising from offences against national laws"), the Committee requests the Government to confirm that the above-mentioned trade union leaders are free to carry on their activities and participate in trade union affairs. It requests the Government to inform it whether the elections that were to be held have actually taken place and, if so, to indicate whether the ousted TUC leadership mentioned by the complainants was able to participate in them.

The recommendations of the Committee

264. In these circumstances, the Committee recommends the Governing Body to approve this interim report, in particular the following conclusions:

- (a) As regards the allegations relating to the freezing of trade union bank accounts and the confiscation of the passports of trade union leaders the Committee requests the Government to indicate the steps that are being taken to release the assets and funds of the trade unions affected by these measures and to supply more precise information on the question of confiscated passports.
- (b) As regards the violent attack upon and occupation of the trade unions' headquarters, the Committee draws the Government's attention to the Resolution concerning trade union rights and their relation to civil liberties, which includes the right to protection of the property of trade union organisations as one of the civil liberties which is essential for the normal exercise of trade union rights. It trusts that genuine democratically elected leaders are, or soon will be, in possession of the premises and requests the Government to state what measures are being, or will be taken, to restore the premises to the unions in question.

¹ See, for example, 207th Report, Case No. 963 (Grenada), para. 229; 208th Report, Case No. 1025 (Haiti), para. 417.

- (c) Faced with contradictory statements regarding the alleged arrest of at least ten trade union leaders, the Committee would recall that measures of preventive detention may involve a serious interference with trade union activities. Since further free elections were to take place within the TUC, the Committee requests the Government to indicate whether all the trade union leaders, including those mentioned in paragraph 263 above, are free to carry on their trade union activities and have been able to participate in the trade union elections.

Case No. 1155

COMPLAINT SUBMITTED BY THE INTERNATIONAL CONFEDERATION
OF FREE TRADE UNIONS AND THE INTERNATIONAL FEDERATION
OF PLANTATION, AGRICULTURAL AND ALLIED WORKERS
AGAINST THE GOVERNMENT OF COLOMBIA

265. The complaint is contained in a joint communication from the International Confederation of Free Trade Unions (ICFTU) and the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW) dated 17 September 1982. These trade union organisations supplied additional information in a communication dated 30 September 1982. The IFPAAW communicated further information in communications dated 28 September and 29 October 1982. The Government replied by communications dated 12 October, 10 November and 15 December 1982.

266. Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Allegations of the complainants

267. The complainants allege that Aquapito Chaguenda Zúñiga and Elicer Tamayo Paladines, president and auditor respectively of the Peasant Federation of the Cauca (FCC), were murdered on the outskirts of Popayán (Department of the Cauca) on 13 September 1982 after leaving the headquarters of the National Agrarian Federation of Colombia (FANAL) during the afternoon on a motorcycle. The complainants state that these trade union leaders were hit by several bullets in the head and were subsequently thrown into the Palacé river.

268. The complainants add that everything suggests that these assassinations are part of a persecution campaign against the peasant trade union organisations and point out that, a few weeks previously, members of the armed forces of Colombia arbitrarily arrested Alejandro Leónidas Jojoa and his brother Manuel, trade union members of FANAL, who for 33 hours were subjected to various interrogations concerning the leaders and activities of FANAL.

269. Finally, the complainants call attention to the important work which the assassinated leaders had carried out on behalf of rural workers and the improvement of their level of culture, as well as the struggle which they had waged for many years in defence of the interests and rights of this category of workers.

B. The Government's reply

270. The Government states that the Colombian authorities deplore and repudiate the violent death of the trade union leaders Agapito Chagüenda and Eliecer Tamayo, a crime which the President of the Republic also censured when he requested in particular the National Agrarian Federation to provide the greatest possible collaboration in the investigation being held into the events with a view to imposing the corresponding legal sanctions on those responsible.

271. The Government adds that the matter has been placed before the fifteenth Circuit Court and that, on the basis of the preliminary investigation carried out by the national police, it appears that the trade union leaders concerned had been threatened by the subversive armed group "FARC" and that there was evidence to suggest the involvement of members of "FARC" in the homicide of Messrs. Chagüenda and Tamayo, since both the latter had on various occasions rejected requests for them to join this subversive movement. Moreover, "FARC" has claimed responsibility for the execution of several other peasants and Indians and had threatened those peasants who did not collaborate with the movement.

272. Finally, the Government categorically rejects the suggestion that the military forces may be involved in the events to which the complainants refer.

C. The Committee's conclusions

273. The Committee is profoundly shocked at the assassination of Agapito Chagüenda Zúñiga and Eliecer Tamayo Paladines, president and auditor respectively of the Peasant Federation of the Cauca. On previous occasions on which similar complaints concerning the violent death of trade union leaders and trade unionists have been submitted, the Committee has always insisted on the importance which it attaches to the commencement, as soon as possible, of an independent judicial inquiry with a view to elucidating the facts in full, determining responsibility and punishing the guilty parties.¹ The Committee notes in this respect that the matter of the murder of the above-mentioned trade unionists has now been placed before the fifteenth Circuit Court and that the Government has categorically denied that the military forces may be involved in the events and

¹ See, for example, 207th Report, Cases Nos. 997 and 999 (Turkey), para. 304; 208th Report, Case No. 1007 (Nicaragua), para. 387.

has mentioned the existence of evidence which suggests that members of the subversive group "FARC" were involved in the death of Agapito Chagüenda and Eliecer Tamayo. In these circumstances, the Committee deplores the fact that a situation in which such events take place exists and draws the attention of the Government to the fact that a climate of violence such as that in which the assassination of these trade union leaders occurred is a very serious threat to the exercise of trade union rights and requests the Government to inform it of the results of the criminal proceedings before the fifteenth Circuit Court taken against the guilty parties.

274. Finally, the Committee regrets that the Government has not communicated information on the alleged arbitrary detention for 33 hours of the trade unionists Alejandro Leónidas Jojoa. Consequently the Committee cannot but draw the attention of the Government to the fact that the detention of trade union leaders and trade unionists on the grounds of carrying out trade union activities is contrary to the principles of freedom of association and requests it to send its observations on this point.

Recommendations of the Committee

275. In these circumstances the Committee recommends the Governing Body to approve the present interim report, and in particular the following conclusions:

- (a) The Committee is profoundly shocked at the assassination of the trade union leaders Agapito Chagüenda Zúñiga and Eliecer Tamayo Paladines. It deplores the fact that a situation in which such events take place exists and draws the attention of the Government to the fact that a climate of violence such as that in which these murders occurred is a very serious threat to the exercise of trade union rights and requests the Government to communicate the results of the criminal proceedings before the fifteenth Circuit Court taken against the guilty parties.
- (b) The Committee regrets that the Government has not communicated information on the alleged arbitrary detention of two trade unionists for 33 hours and requests it to send this. It draws its attention to the fact that the detention of trade union leaders and trade unionists on the grounds of carrying out trade union activities is contrary to the principles of freedom of association.

Case No. 1157

COMPLAINT PRESENTED BY THE WORLD FEDERATION OF TRADE UNIONS AGAINST THE GOVERNMENT OF THE PHILIPPINES

276. By a communication dated 17 September 1982, the World Federation of Trade Unions (WFTU) presented a complaint of

violations of trade union rights in the Philippines. The Government sent its reply in communications dated 26 October 1982 and 9 February 1983.

277. The Philippines have ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainant's allegations

278. In its communication of 17 September 1982, the WFTU alleges a wave of repression being carried out by the Philippine Government against the country's trade unionists, in particular the arrest on 2 September 1982 of Mr. Bonifacio Tupaz, Secretary-General of the Trade Unions of the Philippines and Allied Services and a member of the General Council of the WFTU. According to the WFTU, his arrest prevented him from attending, as member of a WFTU delegation, the Eighth Session of the UN Commission of Transnational Organisations which took place in Manila from 30 August to 10 September 1982. Despite a number of steps taken by the WFTU, Mr. Tupaz was not liberated. The WFTU requests the ILO to intervene forcefully with the Philippines Government to ensure the immediate release of this trade union leader.

B. The Government's reply

279. In its communication of 26 October 1982, the Government states that Mr. Tupaz was arrested and has been detained since 1 September 1982 by virtue of a Presidential Commitment Order, not for legitimate trade union activities but for alleged criminal acts of conspiracy to commit rebellion or insurrection punishable under article 136 of the revised Penal Code of the Philippines. According to the Government, immediately after his arrest a preliminary investigation of the charge was conducted by the prosecutor during which Mr. Tupaz - assisted by counsel - was given the opportunity to reply to the evidence against him and did in fact submit his counter-affidavit. On the basis of this investigation, the prosecutor recommended the filing of criminal case No. Q-21741 before the Court of First Instance of Quezon city.

280. The Government states that it appears that Mr. Tupaz is the Vice-Chairman and current Secretary-General of the Pagkakaisa Ng Manggagawang Pilipino (PMP) which is not a registered labour organisation. According to the Government, the PMP has in fact been identified by intelligence groups as one of the fronts for the communist party and allegedly had been directed by that party to stage general strikes and other mass actions and demonstrations throughout the country last September in co-ordination with armed units of the communist party. The Government states that intelligence groups have seized documents proving this involvement and emphasises that if this action against Mr. Tupaz had not been taken the country would have been plunged into a bloody

confrontation at the very time when its President was abroad on an official visit. The Government points out that the criminal acts with which Mr. Tupaz is now charged no longer enjoy the privilege of habeas corpus in virtue of Proclamation No. 2045 of 17 January 1981 which lifted Martial Law Proclamation No. 1081. The writ of habeas corpus remains suspended, explains the Government, because the rebellion in response to which martial law was originally introduced has not been entirely quelled and abated. The Government states that Mr. Tupaz filed a petition for the issuance of a writ of habeas corpus, which the Government contested.

281. Lastly, the Government states that the commitment order is not without any basis in view of the fact that legitimate labour leaders of the labour movement in the Philippines have acknowledged communist and subversive infiltration of the labour movement. The Government quotes certain statements allegedly made by the President of the Trade Union Congress of the Philippines (TUCP). The Government states that this indicates clearly that the arrest and detention of Mr. Tupaz, along with other labour leaders such as Messrs. Olalia, Sr. and Crispin Beltran, are not related to their trade union activities. It explains that Mr. Olalia's union, the National Federation of Labour Unions (NAFLU) during his detention, has filed six strike notices and three petitions for certification elections with the Ministry of Labour. It has also concluded two collective bargaining agreements, copies of which were sent to Mr. Olalia for signature and attestation. It adds that Mr. Tupaz's union has, during his detention, declared two strikes, filed two petitions for certification elections and has concluded six collective bargaining agreements. According to the Government this proves the care with which the Philippines Government acts in response to the communist threat to its very existence and demonstrates its adherence to the constitutional mandate of giving protection to labour.

282. In its communication of 9 February 1983, the Government states that the criminal case (No. Q-21741) filed against Mr. Tupaz and the criminal cases against another trade unionist are presently being tried on the merits before the Court of First Instance of Quezon City. It also points out that the petitions for the issuance of writs of habeas corpus filed with the Supreme Court by Mr. Tupaz and another trade unionist questioning the legality of their arrest and detention, have been submitted for decision.

C. The conclusions of the Committee

283. The Committee notes that in this case, although the arrest and detention of a trade union leader alleged by the complainant is not denied by the Government, both parties give contradictory reasons for this arrest. On the one hand, the Committee notes that according to the complainant Mr. Tupaz was arrested because of his trade union connections, whereas the Government, on the other hand, claims that he was arrested for criminal acts of conspiracy to commit a rebellion and insurrection punishable under the Penal Code.

284. The Committee regrets that the complainant, despite an invitation to submit additional information in support of its

allegations, has not substantiated its claim that the arrest was connected with trade union activities. On the other hand, the Government, for its part, has not provided specific information as to the type of activities committed by Mr. Tupaz that are said to constitute the acts of conspiracy with which he has been charged under the Penal Code. Faced with this paucity of precise information, the Committee can do no more than draw attention to the importance which it attaches to the principle of prompt and fair trial by an independent and impartial judiciary in all cases, including cases in which trade unionists are charged with political or criminal offences which the government considers have no relation to their trade union activities.¹

285. The Committee notes that the criminal cases concerning the trade union leaders in question are presently being tried before the Court of First Instance of Quezon City and that their petitions for writs of habeas corpus will be heard by the supreme court. The Committee would, accordingly, request the Government to transmit, as soon as possible, information concerning the detailed charges that have been brought against Mr. Tupaz, as well as information on the further developments that take place in the trial against him.

The Committee's recommendation

286. In these circumstances, the Committee recommends the Governing Body to approve this interim report and, in particular, the following conclusions:

- (a) The Committee draws attention to the importance which it attaches to the principle of prompt and fair trial by an independent and impartial judiciary in all cases, including cases in which trade unionists are charged with political or criminal offences which the government considers have no relation to their trade union activities.
- (b) It requests the Government to transmit, as soon as possible, information concerning the detailed charges that have been brought against Mr. Tupaz, as well as information on the further developments that take place in the trial against him.

Case No. 1160

COMPLAINTS PRESENTED BY THE INTERNATIONAL CONFEDERATION OF
FREE TRADE UNIONS AND THE WORLD CONFEDERATION OF LABOUR
AGAINST THE GOVERNMENT OF SURINAME

287. By communications dated 28 September 1982 and 19 January 1983 respectively, the International Confederation of Free Trade

¹ See, for example, 147th Report, Cases Nos. 198 and 749 (Senegal), para. 85; Case No. 766 (Arab Republic of Yemen), para. 361; Case No. 774 (Central African Republic), para. 372.

Unions (ICFTU) and the World Confederation of Labour (WCL) presented complaints of infringements of trade union rights in Suriname. The ICFTU presented additional allegations in telegrams dated 9 and 13 December 1982. The Government sent its reply in communications dated 10 November 1982, 10 January and 19 February 1983.

288. In view of the seriousness of the allegations made in this case, the Director-General, in accordance with the procedures in force, sent telegrams to the Government on 12 January and 14 February 1983 proposing that the Government consent to a direct contacts mission to the country to discuss the questions at issue.

289. Suriname has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); it has not ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

290. In its communication of 28 September 1982, the ICFTU alleges that on 17 September 1982 the premises of its affiliate "De Moederbond" of Suriname were occupied by a group of young persons taken there by lorry. According to the ICFTU, some of these young persons were armed and were members of the "popular mobilisation section" of the Ministry of Culture, Youth and Sport. It is alleged that they proceeded to pillage the premises of the trade union for several hours and prevented a trade union meeting which had been arranged from taking place there. The ICFTU alleges that their presence on the trade union premises leaves no doubt as to the intentions of the authorities who, already on several occasions, have publicly stated their intention to restrict trade union rights in the country. In its communication of 9 December 1982, the ICFTU states that the headquarters of its affiliate have been destroyed and it is still without news of the Moederbond leadership and representatives. It requests the Director-General to intervene in order to obtain full information on the whereabouts of the leadership of its affiliate. The ICFTU telegram of 13 December 1982 states that it has unconfirmed information that Mr. C. Daal, President of its affiliate, has been murdered and that trade union leaders are detained.

291. In its communication of 19 January 1983, the WCL alleges the assassination of 24 persons including Cyril Daal, the President of the Moederbond trade union. It states there are also many prisoners who are in danger of suffering the same fate. According to the WCL, the 24 workers (whose names and occupations are supplied) were assassinated for having demanded a return to democracy, general elections, trade union rights, an end to press censorship and the return of the military to their barracks. It also points out that the Moederbond's headquarters were destroyed, along with those of other trade unions. It also alleges that many unionists have been forced into hiding.

B. The Government's reply

292. In its communication of 10 November 1982, the Government denies the ICFTU's allegations and emphasises that its communication is based on incorrect information. According to the Government, it reacted to a telegram received from the ICFTU on 29 September 1982 by sending a return telegram explaining the actual facts of the case. The Government supplies a copy of this telegram. Furthermore it supplies a copy of a newspaper article reporting the official denial by the Prime Minister of Suriname of the allegations in this case.

293. The Government states that the illegal occupation of the office of the organisation of workers "De Moederbond" was carried out by individuals apparently incited by indignation at the involvement of that trade union in a recent hospital strike. The Government emphasises that its authorities did not interfere and were not involved in any way in this occupation which took place on 17 September 1982. The Government regrets that the "De Moederbond" trade union did not correct the information supplied in spite of the fact that an exchange of telegrams with the Government had taken place.

294. In its communication of 10 January 1983, the Government states that the military authority has issued an official declaration to the effect that on 8 December 1982 a number of persons detained for their involvement in activities to overthrow the Government through violent means were killed in an unfortunate accident as a result of their attempt to escape custody. The Government states that it will see to it that such occurrences are prevented in the future.

295. The Government, in its communication of 19 February 1983, accepts that a representative of the Director-General visit the country to discuss the questions raised in the complaints.

C. Conclusions of the Committee

296. The Committee must first of all express its deep concern at the gravity of the allegations made in this case, which involve not only the destruction of trade union premises but, more importantly, the death of at least one trade union leader and the arrest or disappearance of others. The Committee notes that, while the occupation and destruction of the premises of the ICFTU's affiliate in Suriname is not denied, both the Government and the complainants give contradictory information in this regard. According to the ICFTU, the young persons who occupied the premises were connected with the authorities and acted out of anti-union motives, whereas the Government categorically denies this. The Committee must note that the complainants, despite the invitation to submit additional information, have not done so. The Government, on the other hand, supplies supporting evidence in the form of an exchange of telegrams and newspaper clippings categorically denying its involvement in the occupation of the trade union premises.

297. As regards the assassination of Cyril Daal, President of the ICFTU's affiliate in Suriname, allegedly for having advocated a return to democracy and trade union rights, the Committee notes that the Government states that he was detained for activities to overthrow the Government through violent means and that he was accidentally killed when he tried to escape custody. The Committee would emphasise that a climate of violence constitutes a serious impediment to the exercise of trade union rights. It would request the Government to transmit precise information on the circumstances which led to this death, including the results of any inquiry that may be held.

298. The Committee notes that, as regards the alleged detention of trade unionists, the Government supplies no information or observations.

299. The Committee notes that the Government accepts the proposal made by the Director-General to send a direct contacts mission to Suriname in order to elucidate the situation and thereby enable the Committee to reach conclusions in a fuller knowledge of the facts. The Committee hopes that it will have at its disposal at its next session the report of the representative of the Director-General on the situation.

The Committee's recommendations

300. In the light of the foregoing considerations, the Committee recommends the Governing Body to approve this interim report and, in particular, the following conclusions:

- (a) The Committee expresses its deep concern at the gravity of the allegations made in this case which include the death of a trade union leader, the arrests or disappearance of trade unionists and the occupation and destruction of trade union premises.
- (b) The Committee requests the Government to supply detailed and precise information on the allegations made, and, in particular, on the circumstances which led to the death and arrest of trade unionists, including the results of any inquiry that may be held.
- (c) The Committee notes that the Government accepts the proposal made by the Director-General to send a direct contacts mission to Suriname to elucidate the situation and thereby enable the Committee to reach conclusions in a fuller knowledge of the facts.
- (d) The Committee hopes that it will have at its disposal at its next session the report of the representative of the Director-General on the situation.

Case No. 1163

COMPLAINT PRESENTED BY THE CYPRUS AIRWAYS CABIN ATTENDANTS
UNION SOLIDARITY AGAINST THE GOVERNMENT OF CYPRUS

301. By a communication dated October 1982 the Cyprus Airways Cabin Attendants Union Solidarity (CACAU-Solidarity) presented a complaint of violations of trade union rights in Cyprus. Additional information in support of the complaint was submitted on 28 October, 5 and 8 November and 17 December 1982. The Government sent its reply in communications dated 28 December 1982 and 27 January 1983.

302. Cyprus has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1948 (No. 98).

A. The complainant's allegations

303. The CACAU-Solidarity alleges that, although recently set up to represent 95 per cent of its working force, the employer - Cyprus Airways Ltd. - has refused to meet with it and has undertaken a campaign of threats and pressure on the new union's members in an effort to force them to return to their old union which represents the ground staff departments and is, according to the complainant, under the influence of the employer and principal shareholder, the Government of Cyprus. Methods of pressure allegedly include rumours that the CACAU-Solidarity Committee members will be suspended and the long interrogations of union members by an employer-appointed Enquiry Committee.

304. In its communication of 28 October 1982, the CACAU-Solidarity explains the case of its Secretary-General, Mr. A.N. Zivanas, who, after the arrival on 25 September 1982 of a Saturday flight which was 62 meals short, filed a report. The following Monday morning he was interrogated by an Investigation Committee and accused of abuse of power in favour of his union; after further questioning by the Managing Director concerning the flight, he was suspended, the suspension order not mentioning payment arrangements or duration. According to the complainant, a Board of Inquiry was appointed, but Mr. Zivanas was not informed of its existence until he was called in to be questioned; neither was he informed of the accusations against him. He was punished with the choice between transfer to the freight department or dismissal. The complainant states that it took the case to the Labour Disputes Court on the grounds of anti-union discrimination and the union leader has accepted transfer "under protest" until the Court delivers its verdict.

305. In its letter of 5 November 1982, the complainant states that a number of stewards and stewardesses have been directly or indirectly threatened by higher officials of the company that they would lose their jobs if they joined the complainant union; it is keeping the names and details of such cases confidential for

eventual use in court. The complainant does however give details of the case of one steward, Mr. N. Matsentides, who requested to check the contents of his duty free bars before a flight prior to signing the relevant customs documents. He was subsequently off-loaded and suspended from duties for the rest of the day for allegedly acting outside a steward's terms of reference. The complainant also reports that the company has begun recruiting new staff allegedly to be used in the event of strike action by the complainant in support of its application to the Ministry of Labour for official recognition. The complainant's letter of 8 November 1982 adds the name of its President, Mr. T. Stylianou, and Committee members Miss S. Papadopoulou and Mr. A. Hadjinicolaou to the list of threatened union leaders.

306. On 17 December 1982 the complainant sent further information alleging that it is facing a combined effort by the employer, the Cyprus Workers' Confederation and the Union of Cyprus Airways Employees (SYNYKA) to dissolve the complainant union (which was registered on 15 November 1982 under the Trade Unions Law of 1965) and that the national legislation does not allow the Ministry of Labour to protect the workers against anti-labour measures. It requests a meeting with an ILO representative in the presence of employer and government representatives.

B. The Government's reply

307. In its communication of 28 December 1982, the Government states that its Ministry of Labour Conciliation Service, in separate meetings with the complainant union and the company, failed to reconcile each party's opposing views; the company reiterates that it cannot recognise a "splinter" union representing only 40 employees out of a total workforce of 1,000, that it has not interfered in the formation or operation of the union, that it rightfully disciplined certain employees, although not on trade union grounds, and that it has not exerted any pressure on its employees to join or not join any particular union. According to the Government, the complainant union insists that the employer recognise it for collective bargaining purposes, that it reinstate disciplined members of the union and that it cease its discriminatory acts.

308. The Government points out that the SYNYKA union, from which the CACAU-Solidarity split, and the Cyprus Workers' Confederation, to which the SYNYKA belongs, regard the complainant union as a renegade which is trying to secure preferential conditions of employment for cabin attendants; the Confederation has even threatened industrial action against the employer if it recognises the new union.

309. According to the Government, one member of the complainant union has applied under the Termination of Employment Laws 1967-1980 to the Industrial Arbitration Tribunal (a body independent of the Ministry of Labour and its Conciliation Service comprising a tripartite board of arbitrators), and the Ministry and its Conciliation Service are still trying to settle the dispute. It stresses, however, that the collective bargaining system in Cyprus

is completely free so that the Ministry cannot enforce recognition or compulsory reinstatement of disciplined employees. The Government supplies copies of the Trade Unions Law, the Trade Disputes (Conciliation, Arbitration and Inquiry) Law and the Termination of Employment Laws - as well as the Industrial Relations Code - which provide that membership of a trade union or trade union activities shall not constitute a valid reason for termination of employment.

310. In its letter of 28 January 1983, the Government reiterates that in the free system of collective bargaining operating in Cyprus it cannot force recognition or reinstatement.

C. The Committee's conclusions

311. The Committee notes that this case involves allegations of employer interference in the functioning of a newly-registered union, the Cyprus Airways Cabin Attendants Union Solidarity (CACAU-Solidarity), through its refusal to negotiate with it and anti-union discrimination in the form of transfer, suspension and threats of dismissal against members of the new union.

312. From all the information at its disposal the Committee notes that the complainant union, CACAU-Solidarity, was established and registered, in accordance with the legislation, on 15 November 1982. With some 40 members, it appears to represent 95 per cent of the cabin attendants, whereas the remainder of the total workforce of 1,000 are represented by the Cyprus Airways Employees' Union (SYNYKA), from which the CACAU-Solidarity has broken away. The Committee also notes that SYNYKA is affiliated to the Cyprus Workers' Confederation which, according to the Government, threatens industrial action against the employer if CACAU-Solidarity is recognised.

313. As regards the question of the representativity of unions for the purposes of collective bargaining, the Committee has on a number of occasions¹ pointed out that it is not necessarily incompatible with the principles of freedom of association to provide for the certification of the most representative union in a given unit as the exclusive bargaining agent, but that this is the case only if a number of safeguards are provided, e.g. (a) certification to be made by an independent body; (b) the representative organisation to be chosen by a majority vote of the employees in the unit concerned; (c) the right of an organisation other than the certificated organisation to demand a new election after a fixed period has elapsed since the previous election. In addition, minority organisations should be allowed to function and at least have the right to make representations on behalf of their members and to represent them in the case of individual grievances. In these circumstances, the Committee considers that steps should be taken by the authorities to verify the various claims of the unions

¹ See, for example, 118th Report, Case No. 559 (Trinidad and Tobago), para. 129; 121st Report, Case No. 624 (United Kingdom/British Honduras), para. 56.

concerned to represent the majority of the workers in the bargaining unit with a view to determining, on the basis of the aforementioned criteria, the most representative union for collective bargaining purposes. The Committee requests the Government to keep it informed of the results of such an inquiry.

314. As regards the employer's alleged anti-union actions, in particular the transfer of the complainant's Secretary-General, Mr. Zivanas, the one-day suspension of Mr. Matsentides and the threats made against union executive members Mr. Styliancu, Miss Papadopoulou and Mr. Hadjinicolaou, the Committee notes the employer's insistence that the disciplinary measures were justified and not based on trade union grounds and its denial that there has been any anti-union pressure exerted on its employees. The Committee also notes that the union's allegations have been examined by the Conciliation Service of the Ministry of Labour which appears merely to have recorded the views of the employer that no act of anti-union discrimination was committed.

315. As concerns all the other acts of alleged anti-union discrimination, the Committee notes, in particular, that the Trade Unions Law, 1965, contains precise provisions guaranteeing protection to workers against acts of anti-union discrimination and that Mr. Zivanas has challenged his transfer before the Labour Disputes Court. The Committee, recalling the principle that workers' organisations should be able to function freely without interference by employers or their organisations, requests the Government to keep it informed of the outcome of the case instituted by Mr. Zivanas. It would also like to be informed of the outcome of any other action that may have been taken by the complainant organisation at the national level to seek redress for the other alleged acts of anti-union discrimination to which its members are said to have been subjected.

The Committee's recommendations

316. In these circumstances, the Committee recommends the Governing Body to approve this interim report, in particular the following conclusions:

- (a) As regards the representativity of unions for the purposes of collective bargaining, the Committee considers that steps should be taken by the authorities to verify the various claims of the unions involved in this case with a view to determining, on the basis of the criteria set out above, the most representative union for collective bargaining purposes and it requests the Government to keep it informed of the results of such an inquiry.
- (b) As concerns the acts of alleged anti-union discrimination, the Committee, recalling the principle that workers' organisations should be able to function freely without interference by employers or their organisations, requests the Government to keep it informed of the outcome of the case brought by the transferred trade union leader, Mr. Zivanas, before the Labour Disputes Court. It would also like to be informed of the

outcome of any other action that may have been taken by the complainant organisation at the national level to seek redress for the other acts of alleged anti-union discrimination to which its members are said to have been subjected.

Case No. 1169

COMPLAINT PRESENTED BY THE TRADE UNION OF DOCKERS,
EMPLOYEES AND OFFICE STAFF OF CORINTO DOCKS
AGAINST THE GOVERNMENT OF NICARAGUA

317. Under the signature of the Disputes Secretary, the Trade Union of Dockers, Employees and Office Staff of Corinto Docks (SEECMC) presented a complaint in a communication dated 12 November 1982 and sent additional information in a communication dated 16 December 1982. The Government replied in a communication dated 1 February 1983.

318. Nicaragua has ratified both the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainant's allegations

319. The Disputes Secretary of the SEECMC, Mr. Zacarias Hernández, in his capacity as union leader, alleges in a communication of 12 November 1982 that Denis Maltes Lugo and Alejandro Arnuero, respectively Financial Secretary and Secretary for Social Affairs of the SEECMC, were arrested on 7 November 1982 at 4 a.m. by the State Security chief and second-in-command of the harbour police, without his family or organisation being informed of his whereabouts. According to the complainant, they were arrested simply for having requested compliance with the ILO's international Conventions on freedom of association and as a result of collusion between the labour and police authorities and the manager of the harbour enterprise. Mr. Zacarias Hernández further alleges that he is currently a refugee in San José, Costa Rica, a victim of the State Security forces' persecution of the defenders of freedom of association.

320. In his communication dated 16 December 1982, the complainant adds that State Security forces arrested Felipe Alonso, President of the Vigilance Board of the SEECMC, on 1 December, since when neither his whereabouts nor the charges against him have been communicated. In addition, a trade union leader, Isabel Somarriba, was obliged to leave the country owing to the systematic harassment of the State Security forces and manager of the harbour enterprise. Mr. Hernández goes on to state further that, although Denis Maltes Lugo has now been released, it is on condition that he relinquish his trade union post and take no further part in the activities of the organisation.

321. Finally, Mr. Zacarías Hernández alleges that the Ministry of Labour, manoeuvred by the manager of the harbour enterprise and State Security chief, authorised the rest of the executive committee to convene an extraordinary general meeting on 18 December 1982 in order to appoint persons not affiliated to the trade union to an executive body sympathetic to the political interests of the Government, against the will of the union's members.

B. The Government's reply

322. In its communication dated 1 February 1983, the Government states that, in an official declaration issued on 17 January 1983, the SEEOMC denied Mr. Hernández the right to represent it and bore witness to the freedom of association of workers in Nicaragua and to the fact that the persons concerned had not been arrested in their capacity as trade union leaders but for other reasons. According to the Government, the declaration, which was issued spontaneously and freely by the union in question, denounced the manoeuvring of certain workers who, through their statements or activities, were endeavouring to cause problems for the Government, undermine the honesty and patriotism of other union members and present a bad image of the Government to world opinion.

323. The Government sends the text of the SEEOMC declaration in which the following statements are made:

that this trade union denies Mr. Zacarías Hernández Eustamente any authority to act on its behalf in view of the fact that he left the union on 24 August 1982 to join the ranks of the CIA and counter-revolutionary forces operating outside the country; that the complaint presented to the ILO is merely one further defamatory campaign sponsored by the CIA against the popular Sandinista Revolution. The declaration further states that Felipe Alonso and Alejandro Arnuero, who are innocent and at present released, were not arrested in their capacity as union leaders but for having been involved by Mr. Hernández in his counter-revolutionary activities.

324. The Government also encloses a communication from the SEEOMC dated 21 December 1982 showing that an extraordinary general assembly was held on 18 December 1982 at which an Executive Board was elected for the whole of 1983.

C. The Committee's conclusions

325. The Committee takes note of the allegations of the complainant and of the Government's reply. The Committee notes in particular that, according to the documentation sent by the Government, the union leaders, Felipe Alonso and Alejandro Arnuero have been released and that they were arrested not in their capacity as union leaders but for having been involved by Mr. Zacarías Hernández in his counter-revolutionary activities. The Committee

also notes that, according to the complainant, Denis Maltes Lugo has been released but on condition that he relinquish his trade union post and take no further part in the activities of the organisation.

326. The Committee observes that the Government has not indicated the precise grounds for the arrest of the union leaders, Denis Maltes Lugo, Felipe Alonso and Alejandro Arnuero, but has merely sent the text of a declaration issued by the SEECMC asserting in general terms that Felipe Alonso and Alejandro Arnuero had been arrested for their involvement in counter-revolutionary activities, which cannot be considered as a sufficiently detailed reply. The Committee therefore requests the Government to indicate the precise grounds for the arrest of these three union leaders so that it can rule on the case in full knowledge of the facts.

327. The Committee moreover observes that the Government has not replied to the other allegations: namely, the use of coercion to make the trade union leader, Denis Maltes Lugo, relinquish his union post, the departure from the country of union leaders Zacarias Hernández and Isabel Somarriba because of the persecution and harassment by the State Security forces, and collusion between the authorities and management of the harbour enterprise to authorise the convening of an extraordinary general assembly of the SEECMC to appoint persons not affiliated to the trade union to an executive body sympathetic to the political interests of the Government, against the will of the members of the union. The Committee requests the Government to send its observations on these allegations.

328. In addition, the Committee would like to have more information on the serious accusations made in the declaration of the SEECMC against Mr. Zacarias Hernández.

The Committee's recommendations

329. In these circumstances, the Committee recommends the Governing Body to approve this interim report and, in particular, the following conclusions:

- (a) While noting that the trade union leaders, Denis Maltes Lugo, Felipe Alonso and Alejandro Arnuero have now been released, the Committee requests the Government to indicate the precise grounds for their arrest.
- (b) The Committee requests the Government to send its observations on the allegations to which it has not replied: namely, the use of coercion to make the trade union leader, Denis Maltes Lugo, relinquish his union post, the departure from the country of union leaders Zacarias Hernández and Isabel Somarriba because of the persecution and harassment by the State Security forces, and collusion between the authorities and management of the harbour enterprise to authorise the convening of an extraordinary general assembly of the SEECMC to appoint persons not affiliated to the trade union to an executive body sympathetic to the political interests of the Government, against the will of the members of the union.

- (c) The Committee would like to have more information on the serious accusations made in the declaration of the SFFOMC against Mr. Zacarias Hernández.

Geneva, 25 February 1983.

(Signed) Roberto AGC,
Chairman.

223RD REPORT¹

INTRODUCTION

1. The Committee on Freedom of Association, set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva, on 21, 22 and 25 February 1983 under the chairmanship of Mr. Roberto Ago, former Chairman of the Governing Body.

2. The Committee had before it various complaints of infringements of trade union rights in Argentina presented by a number of trade union organisations (Case No. 842), and a complaint concerning the observance by Argentina of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by a number of delegates to the 63rd (1977) Session of the International Labour Conference under article 26 of the Constitution of the ILO.

3. At its 221st Session (November 1982) the Governing Body adopted the interim conclusions submitted to it by the Committee in its 219th Report.

4. Since then, the Government has transmitted certain information and the Committee submits for the approval of the Governing Body a further report on the case and recommends the Governing Body to examine this report at its 222nd Session.²

Case No. 842

COMPLAINTS PRESENTED BY THE WORLD FEDERATION OF TRADE UNIONS, THE WORLD CONFEDERATION OF LABOUR, THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS AND OTHER TRADE UNION ORGANISATIONS AGAINST THE GOVERNMENT OF ARGENTINA

COMPLAINT CONCERNING THE NON-OBSERVANCE BY ARGENTINA OF THE FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION, 1948 (NO. 87), PRESENTED BY A NUMBER OF DELEGATES TO THE 63RD (1977) SESSION OF THE INTERNATIONAL LABOUR CONFERENCE UNDER ARTICLE 26 OF THE CONSTITUTION OF THE ILO

5. The Committee has examined this case on several

¹ See page 1, footnote 1.

² See page 1, footnote 2.

occasions and, in particular, at its November 1982 Session when it submitted an interim report to the Governing Body.¹

6. Since then, the Government has sent information in a communication dated 17 January 1983.

7. Argentina has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

8. The questions still pending concern various restrictions on trade union activities and the arrest of trade unionists and former trade unionists.

A. Various restrictions on trade union activities

(a) Previous examination

9. In its previous examinations of the case, the Committee expressed its concern over the placing under supervision of trade union organisations, in particular the General Confederation of Labour, and over the restrictions on trade union activities which had been applied for six years and which included the suspension of collective bargaining and of the right to strike.

10. On the subject, precisely, of the suspension of collective bargaining and of the right to strike, the Committee at its meeting in November 1982 noted with interest that Decree No. 469 of March 1982 made it possible for employers to grant wage increases over and above the basic remuneration. The Committee nevertheless noted that remuneration could still not be established globally by voluntary collective bargaining and that workers still could not legally resort to strike action in support of their demands. Since the restrictions had been in force for more than six years, the Committee considered that one of the Government's priorities should be to re-establish unimpeded collective bargaining and to grant effective recognition of the right to strike. The Committee requested the Government to inform it of the measures that it intended to take so that these rights might shortly be exercised in full freedom.

11. As regards the placing under supervision of trade union organisations, the Committee noted that fresh trade union elections had been held and that, under Decree No. 549 of March 1982, it would be possible for temporary committees appointed by the Ministry of Labour to replace the system of supervision. Recalling that for the placing under supervision of a trade union to be admissible, it had to be a purely temporary measure, designed solely to allow free elections to be organised, the Committee requested the Government to consider quickly lifting all supervision orders on trade union organisations and to provide detailed information on the measures taken to this end as well as on the number and nature of the organisations still in this situation.

¹ See 219th Report, paras. 5 to 32, approved by the Governing Body at its 221st Session (November 1982).

(b) The Government's reply

12. In its communication of 17 January 1983, the Government repeats first of all the detailed information which it supplied in its communication of 4 November 1982 regarding the measures taken by the new government administration that had been in office since July 1982 to remedy the deterioration in purchasing power and to ensure an adequate level of remuneration in low income sectors, of which an account is given in paragraph 17 of the 219th Report of the Committee.

13. The Government also states that in August 1982 a special tax free cost-of-living allowance, unrelated to wages, was granted and that on 1 September a fixed sum, wage-related this time but general and uniform, was granted. At this stage, the Government explains, the main aim was to raise the level of real wages immediately and significantly.

14. Since September the system for determining wage increases in the light of changes in the cost of living has begun to operate. On 1 October remuneration was adjusted upwards according to the cost-of-living index for September. On 1 November, as a first step, a method of two-monthly adjustments in basic wages was introduced, 70 per cent of the adjustment being based on the change in the cost of living over the two preceding months and the remaining 30 per cent being based on the expected change in the two coming months.

15. The Government also explains that Decree No. 1639 of 26 December 1982 establishes, as part of the wage increase, a guaranteed minimum increase of one million pesos for pensionable remuneration received by workers covered by collective agreements on 30 November 1982. The minimum living wage is fixed at 4 million pesos a month, 170,000 pesos per day and 20,000 per hour, that is to say an increase in the minimum living wage, over the period July to September 1982, of 407.13 per cent.

16. The Government emphasises the constant concern of the authorities to ensure that the workers' incomes are fair and keep pace with the increase in the cost of living which, it states, went up by 221.22 per cent in the second half of 1982 while real wages went up by 237.22 per cent. The Government adds that contrary to what happened on previous occasions, not only have wage increases been granted but in addition preparations have been made for more permanent wage machinery. The Government explains once again that after a period of several years without collective bargaining, restoring the system entailed an intermediate and transitional stage for creating adequate and reasonable conditions for the re-establishment of collective bargaining. In accordance with section 6 of Decree No. 439/82, providing for the constitution of consultative technical committees, 60 tripartite committees have now been set up composed of representatives of the State and of employers and workers who are parties to collective agreements. These committees have reached agreements on the modification of the basic wage scales in the agreements to apply the increases decided by decree for each branch of activity. As from 1 January 1983 the wage policy applicable to workers covered by collective agreements will be determined through machinery and consultative procedures involving representatives of the sectors concerned and of the