

depended. Moreover, as it had been agreed from the beginning, the bargaining meetings related mainly to the review of salaries, career questions taking second place. The Government explains that it is this point that was clarified in the letter of 23 October mentioned above.

72. Moreover, the Government states that once the budgetary policy for 1985 had been defined by the Council of Ministers, the meetings on remuneration resumed immediately on 11 January 1985 and the fact that the trade union bargaining committee attended these meetings shows the absurdity of the complaint lodged in the meantime. It should also be pointed out that the said trade union bargaining committee, at the meeting of 11 October to which it subsequently objected, discussed the Government's proposal and even put forward counterproposals which were to be submitted for appraisal at a later stage since the committee agreed that the date of the next meeting would be fixed by telephone.

73. The Government concludes by stating that it was therefore lawfully and adequately represented at the meeting of 11 October, that the extension of the deadlines originally set was justified and could not be considered as an infringement of the principles of section 3 of Legislative Decree No. 45-A/84 mentioned above, or of those of the Labour Relations (Public Service) Convention, 1978 (No. 151). The Government considers that the National Federation of Public Service Trade Unions is not justified in approaching the Committee on Freedom of Association and that Portuguese law and practice comply with the standards of this international Convention.

C. The Committee's conclusions

74. The Committee observes that the complaint presented by the National Federation of Public Employees' Trade Unions consists essentially in criticism of Legislative Decree No. 45-A/84 of 3 February 1984, governing the right to bargain of workers in the public administration, which, according to the complainant, fails to establish any machinery for resolving disputes in the public service. The complaint also involves allegations of irregularities in the bargaining procedure for the review of public service salaries for the year 1985 and of the unilateral suspension of negotiations by the Government.

75. The Committee observes that the National Federation of Public Employees' Trade Unions, which is affiliated to the General Confederation of Portuguese Workers (CGTP-IN), already lodged a complaint on the subject of collective bargaining in the public service in 1981 (Case No. 1042, examined by the Committee on Freedom of Association in its 214th Report, paragraphs 301-331, approved by the Governing Body at its 219th Session in February-March 1982).

76. At the time, the Government had already ratified Convention No. 151 but had not yet adopted Legislative Decree No. 45-A/84 of 3 February 1984 governing the right to bargain of workers in the public administration.

77. In the opinion of the Committee of Experts on the Application of Conventions and Recommendations, this Legislative Decree complies with the requirements of Convention No. 151 since section 8 of this legislation, which deals with the resolving of disputes, provides in its first subsection that "the resolving of disputes that arise during the bargaining procedure may be undertaken at the request of the trade union organisations by further negotiations". The second subsection of the same section provides that the opening of further negotiations requires the approval of the Government and must take place within 20 days and aim at securing an agreement. The third subsection provides that the consensus reached in the further negotiations will assume the character of a recommendation.

78. The Committee recalls that Article 8 of Convention No. 151 reads as follows:

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

The Committee cannot but endorse the opinion of the Committee of Experts and considers that the procedure chosen in Portuguese law to resolve disputes, namely further negotiations, complies with the terms of the Convention which were correctly applied by the Government in the present case.

79. As regards the allegations of irregularities in the bargaining procedure in that the Government is said to have been represented by persons who, by law, were not qualified to undertake negotiations, the Committee has noted the detailed explanations furnished by the Government and in particular the fact that it was lawfully and adequately represented at the meeting on 11 October 1984 by the Head of Cabinet of the Secretary of State for Public Administration, by the Director-General of the department for assistance to public employees in the event of sickness and by the Director-General of Administration and the Public Service. The Committee considers that in view of these explanations, this aspect of the case does not call for further examination.

80. As regards the allegation that the bargaining procedure was unilaterally suspended by the Government, the Committee has also noted the Government's explanations and in particular the fact that there was simply a postponement of the original deadlines as a result of an

unexpected delay in the discussions on the general budget of the State, on the adoption of which the determination of new public service salaries depended. The Committee has also noted that the meetings on salaries resumed with the trade union bargaining committee as from 11 January 1985 and that four meetings took place, which the complainant federation has not denied. The Committee considers that, in these circumstances, this aspect of the case does not call for further examination.

The Committee's recommendation

81. In the circumstances, the Committee recommends the Governing Body to approve this report and, in particular, the following conclusion:

The Committee has taken note of the Government's explanations on the allegations of irregularity in the bargaining procedure for the review of salaries for 1985 in the public service and of a unilateral suspension of negotiations by the Government and considers that, in view of these explanations, this case does not call for further examination.

CASES IN WHICH THE COMMITTEE HAS REACHED DEFINITIVE CONCLUSIONS

Case No. 1187

COMPLAINT PRESENTED BY THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS AGAINST THE GOVERNMENT OF IRAN

82. The Committee examined this case on two previous occasions, in November 1983 and May 1984, and presented interim conclusions to the Governing Body [see 230th Report of the Committee, paras. 660 to 678 and 234th Report, paras. 485 to 499, approved by the Governing Body respectively at its 224th (November 1983) and 226th (May-June 1984) Sessions]. The Government sent its further observations on the case in a communication dated 27 January 1985.

83. Iran has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

84. In its most recent examination of the case, the Committee noted that the International Confederation of Free Trade Unions (ICFTU), in a communication dated 6 April 1984, had submitted additional allegations of anti-union repression in various Iranian factories during February, March and April 1983. The Committee adjourned this aspect of the case as the Government had not yet replied to these allegations.

85. At the same time the Committee requested the Government to keep it informed of any elections that might be held in the 15 named trade unions which exist without any legally appointed executive committee, elections which would ensure that these organisations can function effectively.

B. Further allegations presented by the complainant

86. In its communication of 6 April 1984, the ICFTU alleges that, on 10 February 1983, the entire workforce in the Iran Saypa Factory, comprising 3,000 workers, came out on strike in protest against the non-payment of extra wages as required by the law, the incompetence and inexperience of the management, the regime's use of informers in the factory to identify and crack down on protesting workers and, finally, the decision to cancel the two days' official leave per week. According to the ICFTU, the authorities put an end to the strike by sending in armed guards and arresting a number of workers.

87. According to the ICFTU, the 3,000-strong workforce in the Kashan Velvet Factory staged a strike on 1 February 1983 in protest against the anti-worker measures of the Government and the dismissal of several of their colleagues. The strike was terminated through intimidation, threats and further dismissals.

88. The complainant further states that the entire workforce of 1,100 in the B.F. Goodrich car-tyre plant in Tehran went on strike on 5 February 1983 in protest against the non-payment of profit shares and, at the request of the plant's manager, armed guards intervened. Several workers were arrested and two were dismissed. The strike was broken when a small part of the workers' profit was paid.

89. The ICFTU further alleges that more than 2,000 workers in the Iran Chintz-Making Factory began a strike on 16 February 1983 in protest against the non-payment of bonuses and special benefits and the compulsory dispatch of 100 workers to the front.

90. According to the complainant, on 3 March 1983, the 600 workers of Pars Electric Factory in the city of Rasht began a strike

in protest against working conditions and the suspicious death of a factory engineer. The strike was broken after the intervention of the Governor-General, the religious judge and armed guards, which led to the arrest and dismissal of two workers.

91. Another alleged incident took place in mid-March 1983 when all workers in the Ghazvin glass factory - numbering 1,500 - came out on strike in protest against the anti-worker measures of the factory officials. Armed guards attacked, wounding and arresting a number of workers, and the strike was thus broken.

92. According to the ICFTU, workers at Varamin Sugar Refinery stopped work on 3 March 1983 as a sign of their opposition to the repression dominating the factory and also the non-payment of 12 days' suspended wages in the previous month. When intervention by the so-called Islamic Society, the Prosecutor-General of Tehran and the Friday Prayers' Leader of Varamin made no impact on the workers' determined stance, armed guards attacked the workers on 6 March 1983. The ICFTU states that 18 workers were sent to Evin torture centre; some, including Issa Samadi, were badly wounded and had to be taken to Tehran's Hospital No. 10 for treatment but were sent to gaol before their wounds could heal.

93. The ICFTU goes on to state that all 700 workers of the Igar Factory in Shiraz stopped work on 9 March 1983 in protest against a wage freeze, the denial of the right to organise and the absence of trade union freedoms. The strike was brutally broken when armed guards mounted an all-out attack on the strikers.

94. According to the complainant, around 2,000 workers in the Ghoo vegetable oil factory in Tehran stopped work on 19 March 1983 in protest against the directive issued by the Minister of Industries concerning the non-payment of their legal extra wages. The strike was broken after armed guards entered the factory and began to threaten and intimidate the striking workers.

95. Lastly, the ICFTU states that on 15 April 1983, 4,500 miners in the Zirab collieries went on strike in protest against the non-payment of wages on sabbaths and the withdrawal of their annual bonus schemes. The strike ended with the arrest and dismissal of several miners.

C. The Government's reply

96. In its communication of 27 January 1985, the Government states that, in the Iran Saypa Automobile Factory, all the legal wages and benefits were duly paid to the workers but a few workers objected to the Board of Directors of the Factory and tried to create disturbances. After intervention by the Prosecutor, those workers, having had the legal position explained to them, resumed work. It

points out that only Friday is the workers' paid weekly rest day and Thursday may also be another day off in those undertakings where such agreement has been reached by the workers and employers.

97. Regarding the Kashan Velvet Factory, the Government explains that 100 weavers stopped work and applied to the management for settlement of their demands; the management told them that following the appointment of a supervisor for the section concerned their demands would be taken into consideration; a few days after the appointment of the supervisor one of the workers was subjected to disciplinary action in the form of non-payment of wages for unauthorised absence; in a later incident the workers concerned protested against the non-fulfilment of their demands and beat the Managing Director as a result of which an inquiry was carried out by the Prosecutor for Labour Affairs and one worker was dismissed.

98. The Government denies that there was any strike action at the Kyan Tyre (B.F. Goodrich) Factory and, consequently, that there were any arrests or dismissals as a result of a strike. Moreover, the Government disputes the ICFTU's reference to real shares profit given that the legislation on workers' profit-sharing has been replaced by the Act for Securing Workers' Interests in Manufacturing and Productive Undertakings.

99. As regards the alleged incidents at the Bafkar Factory (Iran Chintz-Making Factory), the Government explains that only 250 out of 1,000 employees objected to the management about the deduction of taxes from their annual bonus; when it was explained to these workers that the taxes had been deducted in accordance with regulations they resumed work. The Government denies that any person has been compulsorily despatched to the fronts and notes that not one objection has been made to any authority by the workers who have volunteered for the war fronts.

100. According to the Government, the death of an engineer at the Rasht Electric Factory was due to a heart attack after the worker had confessed to attempted theft and had been dismissed. Other workers stopped work on the pretext that his death had been caused by the management and held two members of the Board of Directors hostage. Disciplinary forces from the Prosecutor's Office interfered and freed the hostages and the workers resumed work. The Government states that no workers were arrested or dismissed.

101. As regards the Ghazvin Glass Factory, the Government states that serious quarrels arose as to whom a reward should be paid for repairing one of the kilns. In response to the request by the management, the disciplinary guards visited the factory and called on the workers to keep the peace; when their efforts failed they immediately reported the case of the Governor of Ghazvin who sent a mission - composed of representatives of the Governor's Office and the local Labour and Social Affairs Department - to the factory to hear the workers' complaints. After consideration of the complaints, two workers were dismissed and appealed to the conciliation body of the

Ministry of Labour which subsequently ruled their reinstatement. The Government denies any arrest or wounding of workers during this incident.

102. The Government denies any non-payment of wages in the Varamin Sugar Refinery but notes that, owing to financial difficulties, the management had been unable to pay simultaneously in the last month of the year the salaries and end-of-year bonuses. This led to quarrels and physical clashes during which the Managing Director's arm was broken and members of the management were held while the protesting workers took control of the factory. The managers were released after the Prosecutor's Office interfered. The Government explains that given the usual practice of paying the wages for the last month of the year and the annual bonus at the same time or with only a few days in between, it was arranged - with the intervention of the Prosecutor and the local authorities, including the Friday Prayers' Leader - that the management would borrow from the Government to pay the workers as they demanded. This was done before the end of the month and the workers resumed work. The Government states that only a few persons had been injured during the quarrels in the presence of the disciplinary guards from the Prosecutor's Office and Mr. Issa Samadi was not injured or imprisoned and continues working in the factory.

103. As regards the Martyr Forsatyan Textile factory (Shiraz), the Government states that in 1982 the workers had received a distribution of the profits of the factory and in 1983 claimed the same distribution. The Board of Directors explained to them that the original payment had not been legal but the Managing Director announced that an amount would nevertheless be paid. The Board of Directors discharged him and, when the new Director refused to make the payment, the workers made strong protests. Due to the presence of inflammable substances in the Factory and the possibility of accidents, the Board requested the legal authorities for help. Once the situation had been explained to the workers they resumed work and no accidents occurred.

104. According to the Government, in the Ghoo Vegetable Oil Factory, a number of workers had demanded, in addition to the annual bonus, some special benefits which had been paid under the past regime. The factory authorities explained to them that such payment was no longer legal and the workers received their legal annual bonus.

105. As regards the Central Alborz Collieries Co. (Zirab), the Government states that all the ICFTU's allegations are absolutely baseless because there were only 1,650 employees dispersed around the area and on the date mentioned the undertaking was not active, it being the weekly rest day. There has been no protest or any incident in the undertaking.

D. The Committee's conclusions

106. The Committee notes that all the allegations made by the complainant are specifically denied by the Government. As regards each of the incidents described in the complaint, the Government provides explanations as to the nature of the issues that gave rise to protest action by the workers and indicates that the various problems that occurred in the factories mentioned in the complaint were eventually resolved following intervention by the legal authorities. The Government admits that in certain cases the protest action was accompanied by violent incidents and that armed disciplinary guards intervened. The Government specifically denies, however, that there were any arrests or dismissals of workers except in one case where one worker was dismissed following an inquiry into acts of violence committed by him, and in another case where two workers appear to have been reinstated after appealing against their dismissal.

107. The Committee also notes that the complainant and the Government describe in some detail the violence which occurred at four undertakings - in three cases in the presence of the disciplinary guards attached to the Prosecutor's Office (Ghazvin Glass Factory, Varamin Sugar Refinery and the Rasht Electric Factory). In this connection the Committee would recall that while workers and their organisations have an obligation to respect the law of the land, the intervention by security forces in strike situations should be limited strictly to the maintenance of public order [see, for example, 234th Report, Case No. 1227 (India), para. 312].

108. In the present case the information at the disposal of the Committee shows that the action taken by the authorities resulted not from the strike action itself that was taken in the various factories, but from the acts of violence that accompanied this action. In other factories, where no violence is said to have occurred, the claims which gave rise to the strike action would appear to have been settled.

The Committee's recommendation

109. In these circumstances, the Committee recommends the Governing Body to approve this report and, in particular, the following conclusion:

The Committee recalls, as regards the violence during strikes at four undertakings in early 1983, that intervention by the security forces in strike situations should be limited strictly to the maintenance of public order.

Case No. 1201COMPLAINT PRESENTED BY THE NATIONAL FEDERATION OF
RAILWAYS (MOROCCAN UNION OF LABOUR - UMT)
AGAINST THE GOVERNMENT OF MOROCCO

110. The Committee already examined this case at its meeting in May 1984 and, on that occasion, submitted an interim report to the Governing Body. [See 234th Report, paras. 544 to 554, approved by the Governing Body at its 226th Session (May-June 1984).]

111. Subsequently, the Government sent certain observations in a communication dated 1 November 1984. The Committee however, considered that this information was too limited and requested the Government once again at its meeting in November 1984 to provide detailed observations on the allegations contained in the complaint. [See 236th Report, para. 6, approved by the Governing Body at its 228th Session (November 1984).] The Government sent a further communication on 30 May 1985.

112. Morocco has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), but has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

113. At its May 1984 meeting, the Committee was obliged to examine the case without having received a reply from the Government since, in spite of an urgent appeal made by the Committee, the Government had still not supplied its observations.

114. In its complaint of 13 May 1983, the National Federation of Railways (UMT) had stated that following the refusal of the General Management of the National Railways (ONCF) to open negotiations with it, the union had organised a strike from 3 to 21 May 1983 in order to put forward a list of claims. The trade union organisation protested against the authorities' reaction to this strike, which had involved the use of the military to break it up and the arrest of nine railwaymen in Taza on 5 May 1983 for having taken part in the strike. Those railwaymen arrested were: Benjilali Abdeslam, Layachi Fouad (staff delegate), Meftah Mohamed, Saber Yahia, Ridal Abdellah, Ben Melih Azzedine, Zfizef Mohamed, Chahid Mohamed and Khaldi Mohamed. Furthermore, the complainant organisation pointed out that it had issued instructions to the strikers to maintain order and discipline. As support to the statement, it enclosed a summons to strike which it had sent to all the railwaymen on 30 April 1983.

115. In a supplementary communication of 30 May 1983, the complainant organisation alleged that requisition orders had been issued to the striking railwaymen at their homes by the authorities and it stated that the nine trade unionists mentioned above had been arrested and detained at the civilian prison from 4 to 19 May 1983, but that they had been judged by the Taza Court for having refused to comply with these orders. It mentioned that three of these railwaymen, Ridal Abdellah, Chahid Mohamed and Saber Yahia, had been suspended from their work by decision of the Director of Operations at the ONCF. It also mentioned that following the strike, other trade unionists had been arrested in Marrakesh by the police so that their cases might be prepared and brought before the court, on the grounds that they had taken part in the strike. The complainant organisation pointed out that the railway workers' claims dated from February 1982 and that, since that time, it had approached both the General Management of the ONCF and the competent ministerial authorities on numerous occasions to voice its claims; however, it had never received any response to these claims or to its request for a hearing. Consequently, a 24-hour strike had already been organised on 17 February at the Operations headquarters; as a result of the total lack of response from both the ONCF management and the Government, it had been decided to hold a 24-hour warning strike, which had then been extended, finally leading up to the strike from 3 to 21 May 1983.

116. At its May-June 1984 Session, the Governing Body approved the following conclusions of the Committee:

- (a) The Committee deeply regrets that, in spite of the time which has elapsed since the presentation of the complaint and the many requests made to the Government, the latter has not communicated its observations on this case.
- (b) Concerning the measures taken to break up the railwaymen's general strike in May 1983, the Committee draws the Government's attention to the fact that the use of the military and requisitioning orders to oblige strikers to return to work are inadmissible actions, in so far as workers are defending their occupational interests, unless these actions aim at maintaining essential services in circumstances of the utmost gravity. In this case, the Committee points out that rail transport is not considered as an essential service in the strict sense of the term.
- (c) With respect to the repeated refusals of the National Railways (ONCF) to negotiate with the railwaymen on their list of claims, which prompted the latter to declare the strikes, the Committee would point out that under Article 4 of Convention No. 98 it is up to the member State having ratified this instrument to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers and workers. The Committee therefore draws the Government's attention to the necessity

of allowing railwaymen to negotiate their terms and conditions of employment and wages.

- (d) The Committee expresses its grave concern over the arrest of nine trade unionists for having taken part in the strike and their subsequent trial, for having failed to comply with orders to resume work. The Committee deeply deplores the fact that prison sentences are passed on striking trade unionists and remains extremely concerned that three of them were suspended from work. The Committee considers that this constitutes an act of discrimination in respect of employment against those involved in legitimate trade union activities, contrary to Article 1 of Convention No. 98 and an infringement of freedom of association; it therefore requests the Government to take steps to ensure that these three workers are reinstated in their jobs as soon as possible and to communicate any information in this respect.
- (e) The Government is urged to supply its comments on the complainant organisation's allegations.

B. The Government's reply

117. In its communication of 1 November 1984, the Government stated that after a series of meetings attended by representatives from the Ministry of Transport and the Moroccan Union of Labour, it was decided to grant a special monthly bonus of 89 dirhams to the railwaymen as from 1 May 1983. According to the Government, the case in question has therefore been finally settled. In a further communication dated 30 May 1985, the Government indicated that all the workers mentioned in the complaint had been reinstated.

C. The Committee's conclusions

118. This case concerns a strike in the railways sector organised from 3 to 21 May 1983 with a view to obtaining satisfaction of occupational demands. The Committee notes with deep regret that, although the complaint was presented on 13 May 1983, the Government only sent an extremely brief communication on 1 November 1984 following several urgent appeals from the Committee and further information during its present meeting.

119. In the present case, the Government, while acknowledging that a labour dispute took place in the railways sector in May 1983, limits itself to stating that after a series of meetings between representatives of the Ministry of Transport and the Moroccan Union of

Labour it was decided to grant a bonus to the railwaymen as from 1 May 1983.

120. In these circumstances, the Committee must recall the conclusions it reached previously, namely that the use of the military and requisitioning orders to break a strike over occupational claims, unless these actions aim at maintaining essential services in circumstances of the utmost gravity, constitute a serious violation of freedom of association.

121. The Committee considers that the arrest on 5 May 1983 of nine named railwaymen who took part in the strike and the prison sentences handed down against them by a court for having failed to comply with orders to resume work, as well as the dismissal of three of them, constitute serious discrimination in employment contrary to Convention No. 98 which has been ratified by Morocco.

122. The Committee notes that the Government has not denied these allegations. It observes, however, that the Government now states that all the workers concerned have been reinstated in their jobs.

The Committee's recommendations

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

- (a) The Committee notes with deep regret that it was only after several urgent appeals that the Government indicated that after several meetings a bonus was granted to the railwaymen in May 1983, thus bringing the labour dispute to an end, and that those workers who were dismissed for taking part in the strike have all be reinstated.
- (b) The Committee recalls with firmness that the use of the military and requisitioning orders to break a strike over occupational claims constitutes a serious violation of freedom of association.

Case No. 1206

COMPLAINTS PRESENTED BY THE FEDERATION OF LIGHT AND POWER WORKERS AND SEVERAL OTHER PERUVIAN TRADE UNION ORGANISATIONS AGAINST THE GOVERNMENT OF PERU

124. The Committee has already examined this case at its November 1984 meeting, when it submitted an interim report to the Governing

Body. [See 236th Report of the Committee, paras. 459 to 512, approved by the Governing Body at its 228th Session (November 1984).] Since then, the Government has sent additional information in communications received on 30 November 1984 and 25 February 1985.

125. Peru 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

126. In November 1984, the Committee requested the Government to supply more detailed information on the reasons for the refusal of the undertaking Electro-Peru to negotiate collectively with the General Secretaries of the affiliates of the National Executive Council of the Federation of Light and Power Workers.

127. As regards the allegation relating to the limitation of the scope of wage bargaining in public enterprises, the Committee expressed the firm hope that the tripartite committee, set up to examine the repercussions of legislation (section 46 of Act No. 23724 of December 1983) restricting wage increases in state undertakings to ensure that they do not exceed the consumer price index, would reach an agreement. It requested the Government to keep it informed of the solution found to this labour dispute.

128. As regards the allegation relating to non-payment to public records staff of increases and bonuses to which they were entitled under an agreement adopted by a joint committee on 11 November 1983 and authenticated by the administration on 27 December 1983, the Committee recalled that agreements which had been reached by the social partners in good faith should be binding on the parties and applied in practice. It requested the Government to keep it informed of developments in this case.

B. The Government's reply

129. In its communication of 29 November 1984 received on 30 November 1984, the Government states that workers who are members of public records unions have the right to form associations but not to negotiate their conditions of employment collectively. Nevertheless, the Government adds, the list of claims deposited by the Public Records Staff Union has been settled to the satisfaction of those concerned. On 9 March 1984, wage adjustments were authorised for the judicial sector, including the complainants, by Presidential Decree No. 097-84-EFC. The rates of adjustment were laid down in

Ministerial Resolution No. 098-84-EFC. The Government attaches a photocopy of these two texts to its reply.

130. In a later communication, dated 22 February 1985 and received 25 February 1985, the Government states, in connection with the complaint of the Federation of Light and Power Workers and the refusal of the undertaking Electro-Peru to negotiate with the General Secretaries of the organisations which are members of the National Executive Council of the Federation of Light and Power Workers, that the undertaking considered that the trade union delegation concerned was too large to be able to bargain constructively. Moreover, according to the Government, the list of claims was presented by the Federation of Light and Power Workers. The Government adds that, under Presidential Decree No. 11 of 21 August 1962 and Presidential Decree No. 006-72-TR, the undertaking is under the obligation to negotiate with the leaders of the Federation, but not necessarily with the representatives of each primary union, as the complainants claim.

131. As regards the work of the tripartite committee set up to examine the repercussions of legislation (Act No. 23724, section 46) restricting wage increases in state undertakings to ensure that they do not exceed the consumer price index, the Government states that this committee has not reached agreement on the applicability of automatic wage adjustments of the kind which had been obtained previously by the workers of the Federation of Light and Power Workers under collective agreements of 1978 and 1979. According to the Government, the inapplicability of automatic wage adjustments was only temporary for 1984. The standards governing the financing of the public sector for 1985 are contained in Act No. 24030, section 139 of which expressly provides that nothing in the application of the new Act shall affect the acquired rights of the workers, whether these derive from legislation or from collective agreements.

C. The Committee's conclusions

132. The present complaint relates to the application of a wage agreement in the public records sector, the agreement by the employer to bargain with one trade union interlocutor rather than another and impediments to wage bargaining in public undertakings.

133. As regards the application of the wage agreement in the public records sector, according to information communicated by the Government, this agreement, which dated from December 1983, was implemented in March 1984. While regretting that a delay of three months elapsed before the agreement took effect, the Committee observes that the complainant obtained satisfaction. In these circumstances the Committee considers that this aspect of the case does not call for further examination.

134. Regarding the choice by an employer, the undertaking Electro-Peru, to negotiate with the Executive Council of the Federation of Light and Power Workers rather than with the General-Secretaries of the first-level unions of this Federation, the Committee observes that, according to the Government, the employer considered that the trade union delegation, consisting of the General Secretaries of the organisations members of the Executive Council of the Federation was too large to engage in constructive bargaining. Moreover, still according to the Government, it was the Federation of Light and Power Workers that had presented the list of claims. While taking note of these explanations, in particular the fact that the trade union delegation which wished to negotiate with the Electro-Peru undertaking was allegedly too large to engage in constructive bargaining, the Committee recalls the importance which it attaches to the obligation to negotiate in good faith for the maintenance of the harmonious development of labour relations.

135. As regards the impediments to wage negotiation in the public sector contained in section 46 of Act No. 23724 of December 1983, the Committee notes that, according to the Government, the standards governing the financing of the public sector for 1985 are now contained in Act No. 24030 of 14 December 1984. The Committee has examined these texts, and notes in particular that by virtue of section 3 of Act No. 24030 hydro-electric power stations and communication lines will be given preference in the programme of agreed action and investments for 1985 and that by virtue of section 139 nothing in the new Act shall affect the acquired rights of workers, whether they derive from legislation or from collective agreements.

136. The Committee recalls that the complaint which was at the origin of this case, presented on 13 February 1984 by the Federation of Light and Power Workers, referred to the application of section 46 of Act No. 23724, which changed the former system of automatic wage adjustments laid down in collective agreements of 1978 and 1979. It also recalls that a tripartite committee had been set up on 5 March 1984 to examine the repercussions of this legislation and to decide whether automatic wage adjustments were applicable for 1984. Since Act No. 23724 has been replaced by Act No. 24030, which provides that nothing in the new Act shall affect the acquired rights of the workers, whether they derive from legislation or from collective agreements, and since the system of remuneration at present operating in the electricity sector has not been criticised by the complainant federation, the Committee considers that in the present circumstances this aspect of the case does not call for further examination.

The Committee's recommendations

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

- (a) As regards the application of a wage agreement for the public records sector which dated from December 1983, the Committee notes that this agreement has been implemented by Presidential Decree No. 097-84-EFC and Ministerial Resolution No. 098-84-EFC of 9 March 1984. While regretting that a delay of three months elapsed before the agreement took effect, the Committee considers that, since the complainants obtained satisfaction, this aspect of the case does not call for further examination.
- (b) As regards the choice by the undertaking Electro-Peru to negotiate with the Federation of Light and Power Workers rather than with the General Secretaries of the first-level organisations of this Federation because the undertaking considered that the trade union delegation, which consisted of the General Secretaries of the first-level unions, was too large to engage in constructive bargaining, the Committee notes that, according to the legislation, the employer was under the obligation to negotiate with the leaders of the Federation and not necessarily with the representatives of each first-level union. In this case, the Committee nevertheless recalls the general importance it attaches to the obligation to bargain in good faith for the maintenance of the harmonious development of industrial relations.
- (c) As regards the impediments to wage bargaining in the public sector, particularly in the electricity sector, contained in section 46 of Act No. 23724 of December 1983, which modified for the year 1984 the former automatic wage adjustment system laid down by collective agreements of 1978 and 1979, the Committee notes that, according to the Government, this provision was only of a temporary nature. Since it was repealed by Act No. 24030 of 14 December 1984 concerning the standards governing the financing of the public sector, which expressly provides that nothing in the new Act shall affect the acquired rights of the workers, whether they derive from legislation or from collective agreements, and that the new Act has not been criticised by the complainant organisation, the Committee considers that this aspect of the case does not call for further examination.

Case No. 1222

COMPLAINTS PRESENTED BY THE COMMONWEALTH OF THE BAHAMAS
TRADE UNION CONGRESS AND THE WORLD CONFEDERATION
OF ORGANISATIONS OF THE TEACHING PROFESSION
AGAINST THE GOVERNMENT OF THE BAHAMAS

138. The Commonwealth of the Bahamas Trade Union Congress (TUC) presented a complaint of alleged violations of trade union rights in the Bahamas in a communication dated 18 July 1983. The TUC provided additional information in support of its complaint on 5 August 1983. The World Confederation of Organisations of the Teaching Profession (WCOTP) associated itself with this complaint in a letter of 10 August 1983, and provided additional information relating to the complaint in communications dated 20 October 1983 and 8 February 1984. In a letter dated 10 January 1984 the Government stated that a report on the complaint was being prepared and would soon be dispatched.

139. At its meeting in November 1984 the Committee addressed an urgent appeal to the Government for its observations. [236th Report, para. 11, approved by the Governing Body at its 228th Session, November 1984.] On 4 February 1985 the Government sent a communication stating that its observations would be sent shortly. [See 218th Report, para. 15, approved by the Governing Body at its 229th Session, February-March 1985.] No further communications have been received from the Government.

140. The Bahamas 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. The complainants' allegations

141. In its letter of 18 July 1983 the TUC alleged that the Government was attempting to force into early retirement (one year before he was due to retire) the TUC's General Secretary, Mr. A. Leonard Archer, in an effort to curb his right to speak publicly on issues of national importance. On 5 August 1983 the TUC supplied a copy of the letter sent by the Department of Public Personnel to Mr. Archer informing him of his retirement as of 31 July following a recommendation to this effect by the Public Service Commission.

142. In a letter of 20 October 1983 the WCOTP outlined the background to Mr. Archer's forced retirement: in January 1981 teachers undertook a 3-week strike over conditions of work, the General Secretary (later President) of the Teachers' Union being Mr. Archer; thereafter the TUC (including the Teachers' Union)

discontinued a Memorandum of Understanding with the governing party which led to strong personal attacks on Mr. Archer in the press; on 13 April 1983 a small delegation of students representing the student council of a senior high school approached their principal, Mr. Archer, and asked for permission to leave school and present a petition, with representatives of other high schools, to the Government on the matter of unemployment; Mr. Archer told students that while he could not give them permission to go he would take no action against them if they went; out of a student body of 1,700, some 150 students left the school to present the petition; Mr. Archer refused to supply the Department of Education with a list of the participating students and spoke in support of them at a meeting organised by his union on 21 April 1983; on 2 May Mr. Archer received a notification from the Ministry of Education containing certain sections of the General Orders concerning the Public Service to the effect that, as a public servant, Mr. Archer had no right to speak out or to make statements to the press concerning the students; the letter also stated that if Mr. Archer had indeed made any statements then he had violated the General Orders, rendering him subject to immediate dismissal; Mr. Archer responded that any statements made by him were made in his capacity as union president/trade union leader and not as the principal of any school; on 1 June 1983 he was advised that disciplinary action was being initiated against him and was provided with a copy of a report by the Ministry of Education; he submitted a written reply on 7 June; upon Mr. Archer's compulsory retirement the Teachers' Union held peaceful demonstrations outside Parliament and on 17 August eight members of the union were arrested on charges of idle assembly, obstruction and resisting arrest and were released on bail the following day.

143. The complainants are convinced that the disciplinary action was taken against Mr. Archer as a result of his trade union activities and not merely as a result of the 13 April 1983 incident.

144. In its further communication of 8 February 1984 the WCOTP pursues the above allegation, stating that the choice of the Department of Public Personnel of procedures applicable to cases of "public interest" (under Regulation 45 of the Public Service Commission Regulations), rather than those applicable to specific breaches of discipline, suggests that the professed reason for Mr. Archer's dismissal, namely insubordination, was not the real reason for action against him. The WCOTP argues that, since specific charges of breach of General Orders were made against Mr. Archer, Regulation 45 is inapplicable. Regulation 45 reads as follows: "If a Permanent Secretary or Head of Department considers that it is desirable in the public interest that a public officer serving in his department should be required to retire from the public service on grounds which cannot suitably be dealt with under any other regulation, he shall report the matter to the Establishment Secretary".

B. The Committee's conclusions

145. The Committee deplores the fact that, in spite of the allegations made in this complaint and the various requests made to the Government for its observations, the Government has not replied thereto. In the circumstances, before examining the substance of the case, the Committee considers it necessary to recall that the purpose of the procedure for the examination of allegations of violations of freedom of association is to promote respect for trade union rights in law and in fact, and that, if the procedure protects governments against unreasonable accusations, governments should in turn recognise the importance of formulating, for objective examination, detailed replies to the allegations brought against them.

146. This case concerns the forced retirement - one year before he was due to retire - of the General Secretary of the TUC and President of the Bahamas Teachers' Union, Mr. A.L. Archer. The Committee notes that the complainants allege that this constituted an act of anti-union discrimination since, it is claimed, the real reason for his forced retirement was that he had supported student action in his capacity as a trade union leader. On the other hand, it appears from the documentation attached to the complaint that the employer - the Public Service Commission - decided on Mr. Archer's early retirement because his activities during and after the student protest conflicted with his role as high school principal and it was therefore desirable in the public interest to remove him from service.

147. Although it is difficult, in the absence of the Government's reply, to assess the real nature of Mr. Archer's reaction to the student protest, the Committee observes that - as is pointed out by the complainants - the choice of disciplinary procedures by the employer reveals that specific employment-related charges, such as insubordination, do not appear to have been the basis for the decision to remove Mr. Archer from service. In many cases [See, for example, 197th Report, Case No. 920 (UK/Antigua), para. 132.] the Committee has stressed that one of the fundamental principles of freedom of association is that workers should enjoy adequate protection against all acts of anti-union discrimination in respect of their employment such as dismissal, demotion, transfer or other prejudicial measures. This protection is particularly desirable in the case of trade union officials because, in order to be able to perform their trade union duties in full independence, they must have the guarantee that they will not be prejudiced on account of the mandate which they hold from their unions. The Committee has also considered that compulsory retirement would be contrary to this principle if the activities in respect of which action was taken against certain workers were in fact lawful trade union activities. [See, for example, 6th Report, Case No. 47 (India), para. 728.]

148. In the present case, from the information available, it would appear that the compulsory retirement of this trade union leader "in the public interest" - public interest not being defined in the

Public Service Commission Regulations - was partly based on his trade union activities. In expressing its regret at such action, the Committee would draw the Government's attention to the principles stated above and in particular to the provisions of Article 1 of Convention No. 98, ratified by the Bahamas, under which workers should enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

The recommendations of the Committee

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

- (a) The Committee deplores the fact that, in spite of the allegations in this case, and the numerous requests made to the Government to transmit its observations thereon, the Government has not replied thereto.
- (b) The Committee expresses its regret that the President of the Bahamas Teachers' Union and General Secretary of the Trade Union Congress, Mr. A.L. Archer, was compulsorily retired for reasons that were partly based on his trade union activities; it would draw the Government's attention to Article 1 of Convention No. 98 which guarantees to workers, in particular, the right to enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

Case No. 1297

COMPLAINTS PRESENTED BY THE NATIONAL TRADE UNION CO-ORDINATING
BODY, THE WORLD CONFEDERATION OF LABOUR, THE INTERNATIONAL
CONFEDERATION OF FREE TRADE UNIONS AND THE WORLD
FEDERATION OF TRADE UNIONS AGAINST THE
GOVERNMENT OF CHILE

150. The complaints are contained in communications received from the National Trade Union Co-ordinating Body (February, 10 April and 4 June 1984), the World Confederation of Labour (21 August 1984), the International Confederation of Free Trade Unions (31 October 1984) and the World Federation of Trade Unions (8 November 1984). The Government replied in communications dated 26 November 1984 and 7 February 1985.

151. Chile has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

152. The complainants allege that for more than ten years, the Government has denied a great number of trade union officials the right to live in Chile and that they are forced to live in exile. According to the complainants, the officials concerned have not been legally tried and are consequently serving a sentence of indefinite exile which no competent court has pronounced.

153. The complainants add that in September 1984, the Ministry of the Interior submitted to the international airlines a list of 4,942 persons (including many trade union officials) forbidden to enter the country, so that the airlines operating in Chile would consult the International Police in Santiago before selling a ticket to any of the persons concerned wishing to fly to Chile. Amongst those officials involved is Héctor Cuevas, National President of the Confederation of Building Workers, who was arbitrarily exiled in 1982.

154. The complainants add that recently, the exiled officials' situation has worsened, since the Government has given up the system of issuing periodically lists of Chilean citizens authorised to return to the country. Consequently, every exile has to request individually authorisation to return.

155. The list of exiled persons provided by the complainant organisations and information on the latter are attached as an Annex to the present case.

B. The Government's reply

156. The Government states that the subject-matter dealt with in the present case is irrelevant to freedom of association and considers that it is outside the Committee's competence. The Government is of the opinion that the Committee has been called upon to examine matters of a clearly political nature or which pertain to the police and adds that it notes with concern that the Committee has accepted to deal with claims of this nature, which detract from its true function and should be referred to other fora or bodies dealing with political issues.

157. The Government adds that the exile of those persons mentioned by the complainants is in no way connected with trade union activities or with the fact that any of them might have been a trade

union official at some point during his life. With respect to these persons, the Government states that the head of the Trade Union Organisations Branch of the Department of Labour has certified that he compared the list of names with the Branch file of trade union officials and that none of the persons on the list is registered as a practising trade union official; furthermore, there are no records indicating that they might once have been officials (in this respect, the Government encloses a certificate dated 19 December 1984, from the Head of the Trade Union Organisations Branch of the Labour Department).

158. The Government claims that many of the persons amongst the 128 names cited by the complainants either held a ministerial position or were municipal authorities, members of parliament or well-known leaders of political parties and that they left the country of their own free will or sought asylum in the embassies accredited to the country.

159. According to the Government, many of the persons named in the list had taken an active part in violent political actions aimed at overthrowing the country's democratic structures. Aware of their acts and following the military takeover of 11 September 1973, they sought exile in the foreign embassies accredited to the country. It is for this reason, that several of the persons listed are forbidden to enter the country and must first contact the International Police Department in Santiago before the airlines may sell them a ticket to Chile.

160. The Government points out that some of those on the list were tried and sentenced to imprisonment by the courts for having committed offences under the State Security Act No. 12927 of 1958 and under Act No. 17798 of 1972 on arms control. In these circumstances, the prison sentences were commuted to exile, and those concerned consequently left Chile to settle abroad in the country of their choice.

161. The Government also states that some of the persons mentioned on the list are, at present, not forbidden to enter the country.

162. Finally, the Government provides information, contained in the Annex, on each of the persons mentioned in the complainants' list.

C. The Committee's conclusions

163. Before examining the substance of the various aspects of the case, the Committee wishes to point out, concerning the Government's statement that the matters submitted by the complainants are of a political nature and, as such, fall outside the Committee's competence, that the role of the Committee is primarily to examine whether the allegations placed before it are linked or not with the

exercise of trade union rights. In the present case, the Committee considers that the allegations before it, as they have been presented by the complainants, would seem to be prima facie within its specific competence and must therefore be examined by it; during this examination, the Committee may, in the light of all the information at its disposal, reach the conclusion that there has been an infringement or restriction of trade union rights or, on the contrary, that the issues involved are indeed unrelated to freedom of association.

164. The Committee notes that, in the present case, the complainants have alleged the forced exile of 128 trade union officials and trade unionists. The Committee also notes that the case of one of them, Héctor Cuevas, has already been examined by the Committee. [See, for example, 226th Report, Case No. 1170, paras. 348-387, 230th Report, para. 21 and 233rd Report, para. 26.] In those cases, the Committee requested the Government to take as rapidly as possible the measures necessary to allow Héctor Cuevas to return to the country.

165. In reply to the allegations, the Government has basically stated: (1) that some of the persons mentioned by the complainants (22) are not forbidden to enter the country; (2) that a further 86 persons held or were candidates for political positions, were political activists or took part in violent political actions; (3) that 20 persons were tried and sentenced by the courts for having violated the State Security Act and the Act on arms control and that their prison sentences were commuted to exile; and (4) that, with the exception of Héctor Cuevas, there are no records showing that the persons mentioned by the complainants have been trade union officials. The complainants, on the other hand, explicitly stated that practically most of the persons concerned were trade union officials, mentioning in the majority of cases the trade union organisation or branch of activity to which they belonged.

166. The Committee therefore notes that there exists a contradiction between the allegations and the Government's reply concerning the trade union status of the exiled persons referred to. The Committee would also like to point out that some of the actions penalised by the State Security Act (which served as grounds for sentencing several persons mentioned by the complainants, whose prison sentences were commuted to that of exile), might possibly, in the case of some of the persons mentioned by the complainants, be related to the exercise of trade union rights; indeed, this Act specifically contains provisions concerning action such as: the disruption or suspension of services such as electricity and water; work stoppages or strikes in the public sector or in public utility services or in production, transport and commercial activities, carried out without compliance to the law, and resulting in breaches of the peace; disturbances in public utility service or in those which must continue functioning by law; and damage to any of the essential industries.

167. In view of the previous conclusions and since it does not have sufficient information at its disposal to arrive at a separate

decision on each of the persons who remain in exile, the Committee recalls the principle that forced exile of trade union leaders and unionists constitutes a serious infringement of human rights and trade union rights since it weakens the trade union movement as a whole [See, for example, 230th Report, Case No. 1170 (Chile), para. 21.] when it is deprived of its leaders. It considers that any measures taken to enable those persons still in exile to return to the country could contribute towards establishing an atmosphere more favourable for the exercise of civil and trade union rights. The Committee expresses its serious concern at the contradiction between the complainants' allegations and the Government's reply as regards the trade union status or functions of the exiled persons. It regrets that the Government has not supplied more detailed information on the basis of which the Committee might determine whether their exile was in any way connected with their trade union status or functions. The Committee would appreciate any further information that the Government or the complainants may have to communicate regarding this question.

The Committee's recommendations

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

- (a) The Committee recalls the principle that the forced exile of trade union leaders and unionists constitutes a serious infringement of human rights and trade union rights since it weakens the trade union movement as a whole when it is deprived of its leaders.
- (b) The Committee considers that any measures taken to enable the persons mentioned to return to the country could contribute towards establishing an atmosphere more favourable for the exercise of civil and trade union rights.
- (c) The Committee expresses its serious concern at the contradiction between the complainants' allegations and the Government's reply as regards the trade union status or functions of the exiled persons. It regrets that the Government has not supplied more detailed information on the basis of which the Committee might determine whether their exile was in any way connected with their trade union status or functions. The Committee would appreciate any further information that the Government or the complainants may have to communicate regarding this question.

ANNEX

LIST OF PERSONS WHO, ACCORDING TO THE
COMPLAINANTS, ARE IN FORCED EXILE

	Information provided by the complainants	Information provided by the Government*
1.	Allende Miranda, Fidelma Larg	National CUT leader Parliamentary member for the First District of Santiago, 7th Constituency. Included in the list of nationals forbidden to enter the country.
2.	Andrade Vera, Carlos	President of the Valparaiso Teachers' Association Parliamentary member for the Sixth Constituency (Valparaiso, Isla de Pascua, Quillota). Member of the Central Committee of a political party. Included in the list of nationals forbidden to enter the country.
3.	Aravena Navarrete, Pedro Isnaldo	CUT official, Santiago Candidate for parliamentary elections in 1973. Included in the list of nationals forbidden to enter the country.
4.	Araneda Briones, Ernesto	National leader of the Building Workers' Association Senator (Parliamentary) for the Eight Constituency (Provinces of Bfo-Bfo, Malleco and Cautfn). Included in the list of nationals forbidden to enter the country.

* According to the Government, the persons in the list numbered from 1 to 86 were either candidates for or held political positions, or were political activists.

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	Information provided by the complainants	Information provided by the Government
5. Alarcón Barrientos, Francisco	CUT official; Magallanes	Member of paramilitary groups. 1971: stood as town councillor for Punta Arenas. Included in the list of nationals forbidden to enter the country.
6. Abarca Lanten, Alvaro	Trade union official	Belonged to the "HO CHI MIN Section" of the Socialist Party. Received paramilitary training; organised the "Santiago" Committee (Cordón). Included in the list of nationals forbidden to enter the country.
7. Aedo Feliú, Joaquín Arturo	Trade union official	In 1971, stood as candidate for town councillor. In 1973, arrested for belonging to the extremist group "Comando Ibieta B." Included in the list of nationals forbidden to enter the country.
8. Caro Hidalgo, Raúl	Trade union official	Stood as candidate for the Socialist Party. Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
9. Baltra Moreno, Mireya Elba	CUT national leader. Refused permission to return to the country in a note dated 20 January 1984.	Official for the municipality of Santiago, parliamentary member for the Eighth Constituency (Melipilla, San Antonio and Maipo). Leading member of the Central Committee of a political party. Minister of Labour and Social Affairs under President Allende's Government. Included in the list of nationals forbidden to enter the country.
10. Carrillo Vásquez, Manuel	Trade union official	In 1973, presided over the "El Salto" Committee (Cordón). Included in the list of nationals forbidden to enter the country.
11. Cartagena Rojas, José	Trade union official	Included in the list of nationals forbidden to enter the country.
12. Castillo Alvarez, Hernán	Trade union official	In 1973, mayor of the municipality of Machalí under President Allende's Government. Included in the list of nationals forbidden to enter the country.
13. Castillo Guíñez, Adriana del Carmen	Trade union official	Included in the list of nationals forbidden to enter the country.
14. Castillo Iribarren, Ramón	Trade union official	Political activist. Included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
15. Cofré Ceresoli, Raúl Marcelo	Trade union official	Included in the list of nationals forbidden to enter the country.
16. Cornejo Faúndez, Pedro	Trade union official	Political activist, included in the list of nationals forbidden to enter the country.
17. Cortés Marín, Carlos Patricio	Trade union official	In 1973 requested the Embassy of Argentina for asylum and left for this country. Included in the list of nationals forbidden to enter the country.
18. Corvalán Fernández, Luis	Trade union official	Included in the list of nationals forbidden to enter the country.
19. Cruz Alvarez, Oscar	Trade union official	Included in the list of nationals forbidden to enter the country.
20. Cruz Salas, Luis Alberto	Trade union official	Included in the list of nationals forbidden to enter the country.
21. Cuevas Salvador Héctor Hugo	President of the Confederation of Building Workers	Constant information has been provided on this person within the framework of Case No. 1170 and in telexes to the Director-General. The courts have rejected all the actions for <u>amparo</u> (protection of constitutional rights) submitted on his behalf. Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
22. Cabrera Hernández, César Filomeno	Official of the Lota Mineworkers' Union	In 1971, was a deputy municipal delegate of a political party in the southern city of Lota. Included in the list of nationals forbidden to enter the country.
23. Cárdenas Ardiles, Iván Wilson	CUT youth leader	Included in the list of nationals forbidden to enter the country.
24. Calderón Aránguiz, Rolando	CUT national official	Member of the central committee of a political party. In 1971 was Minister of Agriculture under President Allende's Government. Included in the list of nationals forbidden to enter the country.
25. Cortés Díaz, Carlòs Humberto	Official of Petroleum Workers' Union, Concepción	Minister of Housing and Town Planning under President Allende's Government. Leader of a political party. Died from a hemiplegia attack on 10 September 1971.
26. Del Canto Riquelme, Hernán Marcelino	CUT national leader	Stood for member of Parliament (was not elected). Member of the central committee of a political party. In 1972, was Minister of the Interior and Secretary-General of the Government. Included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
27. De la Fuente Muñoz, Oscar del Tránsito	National official, Ranquil	Section secretary of a political party. Included in the list of nationals forbidden to enter the country.
28. Fuentealba Medina, Luis Antonio	An official in Lota, former member of Parliament	Member of Parliament. Member of the central committee of a political party. Included in the list of nationals forbidden to enter the country.
29. Figueroa Valdivia, Uldaricio Manuel	CUT official, Valdivia and national official of the Railwaymen's Union	Regional secretary of a political party in Valdivia. Included in the list of nationals forbidden to enter the country.
30. Flores Morales, Víctor Aurelio	CUT national leader	Included in the list of nationals forbidden to enter the country.
31. Galdámez Gaete, Luis Humberto	Official in Building Workers' Union (civil works section) Valparaíso	In 1972, official of the Quilpué Municipal "Commando" of a political party. Included in the list of nationals forbidden to enter the country.
32. Gómez Cerda, Carlos	Official of Copperworkers' Confederation	Member of the central committee of a political party. Governor of Chañaral. Included in the list of nationals forbidden to enter the country.
33. Gómez Cerda, Francisco Nemesio	SUTE and CUS official	Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
34.	González Ramírez, Mario Nelson Provincial official Ranquil	Stood as candidate for town councillor in Buñ. Included in the list of nationals forbidden to enter the country.
35.	González Malverde, Víctor Hugo CUT youth official, Valdivia	Included in the list of nationals forbidden to enter the country.
36.	Godoy Godoy, Jorge René Trade union official	Minister of Labour under President Allende's Government. Member of the central committee of a political party. Included in the list of nationals forbidden to enter the country.
37.	González Selanio, Víctor Horacio Trade union official	Included in the list of nationals forbidden to enter the country.
38.	Gutiérrez Gutiérrez, Rodolfo Hernán Trade union official	Included in the list of nationals forbidden to enter the country.
39.	Huenuman García, Rosendo National official	Member of Parliament for the 21st Constituency (Temuco, Lautaro, Imperial, Pitrufquén and Valdivia). Member of the central committee of a political party. Included in list of nationals forbidden to enter the country.
40.	Manríquez Bustos, Ulises Trade union official	In 1972 stood as a candidate for a political party in elections for the 24th Constituency. Included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
41. Meneses Sandoval, Emilio Heriberto	Trade union official	Included in the list of nationals forbidden to enter the country.
42. Miranda Martínez, Jorge	Trade union official	Included in the list of nationals forbidden to enter the country.
43. Morales Garfias, Hernán Andrés	Trade union official	Was Under Secretary of Transport under President Allende's Government. Included in the list of nationals forbidden to enter the country.
44. Muñoz Bahamondez, Manuel	Trade union official	Member of the central committee of a political party. Town councillor in Puente Alto. Included in the list of nationals forbidden to enter the country.
45. Medina Sánchez, Marco Enrique	Official of the Association of Madeco Workers	Member of the central committee of a political party. Included in the list of nationals forbidden to enter the country.
46. Merino Arenas, Mario Gilberto	Health official	Included in the list of nationals forbidden to enter the country.
47. Mason Zenteno, Orlando Germán	Building workers' official	Included in the list of nationals forbidden to enter the country.
48. Martínez Molina, Héctor Fidel	National official, Ranquel	Member of the central committee of a political party. Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government	
49.	Muñoz Vergara, Agustín	CUT national official	Included in the list of nationals forbidden to enter the country.
50.	Moraga Fuentealba, Orlando Martín	National official of the Copper-workers' Union, El Teniente	Councillor for the municipality of Machalí. Included in the list of nationals forbidden to enter the country.
51.	Muñoz González, Luis Sabino	CUT official, Aconcagua	Mayor of Los Angeles. Included in the list of nationals forbidden to enter the country.
52.	Marcelli Ojeda, Ricardo Hernán	CUT regional official for Magallanes	Included in the list of nationals forbidden to enter the country.
53.	Morales Abarzúa, Carlos Enrique	ANEF official	Deputy for the Radical Party for the First District of Santiago. In 1972, was President of the Radical Party. Included in the list of nationals forbidden to enter the country.
54.	Morales Bordones, Jorge	Official of the Ventanas Foundry Workers' Union, Valparaíso.	Included in the list of nationals forbidden to enter the country.
55.	Meneses Aranda, Luis Emiliano	CUT official (gave up his nationality)	Included in the list of foreigners forbidden to enter the country.
56.	Muñoz Gallardo, Luis Orlando	Trade union official	Included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
57. Muñoz Orellana, Luis	Trade union official	In 1971, stood as candidate for political parties in elections to the National Council of Journalists. Included in the list of nationals forbidden to enter the country.
58. Navarrete López, Luis	Trade union official	Included in the list of nationals forbidden to enter the country.
59. Navarro Castro, Mario Alberto	CUT national official	Included in the list of nationals forbidden to enter the country.
60. Olivares Toro, Luis A.	Official of the Provincial Union of Workers in the Food Industry	Included in the list of nationals forbidden to enter the country.
61. Oyarze Aguilar, Rubén Enrique	Matarifes official, Magallanes	Included in the list of nationals forbidden to enter the country.
62. Oyarce Jara, José del Carmen	National official of Railwaymen's Union. Refused permission to return to the country in a note dated 18 January 1983	Member of Parliament. Member of the central committee of a political party. Minister of Labour under President Allende's Government. Included in list of nationals forbidden to enter the country.
63. Parada Palavicini, Gabriel Arturo	Trade union official	In 1970 was member of the central committee of a political party. Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
64. Pastén Pastén, Francisco Arnoldo	CUT official, Vallenar	In 1971, stood as candidate for town councillor. Included in the list of nationals forbidden to enter the country.
65. Pérez Santibáñez, Ramón Joaquín	S.N.S. official	Dismissed from the National Health Service for political activities. Included in the list of nationals forbidden to enter the country.
66. Perucci Molvin, Leonardo Raniero	-	Included in the list of nationals forbidden to enter the country.
67. Pizarro López, Luis Alberto	Official of SUMAR Textile Workers' Union	Included in the list of nationals forbidden to enter the country.
68. Plaza Plaza, René	Trade union official	In 1971, was member of the political committee of a political party. In 1973, was a member of a central committee of the party. Included in the list of nationals forbidden to enter the country.
69. Puebla Maturana, Carlos	Trade union official	Included in the list of nationals forbidden to enter the country.
70. Robles Robles, Hugo	Official of Saltpetre Workers' Union	In 1969/1973 was deputy for the constituencies: Tocopilla, El Loa and Taltal. Included in the list of nationals forbidden to enter the country.
71. Rodríguez Moya, Edmundo Andrés	Trade union official	Included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
72. Rodríguez Viveros, Coralís Adelina	CUS provincial official, Santiago	In 1973, adviser to a political party. Included in the list of nationals forbidden to enter the country.
73. Rojas Cuellar, Eduardo Antonio	CUT national official. Refused permission to return to the country in a note dated 29 November 1983.	Member of the executive committee of a political party. Included in the list of nationals forbidden to enter the country.
74. Rojas Jorquera, Pedro Vicente Segundo	Official of the municipal workers' union, Tocopilla. Refused permission to re-enter the country in a note dated 30 December 1983	Included in the list of nationals forbidden to enter the country.
75. Salomón Román, José	Trade union official	In 1971, was town councillor for Valparaíso. Included in the list of nationals forbidden to enter the country.
76. Sánchez Flores, Benito	Trade union official	Included in the list of nationals forbidden to enter the country.
77. Sepúlveda Carmona, Andrés	Founder of the CTCH and the CUT	Regional secretary of a political party. Forbidden to enter the country.
78. Silva Espinoza, Guido Antonio	CUT official, San Miguel	Included in the list of nationals forbidden to enter the country.
79. Soto Parra, Jorge Alfredo	CUT official, Valdivia	Included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
80. Tello Arancibia, Pedro Segundo	Official in the Metalworkers' Union	Included in the list of nationals forbidden to enter the country.
81. Ugarte Gómez, Ricardo Augusto	Official of the Telephone Workers' Union	Included in the list of nationals forbidden to enter the country.
82. Vargas Fernández, Bernardo del Carmen	CUT national leader	Candidate for town councillor for Chaftaral. Included in the list of nationals forbidden to enter the country.
83. Vargas Puebla, Juan Diógenes	Founder member and official of the CUT	Included in the list of nationals forbidden to enter the country.
84. Vildósola Romero, Boris	Trade union official	Included in the list of nationals forbidden to enter the country.
85. Yáñez Yáñez, Rodemil Antonio	CUT national official	Stood for member of Parliament under President Allende's Government. Included in the list of nationals forbidden to enter the country.
86. Zuljevic Lovrin, Leopoldo Felipe	Official of the Customs Workers' Union	In 1970/1971, was supervisor of customs workers. Included in the list of nationals forbidden to enter the country.
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87. Acevedo Montero, Jorge	National official of petroleum workers	Finance Secretary of a political party, in the Viña del Mar section. Is not included either in the list of nationals or of foreigners forbidden to enter the country.

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	Information provided by the complainants	Information provided by the Government
88. Alfaro Alfaro, Luis Edmundo	Trade union official	Is not included either in list of nationals or in the list of foreigners forbidden to enter the country.
89. Alegría del Canto, Juan Carlos	Official of the Davis Trade Union	Is not at present forbidden to enter the country.
90. Briones Delgado, Martín Guillermo	Building workers' union official	Is authorised to return to the country.
91. Campusano, José Agustín	National official of the Peasant Farmers' Confederation, Ranqueil. Was prevented from remaining in the country when he returned, in February 1984, in spite of the fact that the Consulate in Amsterdam had assured him that nothing stood in the way of his returning to his home country.	Is authorised to return to the country.
92. Cárdenas Gómez, Humberto Segundo	National CUT official, Valdivia	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.
93. Chávez, Henríquez, José Marís	Petrol Workers' Union official, Concepción	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
94. Díaz Uribe, Luis Bernardo	Official of the Bakers' Union	Is authorised to enter the country.
95. Gómez Aránguiz, Naldo	CUS official	Is not included either in the list of nationals or foreigners forbidden to enter the country.
96. Guadalupe Gómez, José	CUT official, Valparaíso	Is authorised to return to the country.
97. Gac Arancibia, Jorge Hilario	National official of Maritime Workers	Is not included either in the list of nationals or in the list of foreigners refused permission to enter the country.
98. González Saavedra, Claudio Daniel	Official of the Petrochemical Workers' Union	Is authorised to return to the country.
99. León, Hugo	Official of the Metalworkers' Union	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.
100. Morales Aguirre, Polidoro Segundo	National CUS health official	Is authorised to enter the country.
101. Mitchell Cortés, Horacio Alberto	National official of the Copperworkers' Confederation	Is authorised to return to the country.
102. Moraga Fuentealba, Etiel Dagoberto	National official of the Copperworkers' Union, El Teniente	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.
103. Martínez Quezada, Jorge Domingo	Official of the Municipal Employees' Union.	Is authorised to return to country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
104. Núñez Sepúlveda, Carlos Ricardo	Official of the Postal and Telegraph Workers' Association	Is authorised to enter the country.
105. Rojas, Juan Bautista	Trade union official	Is not included in the list of nationals forbidden to enter the country.
106. Tapia Zepeda, Arturo Segundo	Official of the Copperworkers' Confederation	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.
107. Villavicencio Peña, Segundo	Official of the Petroleum Workers' Union	Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.
108. Verdugo, Gálvez, Aldo Sergio Gabriel	-	In 1971, spokesman for the Executive Committee of the Radical Party. Is not included either in the list of nationals or in the list of foreigners forbidden to enter the country.

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	Information provided by the complainants	Information provided by the Government
109. Ahumada Tello, Vital*	Trade union official	In 1972, was governor of Los Andes. Was tried and sentenced for having infringed Act No. 17798 of 1972 on arms control and his prison sentence was commuted to one of exile. Is included in the list of nationals forbidden to enter the country.
110. Aránguiz Gómez, Naldo	Trade union official	In 1973, sought asylum in the Embassy of Venezuela, later travelling to Cuba. Is included in the list of nationals forbidden to enter the country.
111. Asencio Rain, Juan	Trade union official	In 1975, was sentenced to imprisonment for having infringed Acts Nos. 12927 and 17798. In 1977, his prison sentence was commuted to one of exile. Is included in the list of nationals forbidden to enter the country.

* According to the Government, the following persons were tried and sentenced by the courts for infringing the State Security Act No. 12927 of 1958 and the Act No. 17798 of 1972 on arms control. The prison sentences of these persons were commuted to that of exile and they settled in the country of their choice.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
112. Contreras Aravena, Luis Humberto	Trade union official	Organising secretary of a political party. Received a prison sentence for having infringed the State Security Act No. 12927 of 1958. His sentence was commuted to exile. Included in the list of nationals forbidden to enter the country.
113. Gómez Toledo, Andrés	Trade union official	Sentenced to prison for having infringed Act No. 12927 of 1958. His prison sentence was commuted to exile. Town councillor for Llanquihue. Included in the list of nationals forbidden to enter the country.
114. Gordillo Hitshfeld, Iván R.	Trade union official	In 1976, his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.
115. Lara Bustamante, Adolfo	Trade union official	Member of the central committee of a political party. In Case No. 4-74, was condemned to prison for having infringed section 6(a), (c) and (d) of Act No. 12927. In 1975, his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
116. Mora Briones, Miguel	Trade union official	In 1973, was sentenced, under Case No. 3/73, to prison. In 1976, his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.
117. Morales Morán, Héctor Isafas	Trade union official	In 1977, his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.
118. Ortega González, Manuel Guillermo	Trade union official	In 1971, was Regional Sectary of Curicó for a political party. Was sentenced to prison for having infringed Acts Nos. 12927 and 17798. This was commuted to exile. Is included in the list of nationals forbidden to enter the country.
119. Ponce Montecinos, Lorenzo Segundo	Trade union official	Found guilty of having infringed Act No. 17798 of 1972 on arms control. His sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.
120. Retamal Hernández, Oscar	Trade union official	Was condemned to 14 years' imprisonment for having infringed Acts Nos. 12927 and 17798. This sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.

Reports of the Committee on Freedom of Association

	Information provided by the complainants	Information provided by the Government
121. Rivera Vergara, Raúl	Trade union official	Is not included in the list of nationals forbidden to enter the country. This person must be Rivera Vargas, Raúl Aurelio: his prison sentence was commuted to exile. He is included in the list of nationals forbidden to enter the country.
122. Soto Avendaño, Jorge	Trade union official	Found guilty of infringing Act No. 17798 of 1972, on arms control, he was sentenced to imprisonment. In 1976, this was commuted to exile. Is included in the list of nationals forbidden to enter the country.
123. Soto Leyton, Juan	Trade union official	Was sentenced to imprisonment for having infringed Act No. 12927. In 1976, this was commuted to exile. Is included in the list of nationals forbidden to enter the country.
124. Soto Pérez, Luis Guillermo	Trade union official	Was sentenced to imprisonment for having infringed Acts Nos. 12927 and 17798. In 1976, this was commuted to exile. Is included in the list of nationals forbidden to enter the country.
125. Toro Valdebenito, Arturo	Trade union official	In 1975 his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.

	Information provided by the complainants	Information provided by the Government
126. Ugarte Gómez, Ricardo Augusto	Trade union official	Found guilty of having infringed Act No. 17798 of 1972 on arms control, he was sentenced to imprisonment. In 1976 this was commuted to exile. Is included in the list of nationals forbidden to enter the country.
127. Videla Moya, Lautaro Robin	Trade union official	Is member of the central committee of a political party. In 1973, was Regional Secretary of the party in Valparaíso. In 1976, his prison sentence was commuted to exile. Is included in the list of nationals forbidden to enter the country.
128. Villarroel Pérez, Rigoberto Alamiro	Trade union official	Is a member of a paramilitary cell of a violent political party. He was sentenced to prison for having infringed Act No. 17798. This was commuted to exile. Is included in the list of nationals forbidden to enter the country.

Case No. 1314

COMPLAINT PRESENTED BY THE GENERAL CONFEDERATION OF
PORTUGUESE WORKERS - NATIONAL INTER-UNION
AGAINST THE GOVERNMENT OF PORTUGAL

169. The complaint of the General Confederation of Portuguese Workers - National Inter-Union (CGTP-IN) is contained in a communication of 26 October 1984. The Government replied in a communication dated 26 April 1985.

170. Portugal 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 complainant Confederation

171. In the present case, the CGTP-IN alleges that the Government has interfered in the trade union movement in order to favour one organisation over another, and considers that it has been discriminated against in connection with workers' participation in a state body.

172. The complainant organisation explains that Decree No. 102/84 of 29 March 1984 set up a National Apprenticeship Committee with wide-ranging powers to define and implement apprenticeship policy. This Committee is tripartite and consists of five government representatives, two representatives of employers' associations and two representatives of trade union confederations (section 19 of the Decree).

173. The CGTP-IN adds that the non-governmental members were appointed without it having been consulted beforehand. All the representatives of the trade union organisations and their substitutes were appointed by a single organisation, the General Union of Workers (UGT), and CGTP-IN was thus prevented from sitting on this Committee.

174. According to the complainant organisation, the Government has not merely ignored the rights of the most representative organisation. It has even denied the CGTP-IN rights of all kinds, preventing it from being represented on a permanent body, whereas it has recognised all the rights of the UGT. The CGTP-IN explains that this attitude on the part of the Government is in contradiction with its repeated declarations to the International Labour Conference respecting the annual rotation of Portuguese Workers' delegates, when it affirmed to the Credentials Committee that there was no objective reason to make a distinction between the two organisations. According to the complainant, these statements, although made in

another context, mean that, in the mind of the Government itself, there is no doubt as to the aptitude of the CGTP-IN to represent Portuguese workers.

175. The present case may be summed up as follows:

- (a) the law provides for the appointment of two representatives of trade union confederations on the National Apprenticeship Committee but does not describe the procedure for their appointment;
- (b) the Government might therefore choose between two solutions:
- (c) either appointment by direct ballot (majority or proportional) among all existing trade union organisations;
- (d) or appointment by national trade union confederations;
- (e) the Government opted for the second solution, as has been shown, by the appointment of representatives from UGT;
- (f) however, according to this procedure, the CGTP-IN - a national confederation whose aptitude to represent Portuguese workers is not even contested by the Government - ought to have been consulted and, in the event of disagreement with the other organisation concerned, to have been allowed to appoint at least one of the two trade union representatives provided for by law;
- (g) however, the CGTP-IN was neither consulted nor invited to appoint any trade union representative.

176. The result of the Government's decision is that the CGTP-IN has been prevented from participating in the definition of vocational training policies under the apprenticeship scheme, and this, in the view of the CGTP-IN, constitutes a violation of the principle that "when sponsoring joint committees dealing with matters affecting the interests of workers, governments should make appropriate provision for the representation of different sections of a trade union movement having a substantial interest in the questions at issue" (Freedom of association, Geneva, ILO, 1972, para. 357) and thus constitutes "a clear case of discrimination affecting the principle of freedom of association" (op. cit., para. 359). The complainant organisation recalls that the Committee of Experts on the Application of Conventions and Recommendations, in its General Survey of 1983, stated the following: "Government action may influence the choice of workers regarding the organisation to which they intend to belong by placing one organisation at an advantage or at a disadvantage in relation to the others. In this connection, the Committee on Freedom of Association has recalled that by placing one organisation at an advantage or at a disadvantage in relation to the others, a government may either directly or indirectly influence the choice of workers ... since they will undeniably want to belong to the union best able to serve them, even if their natural preference would have led them to

join another organisation for occupational, religious, political or other reasons" (Freedom of association and collective bargaining, Geneva, ILO, 1983, para. 146, pp. 48-49.)

177. In addition, the CGTP-IN states that, by preventing it from participating in the National Apprenticeship Committee and hence from defining the vocational training policy of the apprenticeship scheme, the Government has intervened in such a manner as to restrict or impede the lawful exercise of the recognised rights of workers' organisations to organise their administration and activities and formulate their programmes in full freedom. According to the complainant organisation, the Government has thus violated Article 3 of Convention No. 87.

B. The Government's reply

178. In its reply of 26 April 1985, the Government refers to the constitutional and legislative provisions governing democratically freedom of association in Portugal. It explains that two trade union confederations supporting different political and trade union tendencies, namely the General Confederation of Portuguese Workers (CGTP-IN) and the General Union of Workers (UGT), have been legally registered with the Ministry of Labour and Social Security. However, neither the Constitution nor the legislation contain criteria for assessing the representativity of a trade union. This has led in practice to the near impossibility of making the desired assessment, and whenever concrete questions involving the application of criteria of representativity arise the two confederations systematically refuse to provide the Government with the elements of information that would undoubtedly provide a clear and legitimate basis for settling the issue.

179. As an example, the Government mentions that the trade union bodies who are members of institutions associated with one or other of the trade union confederations have been consulted in vain regarding extension orders. It explains that it has accordingly chosen to regard both confederations as being highly representative.

180. However, it regrets that the CGTP-IN has itself chosen not to participate in tripartite action instituted by the Government. For instance, the CGTP-IN has refused to participate in any way in the Permanent Council for Labour Dialogue, an institution set up in 1984 by Legislative Decree No. 74184 to analyse and discuss labour problems, particularly those of apprenticeship. Under section 5 of the Legislative Decree, this Council is to include three representatives from the CGTP-IN executive, one of them being the Co-ordinating Secretary, and three representatives from the National Secretariat of the UGT, one of them being the General Secretary. The task of the Council is to advise the Government, at the latter's request, on restructuring and socio-economic development policies and

their implementation, or to adopt proposals and recommendations on its own initiative. Another of its tasks is to propose solutions with a view to ensuring the regular operation of the economy, with particular regard for repercussions in the social and occupational field. Right from the beginning, however, the CGTP-IN has failed to occupy the place that was its by right, in accordance with section 5 of the Legislative Decree, and it has thus made the simultaneous consultation of all the social partners impossible.

181. Moreover, according to the Government, there are clear indications from the trade union bodies that are members of the CGTP-IN that the latter is uninterested in participating in the National Apprenticeship Committee. Thus, a federation affiliated to the CGTP-IN refused to take its place in the Vocational Training Centre for the Food and Drink Industries, in which it had been invited to participate, on the pretext that a trade union that was a member of another trade union confederation was represented.

182. The Government concludes by stating that the responsibility for the lack of consultation rests with the CGTP-IN itself, since it has held aloof from tripartism, either directly, within the Permanent Council for Labour Dialogue, or indirectly, in the case of the above-mentioned Vocational Training Centre. In view of the Government, anyone who takes a stand that is incompatible with his desired objectives has no legitimate grounds for complaint, and the allegation of the complainant is thus without foundation.

C. The Committee's conclusions

183. The Committee notes that the present complaint refers to the conditions for the institution of a tripartite body by the Government.

184. The complainant organisation affirms that it was not even consulted on the appointment of the non-governmental members of a national committee entrusted with defining and implementing apprenticeship policies. The Government replies that the complainant organisation itself has held aloof from the tripartite institutional framework by refusing to participate in the Permanent Council for Labour Dialogue, where a place had been reserved for it by law, and in the Vocational Training Centre for the Food and Drink Industries, in which it had been invited to participate, on the grounds that a rival trade union organisation was represented in these bodies.

185. Although inter-union rivalry does not fall within the purview of the freedom of association Conventions, and although the Committee considers it inopportune to examine disputes of competence between trade unions, the fact remains that, even if the CGTP-IN had refused to participate in tripartite bodies set up by the Government, and in particular the Permanent Council for Labour Dialogue, the Government should have consulted the CGTP-IN, which according to the

Government's own statements is highly representative, when appointing the workers' members of the National Apprenticeship Committee.

186. The Committee trusts that any future decisions concerning the participation of workers' organisations in a tripartite body will be taken in full consultation with all the trade union organisations whose representativity has been objectively proved.

The Committee's recommendation

187. In these circumstances, the Committee recommends the Governing Body to approve the present report, and in particular the following conclusion:

The Committee trusts that any future decisions concerning the participation of workers' organisations in a tripartite body will be taken in full consultation with all the trade unions whose representativity has been objectively proved.

Case No. 1319

COMPLAINTS PRESENTED BY THE WORLD FEDERATION OF TRADE UNIONS
AND THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS
AGAINST THE GOVERNMENT OF ECUADOR

188. The World Federation of Trade Unions (WFTU) submitted a complaint alleging violations of trade union rights in a communication dated 14 January 1985. The International Confederation of Free Trade Unions (ICFTU) also submitted a complaint in a communication dated 21 January 1985. The Government communicated its reply in a letter dated 1 February 1985.

189. Ecuador 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

190. In its communication of 14 January 1985, the WFTU alleges the brutal repression by the Government of a peaceful national demonstration convened on 9 January 1985 by the Unitary Workers' Front (FUT) to protest against the high increase in the price of petrol and public transport tariffs. According to the WFTU, the intervention by