

living. [See the Committee of Experts on the Application of Conventions and Recommendations, *General Survey on Freedom of Association and Collective Bargaining*, 1994, ILC, 81st Session, para. 165.] Accordingly, the right to strike should not be limited to industrial disputes that are likely to be resolved through the signing of a collective agreement; workers and their organizations should be able to express in a broader context, if necessary, their dissatisfaction as regards economic and social matters affecting their members' interests. [*Digest*, op. cit., para. 388.]

604. As concerns the Government's reference to these strikes as being calculated to sabotage a vital and essential sector of the economy, contrary to the Nigerian Trade Disputes (Essential Services) Act and the limitations of ILO principles of freedom of association with respect to the right to strike in essential services, the Committee first points out that the criterion used by it and by the Committee of Experts in determining whether any service is essential in the strict sense of the term is whether the service in question is one the interruption of which would endanger the life, personal safety or health of the whole or part of the population. [See, *General Survey*, op. cit., para. 159.] The Committee is therefore of the view that the withdrawal of services by workers in petrol-producing installations, while possibly leading to a close-down in production and serious consequences in the long term for the national economy, would not endanger the life, personal safety or health of the whole or part of the population and therefore cannot be considered as essential services in the strict sense of the term. [See *Digest*, op. cit., para. 402 and 238th Report, para. 185 (Case No. 1175).] The Committee points out that it would appear legitimate that a minimum service be maintained in the event of a strike the extent and duration of which might be such as to result in an acute national crisis endangering the normal living conditions of the population. Such a minimum service should be confined to operations that are strictly necessary to avoid endangering the life, personal safety or health of the whole or part of the population; in addition, workers' organizations should be able to participate in defining such a service in the same way as employers and the public authorities. [See, *Digest*, op. cit., para. 415.]

605. The Committee can therefore only conclude that the removal of the national executive council members of the NLC, NUPENG and PENGASSAN from office by government authorities is a serious infringement of the free exercise of trade union rights. The Committee urges the Government to repeal immediately Decrees Nos. 9 and 10 which provide for the dissolution of their executives, their replacement by government-appointed administrators and indemnity and exclusion from any court proceedings challenging the Decrees and recalls the importance of refraining from any further governmental interference in the performance by trade union leaders of trade union functions to which they have been freely elected by the members of their unions. It also requests the Government to allow elected officials to exercise their trade union functions once again. At the same time, noting the Government's reference to acts of destruction of property and the workers' obligation under Article 8 of Convention No. 87, the Committee draws the complainants' organizations' attention to the principle according to which workers and their organizations shall respect the law of the land, which in turn must not violate the principles of freedom of association.

606. The Committee notes that the Government has not replied to the specific allegations of the sealing off of the unions' headquarters, surrounding them with police, the freezing of union bank accounts and the suspension of check-off facilities. The Committee recalls in this regard that the occupation of trade union premises and the

freezing of union bank accounts may constitute a serious interference by the authorities in trade union activities. [*Digest*, op. cit., para. 202.] Moreover, the occupation or sealing off of trade union premises should be subject to independent judicial review before being undertaken by the authorities in view of the significant risk that such measures may paralyse trade union activities. [See *General Survey*, op. cit., para. 40.] Finally, the Committee recalls that the withdrawal of check-off facilities which could lead to financial difficulties for trade union organizations, is not conducive to the development of harmonious industrial relations and should therefore be avoided. [*Digest*, op. cit., para. 325.] The Government is therefore requested to take the necessary measures to restore access to their respective trade union premises and bank accounts to the Executive Councils of the NLC, NUPENG and PENGASSAN and to withdraw the suspension of their check-off facilities. The Government is requested to keep the Committee informed of any measures taken in this respect.

607. The Committee notes with concern the contradiction which exists between the complainants' allegations that Mr. Kokori was arrested and the Government's statement that Mr. Kokori faked his arrest. The Committee also notes that, according to the complainant, the army having denied that Mr. Kokori was arrested, subsequently offered a reward of US\$10,000 for his capture. The Committee further notes the Government's statement in its communication of 19 September that it did not deliberately set out to arrest and detain trade union leaders and that those arrested committed criminal offences, while in its communication of 18 October it states that no union leaders were detained either during or after the crisis. The Committee first recalls the importance it places on the principle according to which the arrest — even if only briefly — of trade union leaders and trade unionists for exercising legitimate trade union activities constitutes a violation of the principles of freedom of association. [*Digest*, op. cit., para. 88.] Noting that the Government had indicated in this first communication that certain trade unionists who had committed crimes had been arrested, the Committee requests the Government to provide further information concerning the unionists arrested and the charges, if any, brought against them. In particular, the Government is requested to communicate its observations concerning the alleged arrests of Mr. F.A. Addo, 3rd Vice-President of PENGASSAN and Port Harcourt Zonal Chairman, and Mr. F. Aidelomon, Chairman of the Pipeline and Products Marketing Company branch of PENGASSAN. Furthermore, noting that the arrest and detention of PENGASSAN union branch chairman Mr. Elregha figured among the grievances expressed at the PENGASSAN Emergency National Executive Council meeting of 8 July 1994, the Committee requests the Government to indicate whether Mr. Elregha is still being detained and the charges, if any brought against him.

608. Finally, as concerns the reported dismissals of striking workers in the oil industry by the Minister of Labour, the Committee recalls that, when trade unionists or union leaders are dismissed for having exercised the right to strike, it can only conclude that they have been punished for their trade union activities and have been discriminated against contrary to Article 1 of Convention No. 98 and the principles of freedom of association. [See *Digest*, op. cit., paras. 443 and 444.] As the Government had not replied to these allegations, the Committee urges the Government to take measures to establish an impartial inquiry with a view to ascertaining the oil workers who were dismissed for exercising their right to strike and to ensure that they are reinstated in their

posts. The Government is requested to keep the Committee informed of the action taken in this regard.

609. The Committee notes from the information communicated by the Government on 18 October that it has met with some union representatives affiliated to the NLC with a view to drawing up a programme for new elections which would include an audit of the accounts of the NLC which had not been audited since 1988, and the creation of a Constitution Review Committee. It would appear that the need for new elections stems at least in part from the fact that the executive council of the NLC had been dissolved by executive decree. As to the Government's current participation in organizing a programme of elections, the Committee recalls that the right of workers' organizations to elect their own representatives freely is an indispensable condition for them to be able to act in full freedom and to promote effectively the interests of their members. For this right to be fully acknowledged, it is essential that the public authorities refrain from any intervention which might impair the exercise of this right, whether it be in determining conditions of eligibility of leaders or in the conduct of the elections themselves. [*Digest*, op. cit., para. 295.]

610. As concerns the Government's declaration that any member of the old leadership of the NLC who is not facing criminal charges, such as for the destruction of property, may contest the elections, the Committee first notes with concern that the Government has referred in this respect to those facing charges and not to those who have actually been convicted of a criminal offence. Furthermore, the Committee recalls that the disqualification for trade union office of a person convicted of a criminal offence may be compatible with the principles of freedom of association in so far as the conviction concerns an act the nature of which is such as to call into question the integrity of the person concerned and is such as to be prejudicial to the performance of trade union duties. [See *General Survey*, op. cit., para. 120.]

611. As concerns the auditing of the NLC accounts, the Committee has considered that measures of administrative control over the management, such as financial audits and investigations, should be applied only in exceptional cases, when justified by grave circumstances (for instance, presumed irregularities in the annual statement or irregularities reported by members of the organization), in order to avoid any discrimination between one trade union and another and to preclude the danger of excessive intervention by the authorities which might hamper a union's exercise of the right to avoid harmful and perhaps unjustified publicity or the disclosure of information which might be confidential. [*Digest*, op. cit., para. 334.] Furthermore, it recalls that when an audit is called for, it should normally be undertaken by an auditor who possesses the required professional qualifications and who is independent. [See *Digest*, op. cit., para. 330.]

612. Finally, as concerns the establishment of a Constitution Review Committee, the Committee recalls that amendments to the Constitution of a trade union should be debated and adopted by the union members themselves, without government interference. [See *Digest*, op. cit., para. 286.]

613. In conclusion, the Committee recalls the importance it attaches to the general principle of non-interference by government authorities in the internal affairs of trade unions and requests the Government to ensure that the preparation of elections and any eventual constitutional review are carried out by the members of the NLC without any

government interference. Furthermore, the Committee trusts that the disqualification of any union members from the elections shall be limited to those who have actually been convicted of a criminal offence which, by its nature, is prejudicial to the performance of trade union duties. As concerns the proposed audit of the NLC, the Committee trusts that, if irregularities have indeed appeared in the annual statements or have been reported by members of the NLC, the audit shall be undertaken by an independent and qualified person.

THE COMMITTEE'S RECOMMENDATIONS

614. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) Recalling the importance it places upon the principle according to which the removal of trade union leaders from office is a serious infringement of the free exercise of trade union rights, the Committee urges the Government to repeal immediately Decrees Nos. 9 and 10 and enable the elected leadership to exercise once again its functions.
- (b) Noting the Government's reference to acts of destruction of property and the obligation of workers' organizations under Article 8 of Convention No. 87, the Committee draws the complainant organizations' attention to the principle according to which workers and their organizations shall respect the law of the land, which in turn must not violate the principles of freedom of association.
- (c) As concerns the allegations of the sealing off of the union's headquarters, surrounding them with police, the freezing of union bank accounts and the suspension of check-off facilities, the Committee requests the Government to take the necessary measures to restore access to their respective trade union premises and bank accounts to the Executive Councils of the NLC, NUPENG and PENGASSAN and to withdraw the suspension of their check-off facilities. It asks the Government to keep it informed of any measures taken in this respect.
- (d) Noting that the Government stated in its communication dated 19 September 1994 that certain trade unionists who had committed crimes had been arrested, the Committee requests the Government to provide further information concerning the unionists arrested and the charges, if any, brought against them. In particular, the Government is requested to communicate its observations concerning the alleged arrests of Mr. F.A. Addo, 3rd Vice-President of PENGASSAN and Port Harcourt Zonal Chairman, Mr. F.A. Aidelomon, Chairman of the Pipeline and Products Marketing Company branch of PENGASSAN and Mr. Elregha, PENGASSAN union branch chairman.
- (e) As concerns the reported dismissals of striking workers in the oil industry by the Minister of Labour, the Committee urges the Government to take measures to establish an impartial inquiry with a view to ascertaining the oil workers who were dismissed for exercising their right to strike and to ensure that they are reinstated in their posts. The Government is requested to keep the Committee informed of the action taken in this regard.

- (f) As concerns the Government's discussion with unions affiliated to the NLC with a view towards drawing up an election programme, the Committee requests the Government to ensure that the preparation of elections and any eventual constitutional review are carried out by the members of the NLC without any government interference. Furthermore, the Committee trusts that the disqualification of any union members from the elections shall be limited to those who have actually been convicted of a criminal offence which, by its nature, is prejudicial to the performance of trade union duties.
- (g) As concerns the proposed audit of the NLC, the Committee trusts that, if irregularities have indeed appeared in the annual statements or have been reported by members of the NLC, the audit shall be undertaken by an independent and qualified person.

Geneva, 10 November 1994.

Jean-Jacques Oechslin,
Chairman.

296th Report of the Committee on Freedom of Association

INTRODUCTION

615. The Committee on Freedom of Association, set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva, on 3, 4 and 10 November 1994 under the chairmanship of Mr. Jean-Jacques Oechslin, former Chairman of the Governing Body.

616. The Committee had before it, on the one hand, a complaint of infringements of trade union rights in the Côte d'Ivoire presented by the World Confederation of Labour (WCL) and, on the other, a complaint concerning the observance by the Côte d'Ivoire of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), made by a number of Worker delegates to the 79th (1992) Session of the International Labour Conference under article 26 of the Constitution of the ILO.

617. At its 256th Session (May 1993) the Governing Body adopted the interim conclusions submitted to it by the Committee in its 289th Report, and requested the Government to transmit detailed information on all the points mentioned in the recommendations.

618. The Committee submits for the approval of the Governing Body a further report on this case. The Committee recommends the Governing Body to examine this report at its 261st Session.

Cases Nos. 1594 and 1647

*Complaint against the Government of Côte d'Ivoire
presented by
— the World Confederation of Labour (WCL)
— the Trade Union Federation (CSLCI) "Dignité" and
— the National Trade Union of Teachers in Research
and Higher Education (SYNARES)*

*Complaint concerning the observance by Côte d'Ivoire of the Freedom of Association
and Protection of the Right to Organize Convention, 1948 (No. 87),
presented by
the Workers' delegates to the 79th Session of the International Labour
Conference under article 26 of the ILO Constitution*

619. The Committee already examined Case No. 1594 at its November 1991, November 1992 and May 1993 Sessions, at which it presented interim reports to the Governing Body. [See 279th, 285th and 289th Reports of the Committee, paras. 717-739, 4-61 and 5-29 respectively.]

620. The Committee had also examined Case No. 1647 at its May 1993 Session. Some of the allegations contained in this complaint had also been presented in Case No. 1594. The Committee presented an interim report to the Governing Body. [See 287th Report, paras. 438-468.]

621. Since then, the complainants had submitted further allegations in respect of Case No. 1594 in communications of 6 and 17 May, 3 June, 12 August, 28 September and 16 December 1993, and 23 and 28 March 1994. The Government had sent information or observations on certain aspects of Case No. 1594 in communications of 21 September and 5 October 1993. On the other hand, it had sent no observation or information on Case No. 1647, and the Committee had had to postpone examination of the case on three occasions.

622. After its most recent examination of Case No. 1594, the Committee had considered that, bearing in mind that the complaint had been presented under article 26 of the ILO Constitution, that it would be highly appropriate, in view of the importance of this case and of the seriousness of the issues raised, that a representative of the Director-General undertake a direct contacts mission to the country and report to the Committee. In a communication of 19 May 1994, the Government of Côte d'Ivoire had indicated that it was willing to accept such a mission. At its June 1994 Session the Committee decided to postpone further examination of the case pending the findings of the mission, and expressed the hope that it would take place as soon as possible. [See 294th Report, para. 10.]

623. Arrangements were therefore made for a direct contacts mission to visit Côte d'Ivoire at the end of September 1994. The Director-General appointed Judge Keba Mbaye, former Vice-President of the International Court of Justice, first honorary President of the Supreme Court of Senegal and member of the Committee of Experts on the Application of Conventions and Recommendations, as his representative to conduct the mission. Mr. Keba Mbaye visited Abidjan from 24 September to 1 October 1994. During this direct contacts mission, the representative of the Director-General was accompanied by Mrs. A.-J. Pouyat, senior official of the Freedom of Association

Branch. Mr. A. Malu, Technical Adviser on International Labour Standards, made the necessary arrangements for the mission and assisted it during all its visits and meetings. The mission report is annexed to this report.

624. Côte d'Ivoire has ratified the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), as well as the Workers' Representatives Convention, 1971 (No. 135).

PREVIOUS EXAMINATION OF THE CASES

625. The complaint concerning Case No. 1594 related to the difficulties encountered by the Trade Union Federation "Dignité", the first-level trade unions affiliated to it and the union activists and officials belonging to these organizations in the exercise of their right to freedom of association.

626. The allegations referred in particular to the serious difficulties encountered by the Federation of Free Trade Unions of Côte d'Ivoire "Dignité" in the first place, and by the first-level unions claiming affiliation to it, in the second place, in carrying out their trade union activities effectively, in having their representatives freely elected, in particular, union representatives in trade union elections in enterprises and in receiving trade union dues from their members.

627. Specifically, the complainants referred to acts of anti-union reprisals, dismissals, transfers, demotions and other measures against members of "Dignité" or its first-level affiliated unions in the education and hospital sector and, in a number of private and public sector enterprises, to the employers' refusal to collect the workers' union dues for the organizations concerned, government interference in the holding of elections among the workers of several enterprises and even the exclusion from a census of dockers in the Free Ports of Côte d'Ivoire, of members of the Independent Trade Union of Dockers of the Free Ports of Côte d'Ivoire, the SYLIDOPACI, an organization of workers affiliated to the "Dignité" Federation.

628. They also expressed their extreme concern at the situation of workers in a farm-produce enterprise, the research plant of the Department of Oil-Producing Plants of the Forest Institutes (IDEFOR) at Irho Lamé near Abidjan, where a labour dispute that started in May 1993 had resulted in dismissals, the expulsion of workers from company housing and according to the complainants, even deaths, and in the repeated refusal to allow the workers to hold elections within the enterprise.

629. For its part, the Government has given assurances ever since 1991 that Côte d'Ivoire's legislation does not restrict the workers' right to set up occupational trade unions freely, whether in the public service or in the private sector; it had previously explained that the Labour Code provided neither for a procedure of official recognition for occupational trade unions nor for publication of such recognition in the *Official Gazette*. The Government had, however, pointed out to the founder of the Federation of Free Trade Unions of Côte d'Ivoire "Dignité", Mr. Basile Mahan Gahé, that the Federation's by-laws did not mention its affiliated first-level unions, but it stated that it had asked him for more details on the matter. Subsequently, in 1992, the Government repeated its statement that there was no obstacle to the setting up of workers' organizations outside the existing structure, but it maintained that the collection of trade union dues came under the inter-occupational collective agreement signed between the

Inter-Professional Association of Employers of Côte d'Ivoire and the General Union of Workers of Côte d'Ivoire in 1977, that it was up to the signatories to denounce it, and that "Dignité" had naturally not signed any such agreement. It did observe, however, that "Dignité" had been issued a receipt for the deposit of its by-laws on 7 June 1992 and that by virtue of section 9 of the Associations Act of 21 September 1960, "Dignité" could carry out its activities after two months.

630. The Government also gave detailed information on the Irho Lamé labour dispute, explaining that the workers who had called for a strike had not first gone through all the legal procedures of conciliation and mediation. It agreed that workers had been dismissed and that some of them had been evicted from their homes, but denied that there had been any deaths because of the intervention of the police.

631. The complaint concerning Case No. 1647 related to the arrest of members of the National Trade Union of Teachers in Research and Higher Education (SYNARES) and to anti-union reprisals against them, as well as to the alleged infringement of the right of teachers to go on strike to defend their labour and occupational interests and the right of members of the union to hold meetings without interference by the public authorities.

THE COMMITTEE'S CONCLUSIONS

632. In the light of the information obtained by the Director-General's representative during the direct contacts mission (see Annex I), the Committee proposes to make known its conclusions directly on the various aspects of the cases currently involving Côte d'Ivoire.

633. First of all, the Committee considers that the detailed report of the Director-General's representative proves the usefulness of such missions for a detailed and objective examination of complaints.

634. The Committee notes with interest the spirit of cooperation shown by the Government in this matter and the facilities that were granted without reserve to the mission and expresses the firm hope that the Government will continue to act in the same spirit. The Committee notes with satisfaction that the mission was able to obtain all the required information and meet all the persons it wished to see in order to accomplish its task well.

635. On the substance of the case, concerning the question of knowing if the Federation of Free Trade Unions "Dignité" has a legal personality and if it participates in all the demonstrations to which other workers' organizations are invited, the Committee notes with satisfaction that this Federation enjoys a legal personality and can, consequently, carry out its activities throughout the national territory, as illustrated clearly by the letter of 30 June 1993 of the Minister of the Interior, a copy of which was transmitted to the mission. In this letter the Minister of the Interior specifies that "the administrative authorities were informed by mail of the legal personality of the trade union organization 'Dignité'" and that "it can carry out its activities throughout the national territory". The Committee notes with particular interest that the "Dignité" Federation participated in the 1 May 1994 procession, that it received financial assistance on that occasion from the President of the Republic like other trade union federations, and that the Minister of Employment and the Public Service gave assurances to the direct contacts mission that a representative of "Dignité" would be able to participate in the

next session of the International Labour Conference, as well as the World Summit on Social Development. The Committee further notes that the Minister confirmed that the “Dignité” Federation as well as other workers’ organizations, the General Union of Workers of Côte d’Ivoire (UGTCI) and the Federation of Independent Trade Unions of Côte d’Ivoire (FESACI), were consulted on questions relating to workers’ interests, and that the General Secretary of the National Council of Employers of Côte d’Ivoire (CNPI) confirmed that employers wished that “Dignité” as well as the UGTCI and FESACI participate in the consultation process of the social partners on the contents of the draft Labour Code which is being drawn up and adopted.

636. Concerning the question of determining if first-level unions affiliated to “Dignité” can establish themselves by a simple declaration and carry out their activities without hinderance, the Committee notes that the government authorities have stated that first-level unions can establish themselves by a simple deposit of their by-laws and the list of their officials at the town hall of their headquarters, with copies to the labour inspector and the Attorney-General of the Republic. The issuance of the receipt of the deposit of the first-level union’s by-laws by the town hall is sufficient for the trade union concerned to carry out its activities throughout the national territory. The Committee takes note of the contents of the mission’s report explaining that not only government authorities and employers but trade union officials themselves had poorly interpreted the rules applicable to the establishment of unions by referring simultaneously to section 5 of the Labour Code which provides that: “The founding members of any occupational organization have to deposit the by-laws and the names of those who are responsible in any way for its administration or its leadership. This deposit takes place at the town hall or at the headquarters of the administrative district where the trade union is established, and copies of the by-laws are addressed to the labour inspector and the Attorney-General of the Republic”, and to Act No. 60-315 of 21 September 1960 respecting associations, which contains restrictions contrary to freedom of association principles (prior authorization for the establishment of an association, administrative dissolution, the restriction of the right on the holding of trade union office to Côte d’Ivoire nationals, ceiling on trade union dues for members, and finally the risk of being imprisoned for maintaining or reestablishing a dissolved association). The Committee notes, according to the mission’s report, that on this point doubts are dispelled and the Minister of the Interior gave formal assurances to the mission that the Act respecting associations was not applicable to trade unions, and that he specified, during the summing-up meeting before representatives of “Dignité”, FESACI and the employers, that where such problems might continue to exist in certain enterprises, this was due to the delay in the transmission of his acknowledgement as expressed in his letter addressed to the General Secretary of “Dignité” on 30 June 1993. In order to eliminate any ambiguity, the Committee requests the Government to amend its legislation so as to provide that the Act respecting associations does not apply to unions.

637. The Committee invites the Government to ensure that all enterprises and administrations be informed that the “Dignité” Federation and its affiliated first-level unions, like all other unions or federations, can establish themselves in accordance with the procedure set out in section 5 of the Labour Code without any other formality, and can carry out their activities effectively in enterprises.

638. Regarding the question of whether trade union organizations, including “Dignité”, can freely present candidates as union representatives for trade union

elections in all enterprises where a first-level union exists, the Committee notes with interest that the government authorities have assured that, following the return to multipartism and trade union plurality, Côte d'Ivoire had decided to apply national laws and international Conventions, which it had freely ratified, and there would be no obstacles to presenting candidates for elections as union representatives from the first ballot by first-level unions, affiliated to "Dignité".

639. The Committee invites the Government to ensure that trade union elections take place in public and private sector enterprises as quickly as possible so that account may be taken of the new situation ensuing from trade union plurality, and requests it to keep it informed in this respect.

640. As regards the restitution of trade union dues to organizations chosen by the workers, the Committee notes that the government authorities indicated to the mission that the system of deduction at source of trade union dues did not give rise to any problems when there had been a single union; they have, however, admitted that trade union pluralism required the adoption of concrete measures in order for trade union dues to be paid to the organizations chosen by the workers.

641. The Committee invites the Government to ensure that solutions already found for an equitable distribution of trade union dues be applied to all enterprises and administrations where these problems might arise.

642. Concerning Circular No. 4104AE/AP/RB/AF.1 of the Ministry of Foreign Affairs of 18 May 1992 which requires prior authorization for projects or files submitted by Côte d'Ivoire associations, including trade unions, for financial assistance to diplomatic missions accredited to Côte d'Ivoire, the Committee takes note with interest of the assurances given by the government authorities during the summing-up meeting that the Circular did not apply to the assistance that Côte d'Ivoire trade unions could receive from international organizations of workers to which they are affiliated.

643. As regards the right of organizations of workers to hold freely meetings and trade union demonstrations, the Committee takes note of the assurances given by the Minister of the Interior during the summing-up meeting, who confirmed that meetings and trade union demonstrations could be held freely, that meetings at the workplace were subject to progress made at work in the enterprise and that peaceful demonstrations of a trade union nature were free.

644. Regarding the question of whether trade union officials and activists were detained for activities linked to the defence of workers' interests, the Committee notes that the Minister of the Interior also assured the mission, during the summing-up meeting, that there were no trade union officials in detention on that day and that he had requested trade union representatives who were present to bring to his attention any such cases which might come to their notice.

645. Concerning penal sanctions imposed on 6 March and 28 April 1992 on nine members of the National Trade Union of Workers in Research and Higher Education (SYNARES), who were named by the complainants, the Committee notes the information furnished by the government authorities and confirmed by SYNARES representatives according to which the nine SYNARES members benefited from the Amnesty Act No. 92-465 of 30 July 1992, that they returned to work and that their salaries were paid.

646. While noting this information, the Committee, nevertheless, stresses that the detention and sentencing of workers' representatives in connection with activities related to the protection of the workers' interests endanger the free exercise of trade union rights. [See *Digest of decisions and principles of the Freedom of Association Committee*, 3rd edition, 1985, para. 91.] The Committee notes moreover with interest that section 6 of the above-mentioned Amnesty Act forbids, "sentences and the loss of rights" erased by the amnesty, to be left pending in the files of those sentenced.

647. Concerning the issue of the reinstatement of workers who had lost their jobs following labour disputes linked to the recognition of first-level unions, affiliated to "Dignité", and to the holding of trade union elections, the Committee takes note with interest that, according to the direct contacts mission report, it had been understood between the management of the establishment and representatives of the "Dignité" Federation, during the meeting held at Irho Lamé, that workers who had lost their jobs, following strike action on 11 May 1993, would be taken back following negotiations which would be entered into quickly under the auspices of the Director of Employment and within a time-frame to be established, taking into account the interests of parties concerned.

648. The Committee invites the Government to keep it informed of any development as regards: the reinstatement of workers who lost their jobs; as well as the holding of elections at Irho Lamé and at enterprises with similar problems, in particular at Cosmivoire, Abidjan Catering, the SCAF sawmill in Bassam, in the enterprise Blohorn-Sahsl (UNILEVER) and in the Soat enterprise. Moreover, the Committee draws the Government's attention to the importance that it attaches to the suppression of letters of apology as a prerequisite to recommencing work.

649. Finally, the Committee invites the Government to take the necessary measures to resolve the labour dispute concerning the dockers affiliated to the Independent Trade Union of Dockers in the Free Ports of Côte d'Ivoire (SYLIDOPACI), who carry out their activities in the Free Port of Abidjan, but who do not appear to be employed by the management of the Port, in order to ensure that the dockers are not dismissed or excluded from the census of dockers of the Port due to their trade union affiliation or their participation in trade union activities.

THE COMMITTEE'S RECOMMENDATIONS

650. In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) The Committee notes with interest the spirit of cooperation shown by the Government in this matter and the facilities that were granted to the direct contacts mission which was able to obtain all the required information and meet all the persons it wished to see and expresses the firm hope that the Government will continue to act in the same spirit.
- (b) The Committee notes with interest that trade union officials and activists of the National Trade Union of Teachers in Research and Higher Education (SYNARES) who had been arrested and sentenced on 6 March and 28 April 1992 benefited from an amnesty under Act No. 92-465 of 13 July 1992, that they regained their full

freedom, that the sentences and loss of rights have been erased by the amnesty, that they returned to work and that their salaries have been paid. The Committee nevertheless draws the Government's attention to the fact that the detention and sentencing of workers' representatives in connection with activities related to the protection of the workers' interests endanger the free exercise of trade union rights.

- (c) The Committee also notes with interest that the government authorities have publicly stated that the administrative authorities were informed by mail of the legal personality of the trade union organization "Dignité" and of the fact that it can carry out its activities throughout the national territory, that this Federation has participated and will continue to participate in all demonstrations to which other organizations of workers are invited.
- (d) However, the Committee invites the Government to ensure that all enterprises and administrations be informed of the fact that the "Dignité" Federation and its affiliated first-level unions, like all other unions and federations, can establish themselves according to the procedure set out in section 5 of the Labour Code without any other formality, and that they can effectively carry out their activities in enterprises. Moreover, the Committee requests the Government, in order to eliminate any ambiguity, to amend its legislation so as to provide that the Act respecting associations does not apply to unions.
- (e) The Committee also invites the Government to ensure that trade union elections take place as quickly as possible in order to take account of the new situation ensuing from trade union pluralism and it requests it to keep it informed of any development in this respect.
- (f) The Committee also invites the Government to ensure that solutions already found for an equitable distribution of trade union dues among the occupational organizations chosen by the workers be applied to all enterprises and administrations where such problems might arise.
- (g) The Committee requests the Government to keep it informed of the outcome of the negotiations concerning the reinstatement of workers who lost their jobs following the labour disputes linked to: the recognition of first-level unions affiliated to "Dignité"; and to the holding of trade union elections at Irho Lamé and in enterprises which had or have similar problems, in particular, in Cosmivoire, Abidjan Catering, the SCAF sawmill at Bassam, the enterprise Blohorn-Sahsl (UNILEVER) and in the Soat enterprise. The Committee requests the Government to ensure the suppression of letters of apology as a prerequisite to recommencing work.
- (h) Finally, the Committee invites the Government to keep it informed of measures taken to resolve the labour dispute concerning the dockers affiliated to SYLIDOPACI who carry out their activities at the Free Port of Abidjan, in order to guarantee that the dockers who are members of this first-level union which is affiliated to "Dignité", are not dismissed or excluded from the census of dockers of the Port, due to their trade union affiliation or their participation in trade union activities.

Geneva, 10 November 1994.

Jean-Jacques Oechslin,
Chairman.

Annex I

REPORT ON THE DIRECT CONTACTS MISSION TO CÔTE D'IVOIRE (24 SEPTEMBER-1 OCTOBER 1994)

Cases Nos. 1594 and 1647

INTRODUCTION

With respect to Case No. 1594, in communications of 22 February and 17 July 1991 the World Confederation of Labour (WCL) submitted a complaint against Côte d'Ivoire for infringements of trade union rights. Further allegations on the case followed on 20 January 1992.

At the same time, in letters addressed to the Director-General of the ILO on 11 and 18 June 1992, José E. Pinzon and Willy Peirens, Workers' delegates of Guatemala and Belgium, respectively, to the 79th Session of the International Labour Conference, presented a complaint concerning the observance by Côte d'Ivoire of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), under article 26 of the ILO Constitution. In a communication of 30 June 1992, the International Union of Food and Allied Workers' Associations (UIF) associated itself with this complaint. Subsequently, the WCL presented new allegations in communications of 13 February and 17 May 1993. The Government of Côte d'Ivoire, for its part, sent information or observations on several aspects of the case in communications of 22 February and 17 July 1991, 20 May, 1 June and 7 August 1992 and 22 February, 21 September and 5 October 1993. In the light of these complaints and of the Government's replies, the Committee on Freedom of Association examined the case on three occasions at its meetings in November 1991 and 1992 and in May 1993, at which time it submitted interim reports to the Governing Body. [See 279th, 285th and 289th Reports of the Committee, paras. 717-739, 4-61, and 5-29, respectively.]

Since then the WCL has submitted further allegations and additional information in support of its complaints in communications of 3 June, 12 August, 22 September and 16 December 1993 and 23 and 28 March 1994.

With respect to Case No. 1647, the complaint of the National Trade Union of Teachers in Research and Higher Education (SYNARES) appears in a communication dated 15 May 1992. Some of the allegations covered in this case were also presented in Case No. 1594. The Government replied to several of the allegations in an initial communication dated 17 February 1993. The Committee examined the case at its meeting in May 1993, when it presented an interim report to the Governing Body. [See 287th Report, paras. 438-468.]

The Committee nevertheless considered that it would be highly appropriate, in view of the importance of the complaints and of the seriousness of the issues raised, that a representative of the Director-General visit the country.

On 19 May 1994 the Minister of Employment and the Public Service of Côte d'Ivoire indicated in a letter to the Director-General of the ILO that he was prepared to accept a direct contacts mission to Côte d'Ivoire to investigate the case further.

At its June 1994 meeting the Committee decided to postpone its examination of this case and expressed the wish that the mission take place as soon as possible. [See 294th Report, para. 10.]

The Director-General designated Mr. Keba Mbaye, former Vice-President of the International Court of Justice, first honorary President of the Supreme Court of Senegal and member of the Committee of Experts on the Application of Conventions and Recommendations, to carry out the mission, which took place from 24 September to 1 October 1994. Mr. Mbaye was accompanied by Mrs. Anna-Juliette Pouyat, Deputy Chief of the Freedom of Association Branch. Mr. Anatole Malu, Technical Adviser on International Labour Standards, made the necessary arrangements for the mission on the spot and assisted it during its visits and meetings.

CONDUCT OF THE MISSION

During its visit to Côte d'Ivoire the mission held meetings with, amongst others, Mr. Atsain Achi, Minister of Employment and the Public Service, Mr. Emile Constant Bombet, Minister of the Interior, as well as with senior officials from the Ministries of Employment and the Public Service, of Justice and Foreign Affairs.

The mission also met delegations from the various trade union and employers' organizations in the country, the General Union of Workers of Côte d'Ivoire (UGTCD), the Federation of Independent Trade Unions of Côte d'Ivoire (FESACI) and the National Council of Employers of Côte d'Ivoire (CNPI).

The mission met, on several occasions, officials of the "Dignité" Federation who, moreover, were present when the mission visited the management of the Blohorn enterprise (UNILEVER) in Abidjan in the research plant of Oil-Producing Plants of the Forest Institutes (IDEFOR) at Irho Lamé and the management of the Free Ports of Abidjan. The mission thus visited the various enterprises where there had been problems with the recognition of the first-level unions affiliated to "Dignité", with the holding of trade union elections or with job losses following strike action.

The Government of Côte d'Ivoire accepted the mission's request that a summing-up meeting be held under the chairmanship of the Minister of Employment and the Public Service. In the absence of the Minister of Employment and the Public Service, who could not be present because he was abroad, the summing-up meeting took place in the presence of the Minister of the Interior, acting in the interim for the Minister of Employment and the Public Service, with representatives of the "Dignité" Federation concerned with the complaint, with representatives of the Federation of Independent Trade Unions of Côte d'Ivoire (FESACI) and with representatives of the National Council of Employers of Côte d'Ivoire (CNPI).

The mission wishes to emphasize that it received every cooperation from everyone it met. It was able to work in full freedom and independence and was afforded the necessary facilities by the Government to conduct its visit in a satisfactory way.

SITUATION OF THE CASES PENDING BEFORE THE COMMITTEE PRIOR TO THE MISSION

Initial complaint by the World Confederation of Labour (WCL)

The WCL's complaint concerned the difficulties encountered by the "Dignité" Federation, the first-level trade unions affiliated to it and the union activists and officials belonging to these organizations in the exercise of their right to freedom of association without interference. It dealt specifically with alleged acts of repression by the authorities and anti-union discrimination against workers wishing to join "Dignité", the refusal of the authorities to recognize the Federation, the arrest of a number of persons identified by name (Marcel Ette, Professor Francis Wodie, assistant teacher Emile Boja and Drs. Richard Kodjo and Assoua Adou) and of 29 "Dignité" activists in April 1990. It also referred to numerous dismissals, transfers or demotions of union officials and activists in private or public sector enterprises, interference by the authorities against "Dignité" and its first-level unions, the collection of trade union dues and obstacles to the holding of trade union elections in the enterprises.

Complaint presented under article 26 of the Constitution

In their complaint of 12 and 18 June 1992, Mr. Peirens and Mr. Pinzon stated that, despite the recommendations of the Committee of Freedom of Association, there had been no improvement in the situation and further flagrant violations had taken place. The complainants alleged that, after the delaying tactics referred to in Case No. 1594, the Minister of the Interior, Mr. Constant Bombet, made it known that he was prepared to issue a registration document. However, on several occasions, the Secretary-General of "Dignité" was refused this document by the competent authorities, without any explanation or justification.

- Prior to the departure of the Secretary-General of “Dignité” for the International Labour Conference, during a meeting at the Ministry of the Interior, the document in question was shown to him from a distance with the promise that it would be handed over to a “Dignité” representative on Monday, 8 June 1991.
- The employers demanded official recognition of “Dignité” before authorizing it to take part in trade union elections and to receive its members’ union dues.
- The General Union of Workers of Côte d’Ivoire (UGTCI) was registering lists of staff delegates, without first organizing trade union elections, in the enterprises where “Dignité” had a majority of members (for example, at SCAF in Bassam).
- Certain authorities had threatened to take repressive measures if “Dignité” acted without “authorization” (for example, by collecting or receiving union dues, organizing trade union meetings, etc.).

The wave of dismissals of trade unionists was continuing. Among public servants and teachers, for example, “Dignité” leaders or activists had frequently had their salary suspended or suffered abusive transfers. In addition, arbitrary arrests and imprisonment took place. In all cases the only reason for the repression was the trade union activity of the persons concerned.

According to the complainants, the UGTCI and the Employers’ Association of Côte d’Ivoire (UPACI), in collusion with the Government, were retaining union dues indiscriminately (including those of “Dignité” members). This amounted to misappropriation of the dues of workers who had chosen not to join the UGTCI. In addition, this was a coercive measure since it obliged those “opposed” to the idea to identify themselves and thus expose themselves to the practices referred to under the preceding point.

The complainants also referred to a circular from the Ministry of Foreign Affairs of Côte d’Ivoire, sent to all the diplomatic missions in the country, stipulating that any request for project financing submitted to them by the various groups and associations of Côte d’Ivoire, including trade unions and political parties, must first be approved by the local administrative authorities. The complainants considered that this was intimidation aimed at hindering the development of freedom of association and risked jeopardizing not only bilateral cooperation but also multilateral cooperation, including the ILO’s technical cooperation.

*Complaint submitted by the National Trade Union of
Workers in Research and Higher Education (SYNARES)*

The SYNARES complaint referred to the detention of members of the union and to reprisals taken against them, as well as to the alleged infringement of the right of teachers to strike in order to defend their labour and occupational interests and of the unions’ members to hold meetings without interference by the public authorities.

The complainant organization referred to a labour dispute that had occurred at the University of Abidjan. It mentioned that, following a “punitive expedition” carried out by the army against students in the night of 17-18 May, it had protested against the violation of university immunity, the banning of trade union meetings on the university campus and the violence of the soldiers, and had demanded the setting up of an international commission of inquiry to determine responsibilities. When the Government failed to react to the thefts, torture and rape to which the students had been subjected, SYNARES called for a work stoppage of 72 hours. After the work stoppage and while negotiations between SYNARES and the President of the Republic were taking place, the Government decided to requisition the teachers. In response to this “illegal” step, SYNARES called a strike of indefinite duration to defend the right to strike and to demand once again the establishment of a commission of inquiry. SYNARES stated that the strikers’ salaries were then suspended for three months. The complainant organization also pointed out that a national commission of inquiry, set up in 1991, had concluded that during the night of 17-18 May 1991 some students had been tortured and raped by the soldiers; the main persons responsible for this “punitive expedition” had been named by the commission in question. According to the complainant organization, faced with the refusal of the President of the Republic to take any disciplinary measures whatsoever against the responsible persons, the Peoples Front of Côte

d'Ivoire (FPI) and the Students' Federation of Côte d'Ivoire (FIFCI) organized a protest march. Other political, humanitarian and trade union organizations — including SYNARES — also took part in the march. The authorities had arrested a number of people arbitrarily, most of them at home and without a warrant (see Annex II). According to the complainant, these people had been beaten, imprisoned and sentenced after a trial at the court of first instance, which had failed to respect the guarantees provided for in the Universal Declaration of Human Rights. SYNARES added that, in spite of the appeal lodged by the defence, these people were still being illegally held in detention. The complainant organization stated that among those sentenced were nine activists belonging to SYNARES, whom it considered unquestionably innocent: Koudou Kessié Raymond, Azibo-Coffy Antoine, Gnaoule Oupoh, Degni Segui René, Ouraga Obou, Koudou Gbagbo Laurent, Kouablan François, Lida Kouassi and Mrs. Gbagbo Ehivet Simone.

According to SYNARES, the salaries of these people had been suspended since February 1992, in violation of section 27 of Act No. 64-488 of 21 December 1964 concerning the Public Service Regulations. This section stipulates that any decision to suspend wages should be preceded by a decision taken by the relevant Minister to suspend the public servant concerned and that, even in this case, the suspension can only result in a cut of half the wages of the public servant concerned, who is entitled to all of his or her family benefits. Finally, according to SYNARES, the Government was applying discriminatory salary scales to research workers and teachers recruited after 1 October 1991, under Decree No. 91-818 of 11 December 1991.

The Government's written replies

In its first written replies to the WCL's complaints, the Government assured the Committee that freedom of association was recognized both for public servants and for workers in the private sector under the General Regulations of the Public Service and the Labour Code. It had previously observed that the Labour Code provided neither for a procedure of official recognition for occupational trade unions nor for a subsequent publication of this recognition in the *Official Gazette*. The by-laws of a group named "Federation of Free Trade Unions of Côte d'Ivoire" ("Dignité") had nevertheless been deposited in April 1990 at the Abidjan city council by its Secretary-General, Basile Mahan Gahé, but without listing the first-level unions affiliated to it. Basile Mahan Gahé had been requested to provide further details.

Subsequently, the Government had stated that on 7 June 1992 the receipt for the by-laws of "Dignité" had been issued in accordance with the 1964 Labour Code, and that, under section 9 of the Associations Act of 21 September 1960, it was not allowed to engage in any activities for another two months.

As regards the election of staff delegates in enterprises, the Government pointed out that, under section 136(4) of the Labour Code, it was not necessary to belong to a first-level trade union in an enterprise to become a staff delegate, since individual candidatures were receivable for the second ballot and any disputes were settled by the competent court (section 137).

As regards the collection of trade union contributions in general or the check-off system, the Government stated that the arrangement was the outcome of a collective agreement. In 1977 the General Union of Workers of Côte d'Ivoire (UGTCI) and the Employers' Association of Côte d'Ivoire (UPACI) had reached an agreement providing for dues to be deducted at source, under clause 12 of the Inter-Occupational Collective Agreement; "Dignité", having been established only recently, was not a party to the agreement. Furthermore, although the UGTCI had suggested that "Dignité" send it a list of those of its members from whom it had wrongfully deducted dues so that they could be paid back to it, "Dignité" refused because "the opponents would be obliged to identify themselves".

As regards the allegations of dismissals in several enterprises where workers wished to join first-level unions affiliated to "Dignité", the Government had provided only vague replies.

Regarding the arrest of Marcel Ette, General Secretary of SYNARES, and of other trade unionists, as well as the requisitioning of the teachers, the Government explained that because of the economic crisis in the country it had had to reduce public officials' salaries by 15 to 40 per cent, and this had aroused trade union discontent — beginning with a student strike in Abidjan. The Government admitted suspending the holding of meetings on the university campus and

prohibiting public demonstrations. However, it had explained that SYNARES had decided to organize the general strike in March 1990, coupled with a pro-student protest march, backed by "Dignité" and other organizations such as SYNACASSI, which had called a strike of doctors in support of the teachers and research workers. With the involvement of the trade unions in political activities, and specifically the campaign against the austerity plan, the protest movement had degenerated. The Government admitted that some 126 people were held for questioning and sent to the Akouédou military camp, from which they were released a few days later. (...). According to the Government, by calling on its members to strike for political and non-occupational reasons (support for the students) before engaging the conciliation procedure, SYNARES had put itself in a position of illegality. It was in response to this illegal strike that the teachers had had to be requisitioned, a measure decided by Decree No. 91-418 of 21 June 1991.

As to the allegation that the suspension of the salaries of those taking part in the strike in 1991 was associated with the indefinite strike called by SYNARES, the Government pointed out that only 311 national teachers out of the 802 working for the university in 1991 who had failed to comply with the requisition order had had their pay suspended for the duration of the work stoppage, and that, though they did not work during the strike, the strikers subsequently received their full pay.

Concerning the salaries which, according to SYNARES, had been suspended during the month of February 1992, thus allegedly violating the provisions of the Public Service Regulations, the Government explained that section 21 of the Regulations stipulated that any official was entitled for services rendered to remuneration which included pay — with deductions for the pension scheme — family benefits, housing allowances and, where appropriate, various forms of compensation. Referring to the legal proceedings against the nine SYNARES activists sentenced in 1992, however, it emphasized that these activists had been prosecuted for the destruction of vehicles and public and private buildings, violence or assault and rebellion, and supplied a copy of the order to suspend salaries that was decided after an opinion from the Disciplinary Council. The Government felt that the decision to suspend the salaries of nine of the SYNARES' members under committal order had been taken in accordance with the laws and regulations governing the public service. Moreover, the people concerned had retained their family benefits, contrary to the statement made by SYNARES.

With regard to the allegation that discriminatory salary scales had been applied to research workers and teachers recruited after 1 October 1992 under Decree No. 91-818 of 11 December 1991, the Government explained that, as early as 1976, it had introduced special salary scales for public servants and teachers. Since then, with equal qualifications and training, teachers had been among the best paid of public servants and were even privileged because their housing was paid by the State. Given the persistent economic crisis, the fact that it had fewer and fewer financial resources and that there was a growing need for teachers, the State had been forced to adjust its resources to its needs and, consequently, to recruit new teachers on a new salary scale — which in fact was the same as that of the majority of public servants who were not teachers. As regards the former teachers, all their advantages had been maintained in accordance with the principle of acquired rights set out in section 2 of Decree No. 91-818 of 11 December 1991, which states that "the salary scales established under Decree No. 75-22 of 9 January 1976 shall apply to staff recruited before 1 October 1991". The Government considered that this did not constitute a regrading or a cut in the salaries of teachers but rather new recruitment conditions.

Interim conclusions of the Committee on these cases

On the subject of the SYNARES complaint, the Committee on Freedom of Association at its May 1993 Session recalled that freedom of assembly and the right to hold public meetings constitute a fundamental aspect of trade union rights and requested the Government to refrain in the future from purely and simply banning trade union meetings and demonstrations and, whenever it feared disturbances, to strive to reach an agreement with the organizers to enable these meetings and demonstrations to be held in some other place where there would be no fear of disturbances. As to the sentencing in March and April 1992 of nine members of SYNARES and the suspension of their salaries since February 1992, the Committee requested the Government to send it the text of the judgements handed down, with the reasons adduced. It also requested it to

provide information on the present situation of the persons in question. The Committee recalled that the right to strike is one of the essential means through which workers and their organizations may promote their economic and social interests, and that teachers do not fall within the definition of essential services in which the right to strike may be restricted or prohibited; it requested the Government to refrain in the future from resorting to such serious measures as the requisitioning of workers except in sectors of activity providing an essential service in circumstances of the outmost gravity or during an acute national crisis. Finally, the Committee recalled that the imposition of sanctions on public servants on account of their participation in a strike was not conducive to the development of harmonious industrial relations.

Concerning the WCL's complaint and the complaint presented under article 26 of the ILO Constitution, the Committee on Freedom of Association at its May 1963 Session noted that "Dignité" had been officially recognized in June 1992. It nevertheless requested the Government to indicate whether the first-level trade unions established at the local level could actually carry out their activities without hindrance. It also requested the Government not to resort to arresting trade unionists for activities relating to the defence of workers' interests. It had further asked the Government to provide more information on any measures taken to lift the sanctions imposed on trade unionists in the teaching profession for having engaged in legitimate trade union activities, especially people who had been transferred for disciplinary reasons within the country.

Regarding the allegations concerning a large number of dismissals of trade union leaders and activists cited by name by the complainants, most of whom were members of first-level unions affiliated to "Dignité", such as the Independent Trade Union of Dockers in the Free Ports of Côte d'Ivoire (SYLIDOPACI), the Union of Workers at Cosmivoire, the Union of Perfumery and Cosmetics Workers of Côte d'Ivoire (SYTRAPACOICI), the Union of Workers at the (UNILEVER) Blohorn-Sahsl factory and the Union of Abidjan Catering Workers (SYTAC), the Committee had emphasized the urgency of undertaking an inquiry into the real reasons for the dismissal of the trade unionists and of reinstating in their posts all trade union activists and leaders dismissed for trade union activities in connection with "Dignité". It recalled the importance it attached to the existence of effective procedures for enforcing provisions prohibiting anti-union discrimination and interference by employers in trade union affairs.

The Committee had also requested the Government to supply further information on measures taken to ensure that union dues were repaid to the trade union organizations actually chosen by the workers.

Finally, the Committee had requested the Government to adopt the necessary measures to ensure that all recognized trade union organizations, and in particular "Dignité", might freely put up their candidates for election as staff delegates in all enterprises, right from the first ballot, especially in the Free Ports of Abidjan, and in the Nestlé, SOTRA and Bassam companies where the complainants claimed that the Government had attempted to impose "single-ticket" elections in favour of the General Union of Workers of Côte d'Ivoire (UGTCI).

New allegations by the complainants

In their subsequent communications in 1993, the complainants said that they regretted once again that the Committee on Freedom of Association's recommendations concerning the reinstatement in their post of people who had been dismissed for their trade union activities, the participation of all recognized trade union organizations in elections for staff delegates right from the first ballot, and the equal treatment of the various trade unions as regards the collection of union dues had still not been implemented.

They alleged that the dismissed workers had not yet been reinstated, for example in the Free Port of Abidjan (five people), despite the promises of the Ministry of Equipment, Transport and Tourism; moreover, the Director of Maritime Affairs of the Ministry of Equipment had apparently said that the workers would not be reinstated. It was the same situation at Abidjan Catering (eight people), at the SCAF sawmill in Bassam (four people) and in the Soat shoe enterprise (35 people). The complainants also alleged that trade union elections were still being disrupted: at the Hotel Ivoire, where "Dignité" won a majority in the 10 March 1993 elections but where the next day the Director of Labour, through the hotel's chief of personnel, apparently summoned the UGTCI

and "Dignité" to the Labour Directorate to announce the pure and simple cancellation of the elections and propose that they hold new elections at a later date; at Utexi, Dimbokro, where the Utexi Workers' Free Trade Union (SYLTILEX), which was affiliated to "Dignité", had been prevented from taking part in the trade union elections by the management; at Cotivo (Agboville), where the UGTCI representative, the Agboville labour inspector and the Director of the enterprise had actually locked "Dignité" out on 5 May, the day the elections were supposed to take place; faced with this situation, the Cotivo workers had refused to work, but they were allegedly called in by the management one by one and ordered to vote immediately; finally, at Irho Lamé, where the Director of the enterprise and the labour inspector had prevented the first-level "Dignité" trade union from participating in the first ballot and stated that "a door would be left open on the second ballot if all the delegates had not been elected on the first ballot". The complainants also alleged that the trade union dues collected under the check-off system were still being paid over entirely to the UGTCI, even though many of the workers were affiliated to the "Dignité" union. Lastly, according to the complainants, the prefects and sub-prefects, especially in Dimbokro, Gagnoa and Anyama, regularly exceeded their authority in matters of labour law.

In their communication of 17 May 1993 the complainants alleged that the army had intervened in the Irho Lamé food produce enterprise in May 1993 to end a four-day strike that had been started by the workers to protest against the ban on the first-level trade union affiliated to "Dignité" participating in the elections for trade union delegates right from the first ballot. They explained that 670 of the 700 workers in the Irho Lamé enterprise had gone on strike on 11 May 1993 to demand the organization of democratic trade union elections, but that the relevant ministry demanded that every worker write an individual letter of apology before being allowed to return to work and refused to set a date for union elections despite the labour inspector's decision to that effect. Furthermore, the delegates of the first-level union affiliated to "Dignité" who had been evicted were unable to return to their homes on the enterprise's premises and were sleeping elsewhere with their families. According to the complainants, the army was still occupying the village, had evicted most of the workers and their families and put seals on their homes. A great many people allegedly were obliged to live outside in the rain. In evicting the inhabitants the army had used force and violence and had injured many people and damaged equipment and personal effects. Because it was now the rainy season, the evicted workers allegedly were facing very harsh weather conditions and their health was suffering seriously. According to the complainants, 200 people were sick, and one of them had died for lack of treatment. "Dignité" had rented canvas sheets to provide a minimum of shelter for thousands of people.

They also alleged that at the Free Port of Abidjan the port authorities had systematically excluded port workers affiliated to "Dignité" from the survey they had conducted to establish an exact list of the enterprise's paid staff. According to them, the effect of excluding these workers from the survey was to remove their names from the staff list and thus prevent them from taking part in the trade union elections. In the Free Port of Abidjan specifically, all the officials of the Independent Trade Union of Dockers of the Free Ports of Côte d'Ivoire (SYLIDOPACI), a first-level union affiliated to "Dignité", had had their dockers' card allowing them entry to the port taken from them and were not being paid. Moreover, in July 1993 the Government had dissolved SYLIDOPACI without consulting the members of its executive committee and had refused to allow elections to be held in the port on the grounds that the executive committee of the union affiliated to the UGTCI was the only one authorized to represent the workers.

The complainants also cited other infringements of the freedom of association of members of first-level unions affiliated to "Dignité". In education, Mrs. Ouattara, a secondary education teacher for 23 years who had been relegated to a primary school in a remote rural area because of her union activities, had had her entire salary suspended since January 1992. At Abidjan airport, following a strike in January 1992, five executive committee members of the first-level union affiliated to "Dignité" had been dismissed without compensation; although the Abidjan court ruled in their favour in March 1992, the employer had appealed and the court's decisions had never been implemented. At SCAF in Bassam, the 15 members of the executive committee of the first-level union affiliated to "Dignité" had been dismissed, and the employer had stated that he did not want any "Dignité" members in his enterprise; two complaints had been lodged with the labour tribunal in February and in March 1993, but they had come to nothing. At Cotivo

(Agboville) the employer had refused to allow the Free Trade Union of Workers of Cotivo (SYLITCO) to take part in the trade union elections that were held on 27 and 28 May 1993; on three occasions the UGTCI, previously the sole trade union federation, had contested the election but none of its representatives had been elected for lack of a quorum; on the third occasion, 217 out of 1,078 registered workers took part in the vote and 861 abstained; in spite of this, the employer ruled that the elections were valid. Finally, at Utexi (Dimbokro) the prefect banned the first-level union affiliated to "Dignité" from taking part in the trade union elections on 12 March 1993, despite an agreement between the employer and the local labour inspectorate; no action has been taken on the two complaints that were lodged with the labour tribunal in March 1993.

The complainants attached a summary of trade union elections held up to August 1993 which in their view testified to the growing representativeness of "Dignité" in the country. The documents show that in 1992 and 1993 "Dignité" beat the UGTCI in eight of the 15 enterprises where elections were held, and that the two federations tied in two other enterprises. According to the complainants, under the pressure from the workers, some other enterprises seemed to be beginning to accept the principle of pluralistic trade union elections but no concrete measures had been adopted by employers at Sotra, Blohorn and all the breweries. In addition, between 1991 and 1993 "Dignité" had been the only federation to contest the elections in 14 enterprises, where the UGTCI had been obliged to withdraw for lack of candidates. The total number of delegates per federation was 174 for "Dignité" and 54 for the UGTCI. Finally, the complainants had recognized that "Dignité" had opposed the holding of elections in certain enterprises but they had explained that this concerned enterprises where the employers had refused to allow the first-level union affiliated to it to take part or had demanded that the union's candidates contest the election as independent candidates. This was the case specifically at Abidjan Catering, Nestlé, the Free Ports, SCAF in Bassam, Snaib Gagnoa, Unicao and Unicoci, where "Dignité" had demanded that the employers hold elections based on the principle of pluralism and freedom of association, as required by the regulations in force. The labour tribunal had not yet ruled on the complaints that "Dignité" had lodged several months before.

In a communication of 16 December 1993, the complainants alleged that the situation at Irho Lamé was becoming desperate and that the 100 or more very serious medical cases gave them reason to fear the worst. They added that the former Director of Irho Lamé and the former Minister for Scientific Research had deliberately allowed a situation that should not have given rise to any kind of dispute — the organization of trade union elections in the enterprise — to degenerate. Now, after eight months of dispute lasting from May to December 1993, the workers were still unpaid and unassisted. Five deaths had occurred on the site. The complainants had requested the assistance of the Red Cross and UNICEF to come to the help of the children of trade unionists, who were in serious danger.

Finally, in communications of 23 and 28 March 1994 the complainants alleged that the workers involved in the labour disputes in the farm-produce enterprise of Irho Lamé were still suffering from repressive measures and that by 24 March 1994 there had been 14 deaths. They added that the living conditions of the 700 workers in the enterprise were becoming more and more dramatic every day and that, despite the ILO's call for the workers to be reinstated, the Government was just playing for time, whereas the workers had been on strike since May 1993 in defence of their freedom of association. The Government was still refusing to set a date for elections in the enterprise and was keeping it under police protection in order to intimidate the workers.

As to the situation in the Free Port of Abidjan, the members of the executive committee of SYLIDOPACI had not yet been reinstated in their posts, despite the recommendations of the Committee on Freedom of Association. The workers had been fighting for their freedom of association since December 1991.

New written reply from the Government

With respect to the conflict that had developed at Irho Lamé, the Government explained, in its communications of September and October 1993, that the Department of Oil-Producing Plants (DPO) of the Forest Institutes (IDEFOR) was a research plant at Lamé, 20 km from

Abidjan, in the sub-prefecture of Anyama. Some 618 workers were employed by the Department and all of them were housed on the premises. On 30 April 1993 the General Secretary of "Dignité" Basile Mahan Gahé, had presented the management of IDEFOR (Irho Lamé) with a list of 11 demands concerning the working conditions. On 7 May 1993, without waiting for a reply from the Director of IDEFOR (Irho Lamé), he had sent him notice of a strike which he threatened to call if the demands were not met by 11 May 1993. The strike notice was worded as follows: "Desirous of maintaining industrial peace in your company, we hereby request you to arrange a meeting with 'Dignité' as soon as possible in order to discuss these demands together". Because of the urgency of the situation the Director of the plant had to act extremely quickly. On 11 May 1993, in spite of the efforts of the sub-prefect and technical adviser of the Ministry for Scientific Research to defuse the crisis, the workers hardened their position and stopped work at the instigation of "Dignité", setting up pickets to prevent non-strikers from going to work. Because it considered the strike to be illegal and realized that the work stoppage could endanger the plant (paralysed machinery, rotting grain), the management asked the strikers to evacuate their homes to make way for new workers who had been recruited to pick the grain. On 17 May 1993, faced with the persistence of the movement and the risk of sabotage to the machinery and in order to ensure the safety of the premises and staff who wished to work, the sub-prefect of Anyama called in elements of the local police brigade (after the latter had requested the 29 ringleaders to evacuate their homes). Not a single worker was injured, and there were no deaths.

According to the Government "Dignité" had become embroiled in a dispute that did not concern it in the first place. Claiming to speak for the staff at the plant, it had called a strike in their name without following the normal procedure for the settlement of collective disputes. The "Dignité" Federation had ignored the provisions of sections 6D15 to 6D20 of Decree No. 68-301 of 20 June 1968 and of sections 177 to 188 of the Labour Code. The "Dignité" federation had not respected the six-day notice provided for by law before engaging the strike procedure (article 188), which clearly showed its intention to damage the Irho Lamé plant. On 7 May 1993 a strike notice had been sent to the Director of the company and on 11 May 1993 pickets were set up at the instigation of the "Dignité" trade union.

The intervention of elements of the local police brigade was necessary because of the particularly aggressive behaviour of the strikers who were threatening to set fire to the factory, to guarantee the freedom to work and protection of those who wanted to go to work but were being threatened with reprisals by the strikers, and to prevent any sabotage of the plant's technical installations. The army of Côte d'Ivoire was never involved at the Irho Lamé plant and only 29 of the company's 618 workers had been identified as troublemakers and asked to evacuate their homes.

As to the allegations that workers had been evicted and were living outside in the rain, the Government gave its assurances that they could not be taken seriously and were entirely untrue and impossible to substantiate. The Director of the labour inspectorate had made inquiries and found that the "Dignité" trade union organization had never rented canvas sheets to provide the evicted workers with a minimum of shelter.

As to the involvement of the sub-prefect in the settlement of the dispute, according to the Government he had never tried to act in the labour inspector's place as claimed by the General Secretary of "Dignité". The sub-prefect was empowered to negotiate on behalf of the inspector of labour and social legislation by section 133 of the Labour Code, which stipulates: "Where the inspector of labour and social legislation, or the labour controller, supervisory officer, is absent or unable to carry out his duties, the head of the administrative district shall act as his lawful substitute". The head of the administrative district of the sub-prefecture of Anyama is the sub-prefect himself. He is the first authority for the area and the representative of the public authorities. Furthermore, section 1 of Decree No. 65-133 of 2 April 1965, which lays down the conditions for implementing the provisions of the Labour Code as they relate to the settlement of collective disputes, states that "the prefect must be immediately notified by either of the parties involved of any collective labour dispute and order the inspector of social and labour legislation to take appropriate action to settle the dispute". It was therefore the prefect's and the sub-prefect's duty to intervene in any collective dispute within their administrative territory.

The Government recognized that the two issues that had led to the strike had been the dismissal of workers by the management and the election of trade union delegates. However, it considered that, as far as the dismissals were concerned, the management alone was responsible for running the plant and, as such, was entitled to order dismissals or declare workers redundant under the laws and regulations in force and that, as regards the election of staff delegates, the trade union should first notify the labour inspectorate which was then required to call on the management to organize the elections.

Finally, in a written communication of 19 May 1994 the Government admitted that several strikers had been dismissed at Irho Lamé but explained that it was as a result of their failure to observe the procedure laid down in sections L-179 to 189 of the Labour Code; paragraph 2 of section 188 of the Code stipulates that a lock-out or strike started in contravention of these provisions may, in the case of workers, lead to loss of entitlement to compensation in lieu of notice and to damages for breach of contract. According to the Government, the appeal made by the management of the enterprise and the relevant authorities for a return to work had been followed by only 170 workers, who returned to their jobs, out of the 618 strikers.

The Government added that the relevant authorities had endeavoured to find a solution to the dispute and that the Minister of Higher Education and Scientific Research had on 20 April 1994 proposed to reinstate 200 strikers. However, in a letter signed by the General Secretary of the Union on 21 April 1994, the workers had rejected this proposal. The evictions from company housing was also the result of a breach of contract as defined in section 188 of the Labour Code. However, the strikers were still living in their homes on the premises and benefiting from such facilities as water, electricity and free medical care, even though they had not gone back to work for 12 months.

The Government gave its assurances that the deaths that had occurred were in no way connected with the strike or any form of repression, which had never occurred, since the workers involved in the dispute were free to come and go in the village. "Dignité" had never sent a list of deceased persons to the Ministry of Employment and the Public Service. The Government recognized that deaths as a result of ill-health did occur in the village, which was inhabited by almost 700 workers and their families, but this had nothing to do with police brutality.

INFORMATION OBTAINED DURING THE MISSION

On its arrival the mission wanted to visit the Ministers of Labour, Foreign Affairs, Justice and the Interior. In the absence of the first three, it met with senior officials from the Ministries of Employment and the Public Service, Justice and Foreign Affairs. It also met with the Minister of the Interior. On the third day of its stay in Abidjan, the mission met with the Minister of Employment and the Public Service. At each of its meetings with these high level officials in Côte d'Ivoire, the mission welcomed the spirit of openness, dialogue and cooperation that was shown by its interlocutors and thanked the Government of Côte d'Ivoire for having agreed to accept this direct contacts mission from the ILO. It recalled that such missions could only take place with the consent of governments and specified their objectives and legal foundation.

The government authorities assured the mission that the obligations undertaken by Côte d'Ivoire vis-à-vis the ILO would be respected. Referring to one of the issues of the complaint concerning the Federation of Free Trade Unions "Dignité", the authorities the following example: on 1 May 1994, the Head of State had received all the representatives of trade union organizations including the General Secretary of the "Dignité" Federation. Then they described the history of the Côte d'Ivoire trade union movement. They explained that the emergence of multipartism in the beginning of the 1990s had given rise to trade union pluralism. Before this date, Côte d'Ivoire workers had been regrouped in a single trade union organization; the General Union of Workers of Côte d'Ivoire (UGTCI). Labour relations were and still largely remain governed by the Labour Code of 1964 and by the Inter-Occupational Collective Agreement of 1977 signed by the UGTCI and the Employers Association of Côte d'Ivoire (UPCI). This collective agreement applied to the majority of worker of Côte d'Ivoire. However, it did not regulate the agricultural sector. Moreover, certain occupational sectors had their own collective agreements. Thus, a new

collective agreement had just been signed in the private secular teaching sector. Some workers were asking for the elaboration of a new collective agreement in the transport sector particularly with regard to professional drivers and taxis.

It was in this context that the Federation of Free Trade Unions of Côte d'Ivoire "Dignité" came about. Thereafter, the deduction of trade union dues became a problem. According to the government authorities of the Ministry of Employment, the problem of the restitution of trade union dues, deducted at source by the employers from the workers' wages, at the UGTCI or at "Dignité", had already been solved in each enterprise with the participation of the labour inspectorate, since each trade union federation was obliged to show a list of its members in order to be able to exact dues.

Trade union pluralism, furthermore, had given rise to other problems especially in the area of trade union representation. The Labour Code currently in force was silent on the question of the criteria required for the representation of trade union organizations.

On this point, the mission recalled that ILO principles on freedom of association allowed for certain privileges to be granted to the most representative trade union organizations so long as their representativity was determined according to precise and pre-determined objective criteria to avoid any possibility of partiality or abuse on the part of the public authorities. In this respect, the government authorities stated that the draft Labour Code, currently submitted to the National Assembly, should resolve the issue through the holding of trade union elections. This draft should be adopted before the end of 1994. A copy of the most recent version of the draft was transmitted to the mission.

Moreover, the mission pointed out to the Minister of the Interior that the Act of 21 September 1960 concerning associations which had been referred to by the Government in its written reply imposed restrictions contrary to freedom of association principles. This was notably the case in respect of: prior authorization for the establishment of an association; the right of nationals from Côte d'Ivoire only to be elected officials of an association; the limitation on the ceiling for trade union dues of members; and the prison term of one to three years for maintaining or re-establishing a dissolved association. Responding to the concern expressed by the mission on this matter, the Minister of the Interior gave the mission formal assurances that this law did not apply to trade unions. According to his own statements, the only applicable texts actually were the provisions of the Labour Code and collective agreements. Referring to the events preceding the recognition of "Dignité", he gave the reasons, which according to him, delayed the legal existence of this trade union. After several incidents, in June 1992, the Mayor of Abidjan issued a receipt of the deposit of the "Dignité"'s by-laws, a receipt that was valid throughout the national territory. As regards the issue of the legal existence of "Dignité", the General Secretary of "Dignité" confirmed to the mission that in a letter dated 30 June 1993, the Minister of the Interior had indicated to him that the administrative authorities had been informed by mail that the trade union organization "Dignité" had a legal personality and that it could, on account of this, carry out its activities throughout the national territory. The Minister of the Interior recalled, moreover, that trade unions had to defend the moral and material interest of the workers they represented. He stated that he had jointly agreed with his colleague from the Ministry of Employment and the Public Service that it was necessary to adapt legislative texts in force to the current situation resulting from political pluralism. Serious events — the death of President Houphouët Boigny, the devaluation and the nomination of the new Government — had delayed the adoption of these texts but the process was under way and would continue.

Generally, the government authorities and especially the senior officials of the Ministry of Employment and the Public Service had stated that it would be highly desirable that trade unions discuss their problems with the authorities when they encounter them before going directly to international bodies to raise their claims.

The Minister of Employment and the Public Service had, for his part, confirmed to the mission that "Dignité" had stated that it grouped 87 first-level unions. He, himself, had intervened at the request of the General Secretary of "Dignité" to resolve a conflict at the Free Port of San Pedro where trade union elections had effectively taken place since then. He had consulted all the federations including "Dignité" on the subject of the increase in prices of water and electricity. "Dignité" had raised the issue of officials who were being paid below the Guaranteed Inter-

Occupational Minimum Wage (SMIG) and of agricultural workers receiving less than the Guaranteed Agricultural Minimum Wage (SMAG) in the palm industry notably. Concerning civil servants, the Minister had immediately seen to it that this failing was corrected; for agricultural workers he had set up an enquiry in order to resolve the problem if necessary. In any event, "Dignité" was consulted, as well as other organizations i.e. the General Union of Workers of Côte d'Ivoire (UGTCI), and the Federation of Independent Trade Unions of Côte d'Ivoire (FESACI), which were representative of workers on questions relating to workers' issues.

Furthermore, the Minister gave assurances that "Dignité" would participate in the next session of the International Labour Conference and the World Summit on Social Development. He clarified moreover, that if the Government had not been able to ensure the participation of "Dignité" at the International Labour Conference in June 1994, it was because there was a budget for only two posts.

From his side, the General Secretary of the National Council of Employers of Côte d'Ivoire (CNPI) affirmed to the mission that employers wished that "Dignité" as well as the UGTCI and the FESACI would participate in the consultation process of the social partners on the actual content of the draft Labour Code.

The General Secretary of "Dignité" stated that the situation of his federation had improved on several points. "Dignité" had a legal personality throughout the national territory. "Dignité" had been invited to 1 May 1994 procession with other workers' organizations: on this occasion it had even received financial assistance worth 3 million francs CFA like other trade unions; trade union elections had taken place and had been won by it in 56 out of 59 enterprises, the other three having been won by the UGTCI. "Dignité" had won in the hotel sector in Abidjan, notably in Ivoire and Golf Hotels, as well as UTEXI and in the Free Port of San Pedro.

In 1993 the UGTCI had returned to "Dignité" all the trade union dues deducted from workers' wages in the Côte d'Ivoire Wood Company of Gagnoa (CIBG) and, since then, deductions from dockers' wages in the Free Port of San Pedro. Like other federations, "Dignité" had been consulted on the consequences of the devaluation; it had even participated in the first meeting on the readjustment of salary scales, but not in the other three meetings since the UGTCI had raised the issue of the representativity of "Dignité" and FESACI. Concerning trade union elections, the General Secretary of "Dignité" greatly regretted that the procedure of holding elections which had started in 1993, had been stopped. He recognized that the difficulties were not only due to the Government but also to certain employers. In effect, in San Pedro the Minister of Employment and the Public Service had requested the re-instatement of dismissed workers. He had promised to do the same for the National Electric Company of Côte d'Ivoire (NELCI) where staff representatives had been dismissed by virtue of an unpublished circular in the Official Journal implementing Act No. 92-573 of 11 September 1992 concerning dismissals for economic reasons. This circular annuls the effects of section 38 of the Collective Agreement of 1977 on the Protection of Trade Union Representatives, that is to say, it suppresses the requirement of prior authorization of the labour inspector in order to carry out collective dismissals. The UGTCI had also denounced this Act.

On the other hand, the General Secretary of "Dignité" stated that he was extremely concerned with the fact that many enterprises refused to allow the holding of elections. He quoted, in particular, the Coconut Shredding Company of Côte d'Ivoire (SICOR) in Jacquelineville, the Free Port of Abidjan, Irho Lamé, the Côte d'Ivoire Cotton Mill (COTIVO), IM Yopougon, the Electric Company (NELCI), the Côte d'Ivoire Water Distribution Company (SODECI), the Hevea Plantation of Pakidie, the Airport Catering Company (ABIDJAN CATERING), the African Sawmill (SCAF) in Grand-Bassin, the African Transport and Woodwork Company (SOAT) of Koumassy, ADIB KALOUT, The Nestlé Group, Blohorn, the SOFITEL, the Building and Public Works Laboratory (LBTP), Merchant Shipping and Air and Sea Freight Company (SOCOPAO), the Aghien Yacé and MGK Plantations. Concerning the question of trade union dues, the General Secretary stated that they continued to be deducted at source in the UGTCI's favour in: the civil service; primary school; and the public works sector. However, he admitted that in the Abidjan Company of Urban Transport (SOTRA) and in Mercedes, the dues were deducted according to membership of one or the other of the two federations.

During meetings with UGTCI officials, the mission noted that the UGTCI recognized the legal existence of the FESACI which regrouped a certain number of independent unions of workers from the public sector in a federation. They explained that the trade unions themselves and the heads of enterprises were uninformed on the question of the establishment of occupational trade unions and referred to the Act of 1960 respecting associations. They specified that they had had some difficulties in understanding that "Dignité" had a legal personality before having held its founding congress. Nevertheless, being opposed to any obstacle to freedom of association, they recognized that "Dignité" did not need authorization in order to exercise its trade union activities. They confirmed that in the case of public or private sector workers, whose dues were deducted at source and paid by the employers to the UGTCI, these dues had to be given back to the first-level unions to which the workers belonged, whether they were affiliated to "Dignité" or to FESACI on the basis of the membership lists furnished by them.

FESACI officials explained, with respect to trade union dues, that the situation of independent trade unions which constituted it was not the same, depending on whether these trade unions, at a given moment, were affiliated to the UGTCI or not. For these officials "deduction at source" was normal. However, the UGTCI had just given, the same day, a cheque of 2 million francs (CFA) to the Independent Trade Union of Primary School Teachers in the Public Sector (SAEPPCI), the Independent Trade Union of Primary School Teachers in the Public Sector (SAEPPCI), which corresponded to the restitution of dues at source of only one tenth of UGTCI's members. This was probably only due to an error. In fact, both the trade union of primary school teachers affiliated to the UGTCI and SAEPPCI should have received 25 million francs (CFA). The General Secretary of SAEPPCI hoped that this problem would be resolved quickly. Concerning public sector officials in communications, their trade union, the SYNINFO, had to undertake the same steps in order to obtain the restitution of their members' dues. In the customs sector, the SYNAD-CI was trying to obtain trade union dues directly from its members. The situation was the same in the transport sector of SYNTRA and in the higher education sector of SYNARES, the latter never having been affiliated to the UGTCI.

Concerning the issue of measures of anti-trade union reprisals that had been taken against trade union activists who were members of the National Trade Union of Teachers in Research and Higher Education, SYNARES officials recognized that nine trade unionists who were named in the complaint of this trade union and who had been condemned on 6 March and 20 April 1992 and whose salaries had been suspended, had benefited from the Amnesty Act of 30 July 1992 and that the salaries of the persons concerned had been paid retroactively. They also welcomed the news of the reinstatement in their posts, as of 3 October 1994, of six activists from their union in Yamoussoukro who had been transferred. Concerning the case of Mme. Ouattara, secondary school teacher who had been demoted to primary school, the SYNES-CI representative specified that she had also be reintegrated into secondary school as from the 1994 school year. Finally, the General Secretary of SAEPPCI explained that when he had wanted to withdraw from the UGTCI in August 1991 and that he had deposited the by-laws of his first-level union at the town hall of Abidjan, he had only received a receipt of this deposit in 1993. He had, however, been relieved of his functions and expelled from his official lodgings, then transferred to a village. His salary had been suspended for ten months. He had just been reinstated in his functions in Abidjan. More generally, FESACI officials, representing the teaching sector, admitted that several harmful measures taken against trade union activists and officials in the teaching sector, had been lifted for the 1994 school year.

RESULTS OBTAINED AND ASSURANCES GIVEN BY THE AUTHORITIES AND PROSPECTS FOR THE FUTURE

It would be appropriate to emphasize that in our view, the direct contacts mission was a good initiative and could very well be considered to be a success as soon as the requests formulated during the summing-up meeting are acted upon by the Government.

I. Results obtained and assurances given by the authorities

1. The rapport between officials of the "Dignité" Federation on the one hand, and members of the Government, senior officials and heads of enterprises on the other, whom we had visited, had improved. For example, during the meetings that the mission had organized with the management of IDEFOR (Irho Lamé), the representatives of "Dignité" and those of the trade union affiliated to the UGTCl, a member of the "Dignité" delegation stated, after an intervention by the head of the enterprise: "If the Director of Irho Lamé had always spoken to us as he is doing now, there would not have been all these problems". This statement illustrates the progress made in the rapport between the two parties who, on our arrival, were not on speaking terms.

2. The "Dignité" Federation already has a legal personality. This appears clearly in the letter that the Minister of the Interior addressed to the General Secretary of this Federation in which it reads: "I have the honour to let you know that by today's mail, the administrative authorities have been informed that your trade union organization has legal personality and can, on account of this, carry out its activities throughout the national territory". "... 'Dignité' has even participated in 1 May 1994 procession and, like other federations, has received from the President of the Republic financial aid worth 3 million francs CFA."

3. First-level unions can establish themselves simply by depositing their by-laws and the list of their officials at the town hall of their headquarters with copies to the labour inspector and the Attorney-General of the Republic. This deposit is followed by an issuance of a receipt which is sufficient for the trade union concerned to carry out its activities throughout the national territory. If difficulties are still encountered in this respect in certain enterprises, they are due to the delay in the transmission of the declaration of the Ministry of the Interior as expressed in the above-mentioned letter of 30 June 1993. It should be emphasized here that the authorities and well as the entrepreneurs and even trade union officials had poorly interpreted the rules applicable to the establishment of unions, simultaneously basing themselves on the Labour Code (section 5) and on Act No. 60-315 of 21 September 1960 respecting associations which require certain formalities and notably allow for the administrative dissolution of associations. Today, doubts are dispelled.

4. According to the statements of the Minister of the Interior, who acted on behalf of the Minister of Employment and the Public Service at the summing-up meeting of 30 September 1994 which the mission requested and obtained, there were no trade union officials, on that day, who were detained for activities linked to the defence of workers' interests. The Minister requested the trade union representatives there present to bring to his attention any cases that might come to their attention.

5. Concerning sanctions which were allegedly taken against trade union officials, the Government brought out the text of Act No. 92-465 of 30 July 1992 respecting amnesty. Under the terms of this Act, the nine members of SYNARES trade union who were named in the complaint of this trade union, have benefited from the amnesty. They have returned to their jobs and their salaries have been paid. In accordance with section 6 of this Act, it is forbidden to leave pending in a file, with the exception of the minutes deposited in the Office of the Clerk of the Court, "sentences and the loss of rights erased by the amnesty". SYNARES representatives confirmed these facts.

6. During the meeting held in Irho Lamé, it had been understood between the management of the establishment and the representatives of the "Dignité" Federation, that the workers who had lost their jobs, following strike action on 11 May 1993, would be reinstated following negotiations which would be quickly entered into, under the auspices of the Director of Employment who was present, and according to a certain timetable, taking into account all the interests concerned.

7. The Minister of the Interior assured the mission that Côte d'Ivoire, following the period of return to multipartism and trade union plurality, has decided to apply Côte d'Ivoire laws and international Conventions which it freely ratified, to increasingly ensure the protection of trade union rights to all occupational organizations and their members without any discrimination whatsoever.

8. The regime of trade union dues did not raise any problems when there was a single trade union. With trade union plurality, concrete measures are being taken so that trade union dues

are limited to organizations chosen by the workers. The Government will ensure that these measures are pursued.

9. The Minister of the Interior gave assurances that Circular No. 4104AE/AP/RB/AF.1 of 18 May 1992, which requires prior authorization for any financial request or project submitted to the diplomatic missions accredited to Côte d'Ivoire by Côte d'Ivoire groups or associations, does not apply to the assistance that Côte d'Ivoire trade unions can receive from an international organization of workers to which they are affiliated. He even indicated that in his presence the "Dignité" Federation had benefited from a donation in the nature of the assistance as indicated above without him having objected to it. This was confirmed by the General Secretary of "Dignité". Furthermore, "Dignité" had received a gift of two cars from the European Union which it unfortunately had not yet received due to being the victim of fraud.

10. Now, obstacles to the freedom of first-level unions of the "Dignité" Federation to present candidates for election as trade union representatives no longer exist and this is the case from the first balloting. The draft Labour Code provides for equitable rules of representativity which are going to normalize the situation.

11. Meetings and trade union demonstrations can be freely held according to the Minister of the Interior. Meetings in workplaces are subject to progress made at work. Moreover, they are free. The same is true of peaceful demonstrations of a trade union nature.

II. Prospects for the future

12. During the summing-up meeting held under the chairmanship of the Minister of the Interior, the mission formulated the following requests vis-à-vis the Government.

- (1) Enterprises and administrations should be informed that the "Dignité" Federation and the first-level unions that are affiliated to it have a legal personality and that the said first-level unions, as other unions or federations, can establish themselves according to the procedure provided set out in section 5 of the Labour Code without any other formality.
- (2) Trade union elections should be held as quickly as possible so that account may be taken of the new situation arising from trade union plurality.
- (3) The solutions that are reached for the holding of trade union elections and for negotiations concerning the reinstatement of "Irho Lamé" workers should be applied in enterprises which are undergoing similar problems.
- (4) Negotiations concerning elections and the reinstatement of workers who have lost their jobs should commence as soon as possible, at the initiative of the Ministry of Employment and the Public Service.
- (5). Solutions that have already been found for an equitable distribution of trade union dues should be applied to all enterprises and administrations which face this problem.
- (6) Concerning problems faced by dockers, it would be appropriate for a meeting which groups all interested parties to be held very soon, at the initiative of the Ministry of Employment and the Public Service, in order to determine and resolve the following points:
 - (a) the five dismissed members of "Dignité";
 - (b) the exclusion of workers affiliated to "Dignité" from "the census";
 - (c) the withdrawal of cards from dockers belonging to SYLIDOPACI trade union;
 - (d) the arrest of SYLIDOPACI workers in July 1993;
 - (e) the refusal to hold trade union elections;
 - (f) the dismissal of committee members of the SYLIDOPACI trade union.

The mission thanks all the persons with whom it met in Côte d'Ivoire and who allowed it to accomplish its task in full freedom and independence.

Geneva, 10 October 1994.

Keba Mbaye,
Anna J. Pouyat.

List of persons met

GOVERNMENT AUTHORITIES

Ministry of Employment and the Public Service

- Mr. Atsain Achi, Minister of Employment and the Public Service.
- Mr. Anbeu Yenon, Director of Cabinet.
- Mr. Konan Lazare N'Dri, Director of Employment and Labour Regulation.

Ministry of Foreign Affairs

- H.E. the Ambassador Moïse Aka, Secretary General *ad interim* of the Ministry of Foreign Affairs, accompanied by his technical adviser.

Ministry of Justice

- Mr. Lanciné Bamba, Director of Cabinet of the Minister of Justice.
- Mr. Jérôme Anoma, Head of Cabinet.
- Mr. Jacques Kouadio Kouassi, Technical Adviser.

Ministry of the Interior

- Mr. Emile Constant Bombet, Minister of the Interior, accompanied by his collaborators.

ORGANIZATIONS OF WORKERS

Federation of Free Trade Unions of Côte d'Ivoire "Dignité"

- Mr. Basile Mahan Gahé, National General Secretary.
- Mr. Assienin Koffi, Deputy General Secretary of "Dignité".
- Mr. Samuel Dioulo Dogbo, Deputy General Secretary of "Dignité", responsible for contacts, Secretary of the National Trade Union of Daily Workers of the Public Works Department (SYNAJTP).
- Mr. Gabriel Abré Goré, Deputy General Secretary of "Dignité", responsible for public relations, General Secretary of the Free Trade Union of Primary School Teachers of Côte d'Ivoire (SYLEPCI).
- Mr. Edouard Guehi, Deputy General Secretary responsible for "Dignité" projects, General Secretary of the Free Trade Union of Workers in the Food Industry (SYLIDESA).
- Mr. Félix Gname Gahoua, Secretary for Information of the Trade Union of Workers of the Water Distribution Company of Côte d'Ivoire (SODECI), the SYNASOD.
- Mr. Kagouehi Gagbei, Deputy General Secretary of the SYNASOD (SODECI).
- Mr. Konan Loukou, General Secretary of the National Trade Union of Hotels, Bars and Restaurants of Côte d'Ivoire (SYNEHREB-CI).
- Mr. Mathias Obrou Gnahoa, Head of the Department of Public Relations.

The Federation of Independent Trade Unions of Côte d'Ivoire

- Mr. Kipre Tape, General Secretary of the National Trade Union of Secondary School Teachers of Côte d'Ivoire (SYNES-CI).
- Mr. Dohia M. Traoré, General Secretary of the National Trade Union in the Customs Service of Côte d'Ivoire (SYNAD-CI).

- Mr. Julien Tahou, General Secretary of the Trade Union of Workers of the SOTRA (the Abidjan Transport Company) (SYNTRAS).
- Mr. François Yoa K., General Secretary of the National Trade Union of Electricity and Gas Sectors (SYNASEG).
- Mr. Flan Zran Senan, Secretary to the Organization of the National Trade Union of Public Sector Workers in Communications (SYNINFO).
- Mr. Lancine Kone, Member of the National Executive Committee of SYNINFO.
- Mr. N'Guessan Kouakou, Member of the National Executive Committee of SYNINFO.
- Mr. Messon Niamien, Deputy General Secretary of the National Trade Union of Workers in Research and Higher Education (SYNARES).
- Mr. N'Guessan, Deputy General Secretary of SYNARES.
- Mr. Amoa Kon Ettien, General Treasurer of SYNARES.
- Mr. Koudou E. Zegbeugh, Secretary of the National Executive Committee of the Federation of Students and Pupils of Côte d'Ivoire (FESCI).
- Mr. Didier Koffi Koffi, Member of the National Executive Committee of FESCI.
- Mr. Firmin Kouakou, Member of the National Executive Committee of FESCI.
- Mr. Kadjo Kamenan, the Independent Trade Union of Primary School Teachers in the Public Sector (SAEPPCI).

General Union of Workers of Côte d'Ivoire (UGTCI)

- Mr. Vamory Traoré, Member of the Executive Committee of the UGTCI, Legal Department.
- Mr. Gnako M. Bessou, National Secretary for Disputes and Dismissals.
- Mr. Fankroban Touré, National Trade Union of Workers in the Hotel Industry of Côte d'Ivoire (SYNTIHCI).
- Mr. Blanchard Yapo A., Trade Union of Workers in Medical Surgeries of Côte d'Ivoire (SYNTCMPCI).
- Mr. Richard Tagro, Trade Union of Workers in the Sanitary Cleaning Sector and the Surveillance of Civil Security of Côte d'Ivoire (SASSSCI).
- Mr. Kouadio N'Dri, General Secretary of Trade Unions of Workers in Industries.
- Mr. Patrice Blé, Member of the Executive Committee of the UGTCI.

VISITS BY THE MISSION TO CERTAIN ENTERPRISES

- In *Blohorn*, subsidiary of *UNILEVER*, situated in Vridi, district of Abidjan: meeting with the President of the Company and two members of the management, in the presence of the General Secretary of the "Dignité" Federation, other officials of this Federation and a member of the committee of a first-level union affiliated to "Dignité".
- At the Department of Oil-Producing Plants of the Forest Institutes (IDEFOR/DPO), in the research plant at Irho Lamé: meeting with the Director of the enterprise and two members of the management in the presence of, on the one hand, three staff representatives of the National Union of Staff of Scientific Research Institutes of Côte d'Ivoire (SYNAPIRSCI) affiliated to the UGTCI and, on the other hand, other than the General Secretary of "Dignité" and the Deputy General Secretary, three staff representatives who had withdrawn from the SYNAPIRSCI and had set up the first-level union, affiliated to the "Dignité" Federation, the SYNTIF/DPO.
- At the Free Port of Abidjan, situated in Vridi: meeting with the Head of Personnel of the Free Port, in the presence of members of the management, of the General Secretary of the

Trade Union of Employees of the Free Port, affiliated to the UGTCl, and of the General Secretary of "Dignité", accompanied by the Deputy General Secretary and officials of SYLIDOPACI.

SUMMING-UP MEETING UNDER THE CHAIRMANSHIP OF THE MINISTER
OF THE INTERIOR ACTING ON BEHALF OF THE MINISTER OF
EMPLOYMENT AND THE PUBLIC SERVICE
IN THE PRESENCE OF THE MISSION

Civil authorities

- Mr. Ambeu Yenon, Director of the Cabinet of the Minister of Employment and the Public Service.
- Mr. Konan Lazare N'Dri, Director of Employment and Regulation at the Ministry of Employment and the Public Service.

Organizations of workers

- Mr. Basile Mahan Gahé, General Secretary of the "Dignité" Federation.
- Mr. Assienin Koffi, Deputy General Secretary of the "Dignité" Federation.
- Mr. Yapi Adou, Member of the Executive Committee of the "Dignité" Federation, General Secretary of the Trade Union of Workers of the Oil-Producing Plants of the Forest Institutes (SYNTIF/DPO).
- Mr. Kipre Tape, Member of the Executive Committee of FESACI, General Secretary of SYNES-CI.
- Mr. François Yao, Member of the Executive Committee of FESACI, General Secretary of the National Trade Union of the Electricity and Gas Sectors (SYNASEG).
- Mr. Mamadou Soumahoro, Member of the Executive Committee of FESACI and of the Executive Committee of SOTRA, the Abidjan Transport Company (SYNTRAS).

Organizations of employers

- Mr. Soungalo Traoré, General Secretary of the National Council of Employers of Côte d'Ivoire (CNPI).
- Mr. Daniel Teurquetil, General Secretary of the National Federation of Industrialist of Côte d'Ivoire (FNICI/GIPA).

Annex II

STATUS OF MEMBERS OF SYNARES

*Members of SYNARES arrested and according
to the allegations sentenced etc.*

A. Persons sentenced on 6 March 1992

1. Mr. Koudou Kessié Raymond, First Deputy General Secretary.
2. Mr. Ahibo-Coffy Antoine, Activist, Former Member of the National Executive.
3. Mr. Gnaoule Oupoh, Activist.

4.Mr. Degni Segui René, Activist.

5.Mr. Ouraga Obou, Activist.

6.Mrs. Gbagbo Ehivet Simone, Activist, Former Member of the National Executive.

7.Mr. Koudou Gbagbo Laurent, Activist.

B. Persons sentenced on 28 April 1992

8.Mr. Kouablan François, General Secretary of the INJS.

9.Mr. Lida Kouassi, Activist.

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