

INTERNATIONAL LABOUR OFFICE
 BUREAU INTERNATIONAL DU TRAVAIL
 OFICINA INTERNACIONAL DEL TRABAJO



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Réf. BIT/ILO ACD 8-0 (2009)

Votre réf.

7 April 2008

**Comments made by the Committee of Experts on
 the Application of Conventions and Recommendations**

Dear Sir,

By letter No. ACD 8-0 (2008) of 31 March 2008, I forwarded the corresponding comments made by the Committee of Experts on the Application of Conventions and Recommendations in respect of Conventions for which reports are due from your Government this year.

--- I am now sending you the comments made by the Committee of Experts in respect
 of other Conventions for which reports will be due from your Government only in subsequent
 --- years. To this end, a timetable of regular reports to be submitted by your country from
 2007 to 2013 is attached. This timetable can also be consulted on the ILO website at:

<<http://webfusion.ilo.org/public/db/standards/normes/schedule/index.cfm>>

The texts are being forwarded in order to inform your Government of all the pending comments made by the Committee of Experts and to enable it to give early consideration to any measures which it may be appropriate to take in the light of those comments.

Replies to these comments are not expected this year. They should be given in the next reports on the Conventions concerned, **as and when your Government is informed that such reports are due** through the usual letters requesting them.

The International Labour Office remains at your disposal for any query that your Government may have.

Yours faithfully,
 For the Director-General:

Cleopatra Doumbia-Henry
 Director of the International
 Labour Standards Department

SZW Directie 12/1A		In beh. bij	Datum	Ex.
Ingekomen 11 APR. 2008		W. Bel		
Nr.: 10929		Marijke		
Goedstuk <input type="checkbox"/> Ja <input type="checkbox"/> Nee	Beantw. voor:			
Betreft: 10/4 ILO		Den datum:	Den plaats:	
<i>rapportage</i>				

**Comments made by the Committee of Experts on
the Application of Conventions and Recommendations**

Netherlands

The following comments are provided
for information purposes only, and
to enable the Government to consider
any measures it deems appropriate.

**Replies to these comments should only be sent
when reports are requested by the Office
on the Conventions concerned.**



Netherlands (ratification: 1966)

Direct Request, 2007

The Committee notes that the Government's report for the period 1999–2006 contains information only as regards the application of *Articles 13, 21 and 26 of the Convention*. The Committee hopes that a full report will be supplied for examination at its next session in November–December 2008 containing all the information requested in the report form under each Article of the Convention, as well as detailed answers to the following questions.

Article 9 of the Convention (conditions of entitlement to benefits). According to section 7.1.1(1) of the Work and Income (Capacity for Work) Act (WIA), an insured person who becomes sick shall be entitled to the benefit for partial incapacity (WGA) if: (a) he has completed the qualifying period; and (b) he is partially capable of work. Section 7.1.5(1) specifies that the entitlement to the WGA benefit is subject to a qualifying period of work as an insured person for at least 26 weeks during the 39 weeks immediately preceding the loss of entitlement to wages in case of sickness or to the sickness benefit (ZW). ***Taking into account that under Article 9(2) of the Convention, eligibility for benefits may not be made subject to the length of employment or the duration of insurance, the Committee would like the Government to explain whether this requirement (see also sections 7.1.1(3) and (4) of the WIA) of having a period of previous insured employment is applied in case of sickness and incapacity resulting from employment injury.***

As regards the requirement to be partially capable of work, section 7.2.2 stipulates that in order to become entitled to the WGA wage top-up benefit, the insured person should earn per calendar month an income from work which is at least equal to 50 per cent of his remaining earning capacity. Section 4.1.4 obliges the insured person entitled to the WGA benefit to register as a jobseeker and to perform suitable work if given the opportunity to do so. The Committee points out that the requirements to use the residual earning capacity, to perform suitable work and to obtain income from work as a condition for entitlement to employment injury benefit are not envisaged by the Convention. ***The Committee would like the Government to specify the qualifying requirements imposed by the WIA on which entitlement to the WGA top-up benefit is dependent.***

Article 14, paragraphs 4 and 5 (degree of incapacity). In accordance with sections 1.2.2 and 2.2.4(3) of the WIA, partial disability is recognized and compensated only when 35 per cent or more of earning capacity is lost. If an employee experiences a loss of capacity for work of less than 35 per cent, he or she will not qualify for any WIA benefit (sections 7.1.3(2) and 7.2.3(6)). The Committee recalls that, in accordance with *Article 14(4) and (5)* of the Convention, the degree of loss of earning capacity shall be prescribed in such manner as to avoid hardship for the persons concerned, who at least should be entitled to a lump-sum payment in case such loss is not substantial. ***Taking into account that no lump-sum benefit is envisaged by the WIA, the Government is asked to explain how the protection guaranteed by the Convention is ensured to victims of employment injuries with less than 35 per cent incapacity.***

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22 and 35 of the Constitution)

**Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations**

Report III (Part 1A)

General Report
and observations concerning particular countries

have difficulty in meeting the cost of prescription charges. The Government considers that the existence of these extensive exemption and charge remission arrangements are intended to ensure that no one in need be deterred from obtaining any necessary medication on financial grounds and indicates that currently 87 per cent of all prescription items are dispensed free of charge. Furthermore, the level of prescription charges is nearly half of that applied, for example, in England or Scotland. *While it takes due note of this information, the Committee is bound to once again recall that any provision envisaging the sharing by the victim of an occupational accident in the cost of prescribed drugs, medicines and artificial limbs and surgical appliances is contrary to the provisions of Articles 9 and 10 of the Convention.* These provisions are intended to prevent workers from having to bear the financial costs resulting from employment injury. *In these circumstances and considering the numerous exemption arrangements that already exist, the Committee considers that the Government should be able to include all victims of occupational accidents, irrespective of their income level, within the category of insured persons exempt from cost sharing so that medical assistance and appliances dispensed to outpatients are provided free of charge to all victims of industrial accidents. The Committee trusts that the Government will re-examine this question and take the measures necessary to ensure the full implementation of the Convention on this point.* In this respect, it also requests the Government to refer to the observation concerning the application of the Convention by the United Kingdom.

Direct requests

In addition, requests regarding certain points are being addressed directly to the following States: **Convention No. 12** (Angola, Bosnia and Herzegovina, Finland, Guinea-Bissau, Haiti, Italy, Malawi, New Zealand, Panama, Peru, Poland, Rwanda, United Republic of Tanzania); **Convention No. 17** (Algeria, Argentina, Burkina Faso, Cape Verde, China: Hong Kong Special Administrative Region, Guinea-Bissau, Haiti, Mozambique, Philippines, Poland, Syrian Arab Republic, United Republic of Tanzania, United Kingdom: Falkland Islands (Malvinas), St. Helena, Zambia); **Convention No. 18** (Benin, Colombia, Djibouti, Mozambique, Pakistan); **Convention No. 19** (Angola, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Colombia, Côte d'Ivoire, Djibouti, Dominica, Dominican Republic, Estonia, Finland, Guyana, Islamic Republic of Iran, Jamaica, Republic of Korea, Lebanon, Malawi, Mexico, Panama, Papua New Guinea, Poland, Sao Tome and Principe, Serbia, United Republic of Tanzania, Thailand, Trinidad and Tobago, United Kingdom: British Virgin Islands); **Convention No. 24** (Algeria, Colombia, Hungary, Poland); **Convention No. 25** (Colombia, Netherlands: Aruba, Poland); **Convention No. 37** (France: French Polynesia); **Convention No. 38** (Djibouti, France: French Polynesia); **Convention No. 42** (France: French Guiana, Guadeloupe, Martinique, New Caledonia, Réunion, Honduras, India, Iraq, Italy, Myanmar, New Zealand, Poland, United Kingdom: Guernsey); **Convention No. 44** (Algeria, France: New Caledonia); **Convention No. 102** (Barbados, Belgium, Costa Rica, Croatia, France, Greece, Iceland, Italy, Libyan Arab Jamahiriya, Mexico, Netherlands, Senegal, Serbia, United Kingdom, United Kingdom: Isle of Man); **Convention No. 118** (Bolivia, Cape Verde, Central African Republic, Denmark, Finland, Guinea, Israel, Libyan Arab Jamahiriya, Madagascar, Mexico, Philippines, Rwanda); **Convention No. 121** (Libyan Arab Jamahiriya, Netherlands, Slovenia); **Convention No. 128** (Barbados, Libyan Arab Jamahiriya, Netherlands); **Convention No. 130** (Libyan Arab Jamahiriya); **Convention No. 168** (Romania, Sweden).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 12** (Netherlands: Aruba); **Convention No. 17** (United Kingdom: British Virgin Islands); **Convention No. 19** (Cyprus, France: French Polynesia, Slovenia); **Convention No. 24** (Austria, Romania, Slovenia); **Convention No. 25** (Slovenia); **Convention No. 44** (United Kingdom); **Convention No. 118** (Sweden); **Convention No. 130** (Costa Rica); **Convention No. 157** (Spain).