

the case does not call for further examination. Moreover the Committee would recall the questions concerning social security legislation fall outside its competence.

507. As regards the allegations that the present trade union leadership was imposed upon the workers and is a "puppet" in the hands of the Government, the Committee notes the Government's assertion that the General Federation of Trade Unions of Iraq was freely and democratically set up as a result of elections in which the majority of Iraqi workers participated. The Committee also notes that, according to the information supplied by the Government, new trade union elections were scheduled for 21 to 25 August 1983 in which all workers could take part and detailed regulations for candidacy and the orderly running of the elections were widely publicised by the Superior Electoral Body. The Committee considers that it would be useful to receive both from the complainant and from the Government details as to the results of these trade union elections, as well as information concerning the participation of the "Workers' Democratic Trade Union Movement" in them.

The Committee's recommendations

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

- (a) The Committee notes that the complainant's allegations and the Government's reply concerning the torture and deaths of 13 workers and the disappearance of six trade union leaders are contradictory and accordingly recalls generally that murders and torture constitute serious violations of fundamental human rights.
- (b) It also notes the contradiction existing between the complainant's allegation that the President and Secretary-General of the General Federation of Trade Unions in Iraq were executed on account of their trade union activities and the Government's reply to this allegation. It accordingly requests the Government to supply a copy of the judgement handed down against these persons and information as to when they ceased to be trade union leaders.
- (c) The Committee considers that the allegation of "unjust amendments" to the Labour Code (No. 151) of 1970 does not call for further examination.
- (d) As regards the allegations that the present trade union leadership was imposed on the workers and is a "puppet" in the hands of the Government, while noting the detailed information

supplied by the Government on the running of the trade union elections, the Committee requests both from the complainant and from the Government information concerning the results of and participation in the new trade union elections which were to be held from 21 to 25 August 1983.

ANNEX

Names of workers who allegedly died under
torture or were executed

1. Abdel Rahman Abdel Raheem, executed in May 1978.
2. Mahmoud Matar, worker in the "Freedom" publishing house, died in 1979 under brutal torture.
3. Abd Ali Abeed, worker born in 1954 in Baghdad: his body was handed over to his family on 1 June 1980 bearing marks of savage torture, some parts of the body having been severed, his skull smashed and nails torn out.
4. Bakar Abdel Malik Idbis, worker in the Automobile Corporation in Samawa, elected workers' representative, died under torture at the end of 1980. His body was handed over to his family.
5. Djawda Raheen, worker in the Samawa Cement Factory, died under torture at the end of 1980. His body was handed over to his family.
6. Abi Abdel Razzak, worker in the Fruit and Vegetable Marketing Society in Samawa, died under torture at the end of 1980. His body was handed over to his family.
7. Kasim Hussein Yassin, born in 1954 in Kazimiah, Baghdad, textile worker, one of the most prominent leaders of young workers in Kazimiah in 1974-75. Arrested in April 1980, he died under torture in the same year.
8. Saadi Bajai, worker, arrested in 1980; released after some time, he died as a result of thalium poisoning.
9. Abdel Hussein Faraj Said, aged 20 years, worker in the General Building Contractors Corporation in Baghdad - Thawra. Arrested in 1975, then released and arrested again. Released after 51 days' imprisonment, he died two days later as a result of thalium poisoning.

10. Hami Wahaab, worker in the carbonated drink factory of Basrah, born in 1943, was run over by a car belonging to the security services as he was on his way home.
11. Rashid Djafar, worker in Ramthiah, was executed at the end of 1980.
12. Abdel Hussein Kamal of Basrah - Al-Maagual, a crane operator in Iraqi ports, was subjected to torture, in which he was burned and his nails torn out. He was murdered after his release.
13. Jabbar Saleh (Abou Ebeis), textile worker in the Babel Governate, was shot dead.

Case No. 1160

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

509. The Committee already examined this case at its February 1983 meeting and presented interim conclusions to the Governing Body.¹ The Government subsequently submitted communications dated 7 April and 16 May 1983 which were reflected in a special paragraph to the Committee's 226th Report to the Governing Body.²

510. In addition, with the consent of the Government, Mr. W.R. Simpson, Chief of the Freedom of Association Branch, carried out a direct contacts mission to Suriname as the Director-General's representative. He was accompanied by Mrs. Jane Hodges of the Freedom of Association Branch. The mission took place from 18 to 25 August 1983.³

511. At the request of the Government of Suriname, Mr. R.G. Simons, Acting Permanent Secretary of Labour of the Department of Labour of Suriname, made a statement to the Committee on 7 November 1983.

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

¹ See 222nd Report, paras. 287 to 300, approved by the Governing Body at its 222nd Session (March 1983).

² See para. 12, 226th Report, approved by the Governing Body at its 223rd Session (May-June 1983).

³ The report of the direct contacts mission is annexed.

A. Previous examination of the case

513. In its previous examination of the case in February 1983, the Committee expressed its deep concern at the gravity of the allegations made which include the death, while in military detention, of the trade union leader Cyrill Daal, the arrests or disappearance of trade unionists and the occupation and destruction of the premises of the trade union "De Moederbond". While noting the Government's explanation of the "accidental" death of the trade union leader during an attempt to escape custody, the Committee emphasised that a climate of violence constitutes a serious impediment to the exercise of trade union rights.

514. In addition, the Governing Body, on the Committee's recommendation, adopted the following recommendations:

- The Committee requests the Government to supply detailed and precise information on the allegations made and, in particular, on the circumstances which led to the death and arrest of trade unionists, including the results of any inquiry that may be held.
- The Committee notes that the Government accepts the proposal made by the Director-General to send a direct contacts mission to Suriname to elucidate the situation and thereby enable the Committee to reach conclusions in a fuller knowledge of the facts.
- The Committee hopes that it will have at its disposal at its next session the report of the representative of the Director-General on the situation.

515. The proposed direct contacts mission was postponed on two occasions by the Government. At its 223rd Session (May-June 1983), the Governing Body noted that in the course of its meeting in May 1983, the Committee had received a communication from the Government, dated 16 May 1983, containing detailed observations on the outstanding allegations, which the Committee had been unable to examine at that meeting. As regards the direct contacts mission request, the Governing Body noted that the Government stated that it would confirm its invitation as soon as possible. The Committee expressed the firm hope that appropriate arrangements would be made by the Government to enable a direct contacts mission to be carried out in the near future so that it would be able, at its November meeting, to examine the case in a fuller knowledge of the facts.

B. Further communications from the Government

516. The Government, in its communication of 7 April 1983, again rejected all the allegations and stated that the following persons were alive: Fred Derby (presently active in trade union negotiations); John Kamperveen (presently residing in the Netherlands); Mangal (still in custody as a result of his involvement in attempting to overthrow the Government in March 1982). According to the Government, the false information spread concerning the December 1982 incidents in Suriname had been deliberately used to mislead the international community.

517. In its communication of 16 May 1983, the Government pointed out that it had always denied the allegations in this case and repeated that Mr. Daal's death had occurred during an attempt to escape custody. It stated that there were no legal provisions or regulations whatsoever in Suriname which restricted freedom of association, including the right to strike, and collective bargaining. It mentioned that the temporary restrictions on the right of assembly introduced after 8 December 1982 by public announcement were repealed in the same manner on 25 February 1983. The Government also emphasised that all labour regulations were drafted in consultation with the workers' organisations concerned. It supplied newspaper clippings in support of its statements.

518. Referring to Suriname's colonial past, the Government stated that the revolutionary process that was started in Suriname on 25 February 1980 was still in danger of being halted by interest groups from abroad or by corrupt local interest groups. As this entailed an increased amount of vigilance with regard to the national security, the Government believed that the country should be governed in close collaboration with the military authorities.

519. According to the Government, the fact that the President of the Moederbond, Mr. Daal, was arrested, was not in any way connected with his trade union activities as such. The arrest was made for his political activities which were clearly subversive, and aimed at overthrowing the Government. The Government stated that these activities were part of a plan of destabilisation which would culminate in a violent coup.

520. According to the Government the trade union federation, the Moederbond, did not participate in this plan as an organisation. Instead, Mr. Daal and Mr. A. Haakmat, the main adviser of the Moederbond, took part in the plot as individuals. It pointed out that Mr. Haakmat left the country before 8 December to recruit mercenaries as part of the plot to overthrow the Government. It alleged that he was still actively involved in recruiting such a mercenary force to invade the country. The Government stressed that other prominent persons in the Moederbond were not informed of the

"role" which this trade union had in the plans and consequently the Executive Board of the Moederbond, after consulting the affiliated trade unions, dismissed all advisers and executive members who remained abroad after the events and dissociated itself from the counter-revolutionary activities of these persons.

521. With respect to the strikes by Moederbond affiliates which preceded the events of 8 December 1982, the Government stated that Mr. Daal was abusing this workers' union in order to restore the pre-25 February 1980 situation and stressed that these actions were isolated and apparently lacked the support of the other major trade unions. It pointed out that the President of the Moederbond was the only member of this trade union who belonged to the group of persons arrested for being members of a secret, subversive political group which planned to overthrow the Government by violent means.

522. According to the Government the premises of the Moederbond were one of the places where this secret group held its meetings. It expressed its regret that in the military operations to foil the coup, the Moederbond premises were destroyed and stated that during recent deliberations between the Prime Minister and the Moederbond Executive the Government had committed itself to build a new office for this trade union.

523. With respect to the alleged detention of trade unionists, the Government stated that no trade union leader was being detained at present since the security measures were not directed against any trade union or workers' movement. It appeared that three of the persons arrested on 8 December 1982 were known trade unionists. One of them was released within a day because he evidently had nothing to do with the plot. The other two lost their lives in the attempted escape.

524. The Government fully agreed that a climate of violence seriously impedes trade union rights. Therefore it had endeavoured to implement peacefully a programme of national reconstruction. It was its opinion that the climate of violence was repeatedly, and intentionally, introduced by individuals who were in opposition to the revolution and the Government's measures for a national reconstruction. It pointed out that in the past three years of revolution there had been four serious and violent attempts to overthrow the Government. Despite the security measures which naturally had to be taken by the army in such situations, the Government had constantly tried to create and maintain a climate in which the trade unions could continue to function normally. In this respect it referred to newspaper clippings reporting the position of various trade union federations since 8 December 1982.

C. The direct contacts mission

525. Following his mission to Suriname (18 to 25 August 1983), the Director-General's representative, Mr. W.R. Simpson, submitted to him a report on the various meetings he had during his stay in the country. In his report, the representative of the Director-General points out that every facility was granted during the mission to enable him to meet all the persons who, he considered, might assist him in the accomplishment of his mission.

I. The attack on the premises of the Moederbond
on 17 September 1982

526. The mission, during its meeting with the Executive Board of the Moederbond, was able to receive a firsthand account of the events of 17 September 1982 from one of the members who had been in the building at that time. He stated that schoolchildren, who were on holiday during that month, occupied the building with verbal support from members of the Department of People's Mobilisation who were outside. The inciters were allegedly telling the students that the Moederbond was responsible for the recent strike in the Academic Hospital. Following a telephone call by this member of the Moederbond Executive, the police arrived to take two or three of the leaders of the occupation to police headquarters. The incident was over, but when the Moederbond later called the police station in this connection, they were told that an official of the Department of People's Mobilisation had demanded the release of the leaders and that the police had accordingly let them leave without charges being brought against them. The occupation was never mentioned again, and no further action was taken by the Moederbond as subsequent events overshadowed its importance.

527. The Minister of Labour indicated to the representative of the Director-General that this incident - as well as the other allegations - must be viewed in the context of the changes in the country between 25 February 1980 (when the military seized power) and 8 December 1982. He stated that the Moederbond premises were used by a group of suspected persons to meet to discuss activities aimed at overthrowing the Government. He further indicated that the events of 8 December had, in any event, superseded this allegation.

II. Events leading up to 8 December 1982

528. The Minister of Labour, trade unionists and employers with whom the representative of the Director-General spoke gave clear, coinciding descriptions of these events. The following is a synthesis of their comments. When the military took power on 25 February 1980 they had little political expertise and turned to as many groups as possible (progressive trade unions, mass organisations and even members of the ousted government) to assist in the establishment of a government. The Moederbond had, in fact, nominated two persons for ministerial posts in this first cabinet (one being chosen), and a CLO member, in his personal capacity, had also been appointed to ministerial office. Despite its official stand that politics and trade unionism cannot be separated, the C-47, although invited to do so, did not present any candidates for office since, according to it, the future political line the military would take was not certain. The President of the C-47 nevertheless emphasised his federation's support and that of the population as a whole for the military at that time in view of the frustrating unfulfilled promises of the previous government. It should be noted that the federations were represented on the newly formed Government Advisory and Planning Boards.

529. However, the representative of the Director-General was told that by mid-1982 the incidence of strike action, especially by the Moederbond and its affiliates, was more pronounced and there was increased government interference in community life. The C-47 was also involved in strike action and its representatives described the April 1982 strike by one of its nursing affiliates which the Minister of Health had condemned during a press conference. The Government had prevented a return press conference by the C-47 and confiscated 15,000 copies of its newspaper which contained the federation's reply to the Minister. In July 1982 there was a strike at the Academic Hospital by a Moederbond affiliate concerning the terms of the 1977/82 agreements within the Ministry of Health. In September there was a partial strike by the Moederbond-affiliated postal workers concerning conditions of work and in particular the installation of air-conditioning. Events culminated in the Moederbond-affiliated air traffic controllers calling a strike in October 1982 ostensibly over wages and working conditions, which was finally settled on 2 November 1982. The strike and its attendant mass demonstrations coincided with the arrival in Suriname of the Prime Minister of Grenada. This strike was led personally by Cyrill Daal, President of the Moederbond.

530. The employers with whom the representative of the Director-General spoke considered that the events leading up to 8 December 1982 were political in nature, and that the Moederbond's actions, and in particular the strikes, placed the Government under great pressure. Some saw no change in the Moederbond's attitude to collective bargaining in the July-December period. Others, however,

stated that the attitude of the unions was caused by a vacuum created by the Government itself because the official mediation procedures did not operate as a proper link between the unions and the employers. The occupation by the army of the premises after the strike at the Academic Hospital may also, they said, have antagonised the unions. Some others stated that the problems between the unions and the military began as early as 1981 when the Revolutionary Front was established since the unions were unsure as to what their position would actually be in that structure; in any event, they said it was at that time that the Moederbond started advocating a return to democracy.

III. The arrests and deaths on 7 and 8 December 1982

531. The Minister of Labour told the mission that many people were arrested for questioning on 7 December because there were serious indications that action might be taken against the regime in late December. He claimed that Daal had been arrested as an individual and that many members of the Moederbond Executive did not know what was going on. The Minister indicated that there was no evidence of a definite link between Daal and the 14 other persons killed on 8 December, but stated that there had been "some meetings" between them prior to that date.

532. The representative of the Director-General received from Mr. Derby, President of the C-47 federation and one of the 14 people rounded up that evening to be held in Fort Zeelandia (the military headquarters), a description of the circumstances of his own arrest. He was the only one amongst a final group of 16 who were questioned by the Military Commander, Lt. Col. Bouterse during that 24-hour period to be allowed to leave the Fort alive. According to Mr. Derby, he and Mr. Daal were not the only trade unionists arrested. The others were Mr. E.A. Hoost, Mr. L.P. Rahman and Mr. Bram Behr. Mr. Derby still did not know why he had been arrested nor why he had finally been released. He had been told that Lt. Col. Bouterse let him leave the Fort because he considered Derby to be honest. He stressed, that during his own 18-hour detention - when he shared a cell with several others rounded up on 7 December - he did not suffer any ill-treatment. While detained he had two interviews with Lt. Col. Bouterse. He stated that he had asked Lt. Col. Bouterse for the release of Mr. Hoost and two others who had been sharing his cell and was told that they would be released. It was discovered on 9 December that they, too, had in fact been killed along with Daal and the others.

533. Opinions varied as to the reasons why Daal had continued with the strike until 2 November 1982 when, by all accounts the consequences of doing so were obviously dangerous. The Executive of

the Moederbond itself was divided on this question. One member stressed that he personally had warned Daal on 29 October about the dangers of continuing the strike action alone without the support of the other federations. Another member, however, maintained that everyone encouraged Daal in his course of action and that the Moederbond as a whole supported him in the strike. The representatives of the C-47 with whom the mission spoke thought that Daal had been "victimised" by some groups or interests which they could not precisely identify but that these groups existed within and outside the country. Mr. Derby mentioned that, on 30 October, he himself had been contacted by persons who were anxious to ascertain whether the C-47 would support Daal's proposed mass meeting planned for the next day. The representatives of the PWO with whom the representative of the Director-General spoke considered that Daal may also have been encouraged by the mass demonstrations that took place to protest his arrest. The representatives of the CLO with whom the mission spoke took the view that Daal, whose strength of personality enabled him to call people out into the streets, easily saw himself as the champion, and even a martyr if necessary in the cause of democracy.

534. The employer representatives with whom the representative of the Director-General spoke stressed that no one, not even Daal, suspected that the military was capable of perpetrating the action it took on 8 December. One of these representatives had, in fact, met Daal on 7 December and reported him as saying that he was aware that his actions involved a risk but that he "did not care whether he died now or in a year's time". According to the employer representatives, Daal had throat cancer. The representatives of another employers' association with whom the mission spoke did not think that Daal realised the impact of his actions. They reported that Daal told them - at a meeting on 2 November between the Moederbond and representatives of employers' and church organisations - that a member of the military had warned him "to consider his future" if he continued to flout the military. They stated that Daal's speeches in favour of free enterprise and his criticism of the Government's socialisation process were naturally described by his opponents as subversive.

535. From the mission's meetings with government members and officials it was clear that the Government has no plan to carry out an independent inquiry into the deaths. The Attorney-General could not say whether the Minister of Justice was considering the matter. The Minister of Labour, on the other hand, stressed that the events took place against a background of an expected invasion of Suriname and anti-government pressure from both external and internal forces. The Moederbond Executive stated that it had had three meetings with the Government shortly after the events of 8 December but on none of these occasions was the question of an inquiry into the deaths raised. The other trade union centrals considered that an inquiry would be difficult because of the military leadership and useless because, in their view, the true facts would never be brought to light.

IV. The destruction of the Moederbond premises
on 8 December 1982

536. During discussions with the Minister of Labour, when he confirmed the destruction of the Moederbond headquarters, he assured the representative of the Director-General that talks had been held between the Moederbond Executive and the Ministry of Public Works and agreement reached on the rebuilding of the premises at Government expense. Work was due to begin late 1983 or early 1984 at the latest. The Minister explained that the Government was expected to reimburse the Moederbond for rental paid for its present offices. The Government was undertaking these actions because it did not wish the destruction of the premises to be interpreted as an act against the Moederbond or against the workers. The Moederbond confirmed that the Government had agreed to begin reconstruction in the near future.

D. Statement of the Acting Permanent Secretary of Labour
to the Committee

537. Mr. Simons, Acting Permanent Secretary of Labour, stated that the events of 8 December 1982 took place in the context of an imminent invasion of the country by foreign powers. According to Mr. Simons, the principle of tripartism and freedom of association have always been respected in Suriname, but the air traffic controllers' strike which preceded the events of 8 December was not of a trade union nature but was political. In reply to the question whether the Government would order a judicial inquiry into the deaths of trade union leaders on 8 December 1982, he stated that, since the risk of an invasion was still present, this question lay within the competence of the military authorities. He, however, assured the Committee that he would transmit to his Government the Committee's request concerning such an inquiry.

E. The Committee's conclusions

538. The Committee has examined the Government's written responses to the allegations and the information obtained by the representative of the Director-General during his direct contacts mission to Suriname.

539. In expressing its thanks to the representative of the Director-General for his detailed report the Committee would also like to express its appreciation to the Government of Suriname for its co-operation in accepting the Committee's requests that such a mission

be carried out and for providing the facilities that were necessary to enable the representative of the Director-General to carry out his mission.

(i) The September attack on the Moederbond premises

540. The Committee notes that neither in the Government's most recent written reply nor during the discussions held in Suriname with the authorities was any new light shed on this allegation, apart from the assertion that the premises had been used for meetings by a secret group aimed at the violent overthrow of the Government. In view of the fact that the Moederbond Executive itself did not approach the relevant authorities for an explanation, investigation or apology and of the fact that the premises were subsequently destroyed thus making any inquiry into their occupation hypothetical, the Committee considers that no purpose would be served in pursuing its examination of this aspect of the case.

(ii) The arrests and deaths of 7/8 December 1982

541. It is clear to the Committee from the Government's written and oral statements that the Government arrested Mr. Daal, President of the Moederbond, for what it considered to be political activities unconnected with his trade union functions. It is equally clear that, despite the assertions of certain members of the present Moederbond Executive, the other social partners saw the strikes and mass demonstrations called by Daal in the second half of 1982 as going beyond normal trade union activities and designed to promote the return to a democratic form of government.

542. Although the arrest and deaths of three other trade unionists at the same time were not the specific subject of the ICFTU's or WCL's allegations in this case, it appears to the Committee that their situation parallels that of Mr. Daal.

543. As regards the alleged political activity of Cyrill Daal, the Committee notes that the Government has produced no specific evidence in support of its assertions and copies of Mr. Daal's speeches disappeared with the destruction of the Moederbond premises. On the other hand the Committee observes that a substantial amount of evidence has been obtained from various sources to indicate that his actions were more closely related to the movement for a return to a system of democracy. In the view of the Committee, such a system is fundamental for the free exercise of trade union rights. The Committee has always stressed, however - and it would

particularly draw this to the Government's attention in this case - that even in cases in which trade unionists are charged with political or criminal offences which the Government considers have no relation to their trade union functions, the authorities should instigate a prompt and fair trial of the individuals concerned before an independent and impartial judiciary.¹

544. The Committee deplores that the Government of Suriname, feeling, as it alleges, threatened by anti-government movements both inside and outside the country, proceeded to round up certain individuals including trade unionists, at night and hold them without charges and without access to legal representation in the military Fort instead of using the normal judicial procedures. This is all the more deplorable since the detainees were killed while in military custody.

545. The deaths of 8 December 1982 are condemned by the Committee in the strongest terms. The Government has supplied no proof of an attempted escape by those arrested and, in view of the circumstances of their arrest and detention in the military fort the Committee has the greatest difficulty in accepting this explanation. Again, the Committee would stress, as it has done in the past, that in situations involving the loss of life, an independent judicial inquiry should be held immediately into the circumstances surrounding the killings in order to ascertain the facts and determine responsibilities.² Only in a climate where the rule of law is respected can human rights, including trade union rights, be exercised normally.

546. The Committee, accordingly, deplores the fact that the Government has not instituted any investigation into the deaths, and that it informed the representative of the Director-General that none was envisaged. In its view, such an investigation would indicate a certain willingness on the part of the Government to ensure that there would be no recurrence of the tragic events that took place on 8 December 1982. The Committee notes the undertaking given to it by the Government representative that he will transmit to his Government the Committee's request for an inquiry. The Committee urges the Government to reconsider its position and it requests the Government to inform it of the results of any inquiry that is so undertaken.

¹ See, for example, 220th Report, Cases Nos. 997, 999 and 1029 (Turkey), para. 89; 222nd Report, Case No. 1157 (Philippines), para. 284.

² See, for example, 214th Report, Case No. 1069 (India), para. 536; Case No. 1054 (Morocco), para. 672.

(iii) The destruction of the Moederbond premises

547. The Committee notes from the Government's written communication that the premises of the Moederbond trade union federation were destroyed by the military on 8 December 1982. It also notes from the report of the representative of the Director-General that the authorities regret this destruction and have now agreed to rebuild new premises for the union. The Committee also notes that the Government is expected to pay the rentals of the Moederbond's present offices. The Moederbond confirmed that construction of its new premises should begin by the end of 1983.

548. While noting the Government's efforts to restore to the union the premises it lost through military action, the Committee would draw the Government's attention to the Resolution on trade union rights and civil liberties, adopted by the International Labour Conference at its 54th Session (1970) in which protection of trade union property is listed as one of those civil liberties which are essential for the normal exercise of trade union rights. The Committee trusts that the construction at government expense of the new trade union premises will proceed smoothly and rapidly and that protection of union premises and property will in future be fully respected.

(iv) The alleged detention of trade unionists

549. The Committee notes from the Government's written and oral communications that no trade unionists are at present held in Suriname prisons and that no warrants for arrest or charges remain outstanding against trade unionists. It therefore considers that this aspect of the case does not call for further examination.

The Committee's recommendations

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

- (a) The Committee appreciates the fact that the Government of Suriname co-operated in accepting a direct contacts mission by the representative of the Director-General and provided the necessary facilities to enable the representative to carry out his mission.

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- (b) The Committee considers that no purpose would be served in pursuing the aspect of the case concerning the September 1982 attack by students on the Moederbond trade union's premises.
- (c) The Committee deplores that the Government, feeling, as it alleges, threatened by anti-government movements both inside and outside the country, proceeded to round up certain individuals, including trade unionists at night and hold them without charges and without access to legal representation in the military Fort instead of using the normal judicial procedures.
- (d) The Committee would draw the Government's attention in this connection to the principle of freedom of association according to which the authorities should instigate a prompt and fair trial of individuals before an independent and impartial judiciary even in cases in which trade unionists are charged with political or criminal offences which the Government considers have no relation to their trade union functions.
- (e) As regards the deaths of trade unionists which took place on 8 December 1982 while in military custody, the Committee condemns these acts in the strongest terms; it deplores the fact that the Government has not instituted any investigation into the deaths nor does it envisage any such inquiry. The Committee considers that such an investigation would indicate a certain willingness on the part of the Government to ensure that there would be no recurrence of the tragic events that took place on 8 December 1982. The Committee notes the assurance given by the representative of the Government that he will transmit to his Government this request for an inquiry. The Committee urges the Government to reconsider its position and it requests the Government to inform it of the results of any inquiry that is so undertaken.
- (f) The Committee would draw the Government's attention in this connection to the principle of freedom of association according to which in situations involving the loss of life, an independent judicial inquiry should be held immediately into the circumstances surrounding the killings in order to ascertain the facts and determine responsibilities.

ANNEX

Report on the direct contacts mission to Suriname
carried out by
Mr. W.R. Simpson
Chief of the Freedom of Association Branch,
International Labour Standards Department

Introduction

1. The mission took place within the framework of the procedures applicable to the examination of complaints concerning alleged violations of trade union rights, such complaints having been made against the Government of Suriname by the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) (Case No. 1160).

2. The Governing Body Committee on Freedom of Association examined Case No. 1160 at its February 1983 meeting and presented an interim report to the Governing Body¹ in which it noted the Government's acceptance of the proposal made by the Director-General to send a direct contacts mission to the country to elucidate the situation. In communications dated 14 March and 15 April 1983 the Government postponed proposed dates for the carrying out of a mission. At its May 1983 meeting, the Committee on Freedom of Association took note of a communication from the Government² containing detailed observations on the outstanding allegations and indicating that it would confirm its invitation to the Director-General to send a mission to Suriname as soon as possible.

3. Arrangements to enable a direct contacts mission to visit Suriname were made during the 69th Session of the International Labour Conference (June 1983) following discussions with the Suriname Government delegation headed by the Minister of Labour and Public Health. In communications dated 22 and 25 July 1983 the Government

¹ See 222nd Report, paras. 287 to 300, approved by the Governing Body at its 222nd Session (March 1983).

² See 226th Report, para. 12, approved by the Governing Body at its 223rd Session (May-June 1983).

confirmed that the direct contacts mission could take place in the second half of August. On 29 July the Office communicated with the Government confirming that the mission could visit Suriname from 18 to 25 August inclusive and that it would be carried out by the representative appointed by the Director-General, Mr. W.R. Simpson, Chief of the Freedom of Association Branch of the International Labour Standards Department.

4. It was indicated to the Government that the mission would like to meet the Ministers of Foreign Affairs, Labour and Public Health, Internal Affairs and Justice, the representatives of the four trade union federations and the two employers' federations as well as any other persons who might assist the mission in establishing the facts in the case, in particular regarding the September 1982 occupation of the premises of a leading trade union and its destruction in December 1982 and the arrests and death of trade union leaders on the night of 7/8 December 1982.

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5. The necessary arrangements having been thus finalised I carried out the mission to Suriname from 18 to 25 August 1983. I was accompanied throughout by Mrs. Jane Hodges of the Freedom of Association Branch of the International Labour Standards Department.

6. Throughout the mission the Government, in addition to demonstrating a genuine willingness to ensure that I could accomplish my task, provided every facility to enable me to do so. Immediately following our arrival in the capital, Paramaribo, a meeting was arranged with three members of the five-person National Commission, a body established by decree and entrusted with responsibility for receiving missions by international organisations or bodies. During this initial meeting a comprehensive programme was drawn up to include meetings with the following persons: the Prime Minister and Minister for Foreign Affairs, Dr. E. Alibux; the Minister of Labour and Public Health, Mr. L.W. Boksteen; the Attorney-General Dr. R.M. Reeder, representing the Minister of the Interior and Justice; the Executive Board of the C-47 trade union federation; the Executive Board of the Progressive Workers' Organisation (PWO); the Executive Board of the Civil Servants' Organisation known as the CLO; the Executive Board of the AVVS De Moederbond; the Association of Surinamese Manufacturers (ASFA); and the Suriname Trade and Industry Association (VSB). It was also arranged that, following all these meetings, a final meeting with the Minister of Labour would take place. In addition to these meetings, arrangements were made for the mission to visit the Government-sponsored Suriname Labour College known as SIVIS.

7. Contrary to the practice followed by the Government during previous investigatory visits to Suriname by certain other international organisations, the mission was at all times able to arrange its meetings without military or government personnel being present. On more than one occasion our interlocutors referred to this absence of interference and indicated that, had the situation been otherwise, they would not have been able to speak as freely as they did.

8. At the outset of the mission I had the opportunity to meet briefly with the Prime Minister, Dr. E. Alibux, who is also the Minister of Foreign Affairs, when I took the opportunity to point out that the impartiality and objectivity of the mission's report would depend entirely on the co-operation that I would receive and on the openness and frankness of the discussions that I would have with the various Ministries and the social partners. I explained that this direct contacts mission to Suriname concerned trade union rights and was in no way designed to concern itself with the internal politics of the country. I also pointed out that the International Labour Organisation was not an international tribunal but that its supervisory machinery was there to ensure, through objective examination of all the facts, that trade union rights are fully respected and that human rights, which are essential for the free exercise of trade union rights, are guaranteed. I also pointed out that, by the very fact of membership of the ILO and by the act of ratification of ILO Conventions, States, including Suriname, accepted a measure of international supervision of their actions and thereby relinquished a part of their sovereignty. The Prime Minister assured me that the mission would have every freedom to speak with whomever it considered useful and he expressed the firm hope that the mission would prove successful.

Background

9. Suriname, which became an independent republic on 25 November 1975 after almost 300 years of Dutch colonisation, is situated on the north coast of the South American continent and shares borders with Guyana, Brazil and French Guyana. The land area totals some 163,000 km². On 25 February 1980 a small band of military sergeants - who, together with other members of the army trade union, had been on strike for two months over wage claims - seized power. The civilian Cabinet is responsible to the Policy Centre (Lt. Col. Bouterse, the Prime Minister, the Minister of Finance and the second in command of the military) and is guided by the Advisory Board (Mr. Cruden and Mr. Sylvester, two trade unionists and Mr. Udenhout of the Ministry of Education). The population of around 360,000 is of diverse origin, and consists of Amerindians, Hindustani, Creole, Javanese and Chinese. About two-thirds of the population is

concentrated in Paramaribo, with most of the remainder living along the coastal strip, which is 3 per cent of the total land area. The interior consists mainly of dense tropical forest.

10. Suriname has an uneven developed economy, with a few capital intensive modern enterprises producing most of the country's output and exports dominated by foreign capital and a stagnant traditional sector. Besides the two bauxite-producing companies, Suralco (which the mission was able to visit) and Billiton, there are also large agricultural enterprises, including state-owned enterprises engaged in rice research, cultivation and production, and wood processing. The per capita GNP was estimated at about US\$2,860 in 1982. As a consequence of the duality in the economic structure, the capital-intensive sector employs relatively few people and pay higher wages, in contrast with the national controlled and trade sectors, characterised by lower productivity. Despite the large-scale emigration in recent years and the rapid growth of the public sector, unemployment is still around 18 per cent of the labour force.

11. Of the four trade union federations the C-47 has 12,000 to 15,000 members in the bauxite, metalworkers, agricultural, water supply, airline, hotel and private teaching and nursing sectors; the Moederbond has 15,000 members in the public, industrial and services sectors; the PWO has 4,500 members in the agricultural, cement and trade and commerce sectors; and the CLO represents 40,000 civil servants. There are two employers' organisations, the ASFA comprising 132 manufacturing undertakings and the VSB with 170 private enterprise and state-owned member companies. The Moederbond is affiliated to the ICFTU, the PWO to the WCL and the CLAT, and the CLO to the IFFTU and INFEDOP. The C-47 has made a conscious decision against international affiliation for the time being. Neither of the employers' organisations have international affiliation.

12. From the standpoint of international principles on freedom of association the labour legislation of Suriname has not given rise to serious comment by the Committee of Experts on the Application of Conventions and Recommendations. In particular, collective bargaining has always been freely and widely practised in Suriname and, even in the public service, the CLO negotiates a common collective agreement for its members (who comprise about half of the total labour force of 84,000) every two years with a special board appointed by the Government for this purpose. A Mediation Board, at present comprised of two Government representatives and a retired trade unionist from the bauxite sector who is also a civil servant, has disputes settlement responsibilities primarily for the private sector. The employers' representative on the Board who, for personal reasons, resigned four years ago has not been replaced. There is also a Public Service Board procedure for disputes in the civil service, and the Policy Centre appears to have an ad hoc power to settle disputes if requested so to do. The right to strike is recognised in all sectors.

The allegations

(a) The attack on the premises of the Moederbond on 17 September 1982

13. The ICFTU alleged that the premises of its affiliate were occupied by a group of young persons, some of whom were armed, and who were members of the "popular mobilisation section" of the Ministry of Culture, Youth and Sport. According to the ICFTU, the youths proceeded to pillage the premises for several hours and prevented a trade union meeting which had been arranged from taking place there.

14. The Government replied that the illegal occupation of the office of the Moederbond was carried out by individuals apparently incited by indignation at the involvement of that trade union in a recent strike by hospital staff. The Government emphasised that its authorities did not interfere and were not involved in any way in this occupation. The Government expressed its regret that the Moederbond trade union did not correct the information supplied to the ILO in spite of the fact that an exchange of telegrams between the union and the Government had taken place.

15. During my meeting with the Executive Board of the Moederbond, I was able to receive a first-hand account of the events of 17 September 1982 from one of the members who had been in the building at that time. He stated that schoolchildren, who were on holiday during that month, occupied the building with verbal support from members of the Department of People's Mobilisation who were outside. According to my interlocutor the inciters were telling the students that the Moederbond was responsible for the recent strike in the Academic Hospital. Following a telephone call by this member of the Moederbond Executive, the police arrived and took two or three of the leaders of the occupation to police headquarters. The incident was over, but when the Moederbond later called the police station in this connection, they were told that an official of the Department of People's Mobilisation had demanded the release of the leaders and that the police had accordingly let them leave without charges being brought against them. The occupation was never mentioned again, and no further action was taken by the Moederbond as subsequent events overshadowed its importance. According to the Moederbond Executive, the Department of People's Mobilisation is a co-ordinating body for the recently formed people's committees and regional and district councils; it is involved in socio-political activities such as the reconstruction of roads and the political education of youth.

16. My meeting with the Attorney-General, representing the Minister of Justice and Internal Affairs, threw no light on this incident. In answer to several detailed questions, he merely stated that no complaint had been lodged with his Office and that all he knew of the incident was what he had read in the newspapers. The Minister

of Labour indicated that this incident - as well as the other allegations - had to be viewed in the context of the changes in the country between 25 February 1980 (when the military seized power) and 8 December 1982. He stated that the Moederbond premises were used by a group of suspected persons to meet to discuss activities aimed at overthrowing the Government. He further indicated that the events of 8 December had, in any event, superseded this allegation.

(b) Events leading up to 8 December 1982

17. The Minister of Labour, trade unionists and employers with whom I spoke gave clear, coinciding descriptions of these events. The following is a synthesis of their comments. When the military took power on 25 February 1980 they had little political expertise and turned to as many groups as possible (progressive trade unions, mass organisations and even members of the ousted government) to assist in the establishment of a government. The Moederbond had, in fact, nominated two persons for ministerial posts in the first Cabinet (one being chosen), and a CLO member, in his personal capacity, had also been appointed to ministerial office. Despite its official stand that politics and trade unionism cannot be separated, the C-47, although invited to do so, did not present any candidates for office since, according to it, the future political line the military would take was not certain. The President of the C-47 nevertheless emphasised his federation's support and that of the population as a whole for the military at that time in view of the frustration at the unfulfilled promises of the previous Government. It should be noted that the federations were represented on the newly-formed Government Advisory and Planning Boards. One person mentioned by several of my interlocutors, Mr. André Haakmat, played a particularly important role in the new Government, especially as regards the Moederbond and trade union activity in general. As Minister of Justice Mr. Haakmat prepared a decree to ban strikes on 13 August 1980. The same day there was an attempted coup which resulted in the suspension of the Constitution and the cessation of Parliament and the anti-strike decree was never adopted. Apart from an incident in November 1980 involving the occupation of the premises and confiscation of the books of one of the C-47's affiliates by order of Minister Haakmat, the political and industrial relations scene was calm until the Government, following talks with students, progressive organisations and farmers, established, in December 1981, a "Revolutionary Front" which, in the view of many, virtually removed all possibility of a return to democracy which the military had initially promised. This resulted in Cabinet resignations and a further attempted coup in mid-March 1982 led to the formation of a new government. In January 1982 Minister Haakmat was relieved of his various ministerial posts and he became the official adviser of the Moederbond trade union federation.

18. From this point onwards the incidence of strike action, especially by the Moederbond and its affiliates, was more pronounced and there was increased government interference in community life. The C-47 was also involved in strike action and its representatives described the April 1982 strike by one of its nursing affiliates which the Minister of Health had condemned during a press conference. The Government had prevented a return press conference by the C-47 and confiscated 15,000 copies of its newspaper which contained the federation's reply to the Minister. In July 1982 there was a strike at the Academic Hospital concerning the terms of the 1977/82 agreements within the Ministry of Health. In August the former Minister Mr. Haakmat was asked by the military to develop a paper on the formation of a new democratic structure involving civilian rule. In September there was a partial strike by the postal workers concerning conditions of work and in particular the installation of air conditioning. Events culminated in the Moederbond affiliated air traffic controllers calling a strike in October 1982 over wages and working conditions. This strike was led personally by Cyrill Daal, President of the Moederbond.

19. The events surrounding this strike are of particular importance and they were described in detail by those involved in them. On Monday 25 October Lt. Col. Bouterse personally contacted Mr. Daal, President of the Moederbond, and warned him to call off the strike, otherwise he would "be locked up and forgotten about". Mr. Derby, President of the C-47, also described his own warning to Daal that continuation of the strike could have serious consequences. On Tuesday 26 October Mr. Daal called for a meeting of all Moederbond affiliates which received wide press coverage. On Wednesday 27 October Mr. Haakmat, adviser to the Moederbond, announced that Mr. Daal had gone into hiding, but on Thursday 28 October Mr. Daal was arrested in his office only to be released some hours later following an intervention by the C-47 and the CLO which threatened a general strike if his detention continued. In view of the seriousness of the events, Mr. Derby called for a meeting of all C-47 affiliates and was summoned by the Prime Minister to explain this action. On Friday 29 October the Moederbond called for another meeting and a general two-hour strike to protest Mr. Daal's arrest. On Saturday 30 October certain employers contacted the Moederbond Executive and warned them of the dangerous situation that could ensue if the Moederbond continued its strike alone. The same evening the four trade union federations met in a Paramaribo hotel but the other centrals could not reach agreement with Daal about the continuation of the strike. On Sunday 31 October Mr. Daal called for a third mass demonstration which was attended by 15,000 to 17,000 people and which coincided with the visit to Suriname of the Prime Minister of Grenada, Mr. Bishop. The welcoming crowd for Mr. Bishop barely numbered 1,500. Mr. Derby's C-47 did not support this demonstration. I was informed that at all of Mr. Daal's mass meetings his statements were practically confined to calling for the return of the military to barracks, and a return to democracy in the country.

20. The information supplied to the mission by the Moederbond on these events is of particular relevance. The Executive told me that, after the July and September strikes, Moederbond began to be accused of organising strikes that had a destabilising effect. Although the Minister of Labour had promised the federation that discussions would take place, Daal felt that he had to force a meeting to find a solution. At an earlier point in time the then Executive had warned Daal not to call for a strike of air traffic controllers, but once the strike was called matters escalated. According to the Moederbond members with whom I spoke, the date of the arrival of the Prime Minister of Grenada was not known when the strike was called. Whilst stressing that the strike had initially nothing to do with Mr. Bishop's arrival, my interlocutors admitted that Daal later complained of the visit because it was being made at the Suriname Government's expense which, in his view, was totally unjustified. My interlocutors informed me that the deterioration in relations between the military and Mr. Daal around October 1982 was difficult to explain, especially since Mr. Daal had originally given his support to the military and personally supported Lt. Col. Bouterse. One suggestion was put forward that some persons who did not appreciate the closeness of the relations between Mr. Daal and Lt. Col. Bouterse tried deliberately to disrupt the trust that existed between them. These persons were left-wing elements who did not share Daal's political views. The role of former Minister Mr. A. Haakmat, who was still advising not only the Moederbond, but also the Government was described by some executive members as doubtful. I was informed that, while Mr. Haakmat's advices to the federation had originally been in writing and available to all members of the then executive these were later given orally and only to Daal. Daal himself, they said, who was a close friend of Haakmat, had, on occasion, expressed misgivings about the dual advisory role that Haakmat had assumed and about the advice he gave to the federation. There were, however, differences of opinion amongst the executive members as to whether Mr. Haakmat himself eventually lost favour with the military because of his influence on Daal towards a continuation of the struggle for a return to a form of democracy or because he let Daal proceed to call a strike "on the issue of a return to democracy" without informing him that discussions on this very issue were already underway in the Government itself. The members of the Executive pointed out that when one and a half years had passed since the promise was made by the military to hold elections, the Moederbond, under Daal's leadership, had begun an active campaign for a return to a democratic structure in the country.

21. The employers with whom I spoke considered that the events leading up to 8 December 1982 were political in nature, and that the Moederbond's actions, and in particular the strikes, placed the Government under great pressure. Some saw no change in the Moederbond's attitude to collective bargaining in the July-December period. Others, however, stated that the attitude of the unions was caused by a vacuum created by the Government itself because the

Mediation Board did not operate as a proper link between the unions and the employers. The occupation by the army of the premises after the strike at the Academic Hospital may also, they said, have antagonised the unions. Some others stated that the problems between the unions and the military began as early as 1981 when the Revolutionary Front was established since the unions were unsure as to what their position would actually be in that structure; in any event, they said, it was at that time that the Moederbond started advocating a return to democracy.

22. The air traffic controllers' strike prompted the C-47, PWO and CLO to submit to the military a phase-by-phase plan, to which the Moederbond later adhered, for a democratic structure for Suriname. Following negotiations between Mr. Daal and Major R. Horb, a member of the Policy Centre, work was resumed on 2 November 1982. Discussion continued with the Policy Centre until 15 November when Lt. Col. Bouterse unexpectedly announced on television that negotiations were closed. According to one group of employers with whom I spoke, during this period Major Horb had appointed 12 bodyguards to protect Daal for four days. The employers also mentioned unrest at the university. In addition, during November an "Association for democracy in Suriname" was formed and representatives of its 13 member associations (the Committee of Christian Churches, the Hindu Religious Community Samatan Dharm, the Hindu Religious Community Aryans, Association of Managers and Editors-in-Chief of the press in Suriname, the Madjlieu Moedirmen of Suriname, the Suriname Islamic Association, the Suriname Muslim Association, the Suriname Business Association, the Association of Suriname Manufacturers, the Suriname Bar Association, the Association of Medical Practitioners in Suriname, the Central organisation of Farmers' Unions and the National Suriname Women's Council), in response to a televised policy statement made by Lt. Col. Bouterse as Chairman of the Policy Council on 15 November, addressed a letter to him on 23 November 1982 in which they pointed out that, in their opinion, the only way for the regime to keep power would be through "repressive power enforcement". The Association proposed the discussion of certain basic principles which in their view were fundamental in any democratic society.

23. In addition to these events Mr. Daal, according to the Government, was engaged in meetings and activities which, in its view, were subversive in character and which clearly linked him with plans, organised by forces both inside and outside the country, to overthrow the regime by force.

(c) The arrests and deaths on 7 and 8 December 1982

24. The complainants in Case No. 1160 alleged the detention of trade union leaders and the murder of Mr. Daal, President of the Moederbond, on 7 and 8 December 1982. The Government replied that the military authority had issued an official declaration to the

effect that, on 8 December 1982, a number of persons, detained for their involvement in activities to overthrow the Government through violent means, were killed in an unfortunate accident as a result of their attempt to escape custody. The Government also stated that it would see to it that such occurrences were prevented in the future.

25. The Minister of Labour told the mission that many people were arrested for questioning on 7 December because there were serious indications that action might be taken against the regime in late December. He claimed that Daal had been arrested as an individual and that many members of the Moederbond Executive did not know what was going on. The Minister indicated that there was no evidence of a definite link between Daal and the 14 other persons killed on 8 December, but stated that there had been "some meetings" between them prior to that date.

26. Mr. Derby, President of the C-47 federation and one of the 14 people rounded up that evening to be held in Fort Zeelandia, described the circumstances of his own arrest. He was the only one amongst a final group of 16 (the sixteenth and seventeenth persons, Lt. S. Ramboaus and Sheombar were transferred from the military barracks to the Fort to be held with the others) who were questioned by Lt. Col. Bouterse during that 24-hour period to be allowed to leave the Fort alive. According to Mr. Derby, he and Mr. Daal were not the only trade unionists arrested. The others were: Mr. E.A. Hoost (one of the founders of the C-47, a former legal adviser to the CLO and a former Minister, who was at the time of his arrest a practising lawyer and official adviser to the C-47); Mr. L.P. Rahman (Secretary of the Suriname Brewery Workers' Union, President of the "BOSI" Health Inspection Union, the Pharmaceutical Service Staff Union and the Ministry of Health Staff Union and editor of the C-47's union newspaper); and Mr. Bram Behr. Mr. Derby told me that, up till now, he still did not know why he had been arrested nor why he had finally been released. He had been told that Lt. Col. Bouterse let him leave the Fort because he considered Derby to be honest. He stressed that, during his own 18-hour detention - when he shared a cell with several others rounded up on 7 December - he did not suffer any ill-treatment. While detained he had two interviews with Bouterse. He stated that he had asked Lt. Col. Bouterse for the release of Mr. Hoost and two others who had been sharing his cell and was told that they would be released. It was discovered on 9 December that they, too, had in fact been killed along with Daal and the others.

27. Opinions varied as to the reasons why Daal had continued with the strike when, in their view, the consequences of doing so were obviously dangerous. The Executive of the Moederbond itself was divided on this question. One member stressed that he personally had warned Daal on 29 October about the dangers of continuing the strike action alone without the support of the other federations. Another member, however, maintained that everyone encouraged Daal in his course of action and that the Moederbond as a whole supported him in the strike.

28. The representatives of the C-47 with whom I spoke thought that Daal had been "victimised" by some groups or interests which they could not precisely identify but that these groups existed both within and outside the country. Mr. Derby mentioned that, on 30 October, he himself had been contacted by persons who were anxious to ascertain whether the C-47 would support Daal's proposed mass meeting planned for the next day. The representatives of the PWO with whom I spoke considered that Daal may also have been encouraged by the mass demonstrations that took place to protest his arrest. The representatives of the CLO executive took the view that Daal, whose strength of personality enabled him to call people out into the streets, easily saw himself as the champion and even a martyr if necessary in the cause of democracy.

29. The ASFA representatives with whom I spoke stressed that no one, not even Daal, suspected that the military was capable of perpetrating the actions it took on 8 December. One of these representatives had, in fact, met Daal on 7 December and reported him as saying that he was aware that his actions involved a risk but that he "did not care whether he died now or in a year's time". According to the ASFA representatives, Daal had throat cancer. The representatives of the VSB with whom I spoke did not think that Daal realised the impact of his actions. They reported that Daal told them - at a meeting on 2 November between the Moederbond and representatives of employers' and church organisations - that Major Horb had warned him "to consider his future" if he continued to flout the military. They stated that Daal's speeches in favour of free enterprise and his criticism of the Government's socialisation process were naturally described by his opponents as subversive.

30. From my meetings with government members and officials it was clear that the Government had no plan to carry out an independent inquiry into the deaths. The Attorney-General could not say whether the Minister of Justice was considering the matter. The Minister of Labour, on the other hand, stressed that the events took place against a background of an expected invasion of Suriname and anti-Government pressure from both external and internal forces. The Moederbond Executive stated that it had had three meetings with the Government shortly after the events of 8 December: one, on 11 December, concerned a request from the Minister of Energy and Natural Resources to encourage the bauxite workers, who had been on strike, to recommence work; one, on 13 January, followed an invitation to express their views on the capacities and qualities of the new Government. During that meeting the Moederbond handed over a paper on government policy towards the trade union movement; the third meeting, also on 13 January, took place with Lt. Col. Bouterse himself during which the executive members present deplored the events of 8 December, and expressed the hope that such events would never happen again in Suriname. On none of these occasions was the question of an inquiry into the deaths raised. The other trade union centrals considered that an inquiry would be difficult because of the military

leadership and useless because, in their view, the true facts would never be brought to light.

(d) The destruction of the Moederbond premises
on 8 December 1982

31. The ICFTU and WCL, complainants in Case No. 1160, alleged that the headquarters of the Moederbond had been destroyed. At the time of the Committee's initial examination of the complaint the Government had made no observations on this point.

32. During discussions with the Minister of Labour when he confirmed the destruction of the Moederbond headquarters, he assured me that talks had been held between the Moederbond Executive and the Ministry of Public Works and agreement reached on the rebuilding of the premises at government expense. Work was due to begin late 1983 or early 1984 at the latest. The Minister explained that the Government was expected to reimburse the Moederbond for rent paid for its present offices. The Government was undertaking these actions because it did not wish the destruction of the premises to be interpreted as an act against the Moederbond or against the workers. The Moederbond confirmed that the Government had agreed to begin reconstruction in the near future. It is to be noted that the new Moederbond Executive had at first refused government aid to rebuild the premises since it was hoping to receive financial support for this purpose from the international trade union movement. The Caribbean Congress of Labour had, in fact, opened a fund to assist in the reconstruction but the paucity of contributions left reconstruction by such means out of the question.

(e) The situation since 8 December 1982
up to the time of the mission

33. From my discussions with the Minister of Labour it appeared that some restrictions on trade union rights were introduced by the authorities immediately after the events of 8 December 1982 but that no such restrictions apply at the present time. For example, between 8 December 1982 and 25 February 1983 public meetings were made illegal by virtue of a Government announcement. According to the Minister of Labour, this was necessitated by the threat of an invasion, but the announcement was revoked once the situation subsided. The Minister confirmed that trade union meetings can now be held freely, without prior notice and without military or police presence. He stressed that there were no restrictions concerning international affiliation nor were any envisaged. After 8 December 1982 the mass media was also brought under government control. According to the Minister this was due to the role of the media in the events leading up to 8 December. A special Government committee had been formed to look into the functioning of the press in accordance with UNESCO

guide-lines. The Minister stressed that there was no censorship of the media but admitted that fewer outlets such as radio stations existed. It is to be noted in this connection that two radio stations were also destroyed by the military on 8 December 1982. A curfew was introduced after 8 December but this is now limited to five days of the week (Sunday to Thursday, midnight to 4 a.m.). The Minister gave his assurance that no anti-trade union legislation would be introduced.

34. During the mission's meeting with the Attorney-General mention was made of one decree (Decree B-10 dated 29 June 1983), which, according to the authorities, is not directly related to 8 December 1982. According to section 1(1) of the Decree (a copy of which and the regulations pertaining thereto were given to the mission) it is prohibited to import, have in transit, distribute, be in possession of, hold in stock, produce or reproduce any printed material which, in the opinion of the competent authority, could seriously disturb the public order and peace or national security. Section 1(2) designates the Council of Ministers as the competent authority. Section 2 lists the sanctions for breach of section 1 as a maximum of one years' imprisonment or a fine of a maximum of 5,000 guilders.¹ In the regulations under the Decree, one publication entitled "The December assassinations in Suriname - the report of an eyewitness" has been declared to be banned.

35. According to the Minister of Labour collective bargaining is continuing without change and several strikes, albeit minor ones, have taken place in 1983. He cited the example of a threatened strike in the "Kersten" undertaking over the dismissal of 25 per cent of the employees in violation of the relevant collective agreement; the Minister himself had intervened to settle the dispute before the parties went to the Mediation Board.

36. Both the Minister of Labour and the Attorney-General confirmed that those persons, whether trade unionists or not, who fled Suriname after 8 December 1982 were totally free to return to the country. No warrants were outstanding for any arrests and there were no cases in the Attorney-General's office pending against trade unionists. Nor were any known trade unionists being held in detention.

37. The members of the Moederbond Executive with whom I spoke explained that, owing to various absences from the country, it was not

¹ One guilder is approximately one Swiss franc.

until 13 January 1983 that the former Executive members could meet and take measures to continue the Moederbond's work, in particular the reconstitution of the Executive whose president had been killed on 8 December. Acting officers, they said, were appointed at that date in accordance with the Constitutional provisions. On 13 March the acting executive was able to convene a congress at which the present executive was elected, again in accordance with the constitution of the Moederbond. They expressed concern over the fact that the constitutionality of these elections was being contested. They had fully expressed their views to an ICFTU/CCL mission to Suriname in May 1983. The executive members expressed great disappointment that, in spite of the enormous problems that faced the Moederbond and the attempts that were being made by certain political tendencies in the country to destroy the organisation, it was not receiving the kind of support that would be essential for its survival. Apart from these problems the executive confirmed that trade union affairs and activity could be carried out normally.

38. The members of the C-47 Executive with whom I spoke confirmed that there were no restrictions on trade union activities. Negotiations between its affiliates and a number of enterprises had been concluded without any problem. In early August 1983 the textile workers' affiliate had held a one-day strike and a two-day strike recently took place in the "Albetil" undertaking. My interlocutors from the PWO stated that they had no complaints either in this regard and mentioned the recent signing of a collective agreement for cement workers and a strike by the paint/commerce workers this year. They did, however, point out that in view of what happened on 8 December 1982 the Executive would not authorise any action which could be seen as excessive. The members of the CLO Executive with whom I spoke also confirmed that there were no restrictions on trade union activities, but mentioned that the 1984 collective bargaining in the public sector would be most difficult because the unions would not be able to use their full power if negotiations became blocked. According to my interlocutors the military could not afford to let strikes and violence happen and the unions, being aware of this, could only act accordingly.

39. The employers' representatives of the ASFA with whom I spoke noted that, although collective bargaining was continuing as before December 1982 in the private sector, the unions could no longer force the Government to give in to their demands as they could in the past. According to my interlocutors, both employers and trade unions now had to take into consideration how the Government would react. They stated that whereas a union might strike in the private sector, it would not do so in a government undertaking. They raised the particular problem of the lack of employer representation on the Advisory Board (on which sit the Presidents of the PWO and the CLO and one Government representative) and on the Mediation Board (the employer member resigned four years ago and the Government has not put forward any candidatures to replace him). The employers'

representatives of the VSB with whom I spoke referred also to the exclusion of employers from Government bodies concerned with industrial relations. They considered that their rights were restricted more than before and that they were being ignored. Although there had been some meetings between employers and the authorities this year, a promised tripartite group discussion had not taken place. These employers also referred to Decree B-10 which impedes them from keeping copies of the letter sent to Lt. Col. Bouterse on 23 November 1982 by the "Association for democracy in Suriname" of which the ASFA was a signatory. The representatives of the VSB referred to Lt. Col. Bouterse's recent televised statement in which he declared that the events of 8 December could happen again. They stressed that it was against this background that one must evaluate the strength of industrial relations at present in Suriname.

40. I would mention at this stage that amongst the background documentation handed to us by the National Commission responsible for the handling of the mission was a booklet entitled "Government Statement and Plan of Action for 1983-86." This statement was presented to the public on 1 May 1983 by the Prime Minister. Although some mention is made of "adequate forms of organisation such as co-operatives" for the agricultural sector, no mention is made of trade unions or the role of workers' organisations in the Government's programme. I asked each of my interlocutors the significance of this omission.

41. The Minister of Labour confessed that his Ministry's contribution to the statement had been prepared hastily and was in fact submitted late; hence the omission. He stressed that, both on paper and in practice, the trade union movement was involved in and consulted about the development plans for the country.

42. The representatives of three of the four trade union federations with whom I spoke stated that they had not been consulted on the plan of action. The Executive members of the CLO, however, claimed to have been consulted about the plan. The employers also had not been consulted. I was told that the social partners could make comments after publication of the booklet although the employers stated that they had not been asked to do so. According to the C-47, the lack of reference to trade unions was an omission which was understandable. The PWO, on the other hand, guessed that, since at the time of publication, relations between the Government and the labour movement were not good, the unions were purposely not consulted on the plan of action.

(f) Future prospects

43. To my questions relating to any possible change in the trade union structure since 8 December 1982 and regarding the future of the

trade union movement, the Minister of Labour replied that there had been no changes and stressed that there were no restrictions on the trade union movement nor were any envisaged. The Government planned, he said, to establish in the future special labour courts to treat individual grievance cases more rapidly and it would appoint labour inspection committees to operate in businesses which employed only a small number of workers.

44. The representatives of the C-47 with whom I spoke found that there had been no change in the trade union structure but realised that if the workers en masse transferred from another union to the C-47 the trade union movement as a whole would be weakened. The President of the C-47 considered that the Moederbond had been considerably weakened since the events of 8 December 1982. These representatives were optimistic for the future with or without a military regime heading the country. They considered that Lt. Col. Bouterse had neither the intention nor the ability to suppress the labour movement.

45. The representatives of the PWO also saw no change in the trade union structure in Suriname since 8 December but remarked that there had been a history of other unions trying to rob it of its affiliates for some 5 or 6 years. They were not worried about the future under a military regime.

46. The representatives of the CLO, as is noted above, were apprehensive as to the 1984 negotiations on a collective agreement for civil servants but had no fears that trade union rights would be limited in any way.

47. The future situation is more critical for the Moederbond. The new executive with whom I spoke appeared to be disunited and there are obvious differences between the more recently elected members and others who remain loyal to the policy followed by Cyrill Daal. The President of the Moederbond described its situation as "vulnerable" for three reasons: the workers themselves had lost confidence in the union after the events of 8 December; the doubt which exists at the international and national level as to the integrity of the Executive and the functioning of the federation; some people close to the Government were not convinced that the Moederbond should build itself up again. The executive, he said, was still seeking its way. It continued to deplore openly the events of 8 December 1982 and it would try to prevent such a recurrence, without losing the Moederbond's identity as a free and independent union. Despite the infiltration in its affiliates of certain political groups, he said that the Executive would continue its struggle to strengthen the organisation in the interests of the workers it represented.

48. The ASFA representatives with whom I spoke were less optimistic for the future. Against a background of much talking, they saw little actually being done to improve industrial relations.

They stated nevertheless that they adapted to the situation. They were aware of what they described as the ultra-leftist infiltration of the Moederbond and saw the President's position as delicate.

49. The VSB representatives also considered the Moederbond to be much weaker now that the strong personality of Daal was gone. They pointed out that Daal's impact would not be forgotten easily in the federation.

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Concluding remarks

50. My final meeting before leaving the country was with the Ministry of Labour to whom I expressed my gratitude for the thorough manner in which the programme had been arranged and for the courteous manner in which the mission had been received. All my discussions had been frank and these had enabled me to obtain as much information as I could concerning all the issues in the case. I stressed, nevertheless, that, without a full and independent inquiry into the events of 8 December 1982 many important facts would never come to light. In view of the Attorney-General's reference of the question of an inquiry to the Minister of Justice himself, I expressed the hope that the Minister would exercise his authority in proceeding to such an inquiry. I pointed out that although freedom of association and human rights could be written into the constitutions and laws of countries, true freedom of association - for both workers and employers - could only exist if that freedom was exercised in a climate in which workers and employers could expect to know the consequences of the exercise of that freedom. I stated that as a direct result of the tragic events of 8 December last it was not surprising that there should be a degree of uncertainty about the exercise of that freedom. I suggested that the sooner that uncertainty was removed, the better. In view of the employers' complaints, I recalled to the Minister the importance of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which has been ratified by Suriname. I pointed out that the Committee of Experts on the Application of Conventions and Recommendations had, in fact, this year commented on the composition of the Advisory Board which was not tripartite. I concluded, reassuring the Minister that an objective and impartial report of my mission would be submitted to the Governing Body Committee on Freedom which would reach conclusions in the case. The Minister thanked me for this assurance and expressed the hope that the mission would lead

to a better understanding of the issues raised in this case and of the problems that now faced Suriname.

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51. In summary, the mission was received very correctly and the entire programme carried out in a business-like atmosphere. I was satisfied that all my interlocutors spoke openly and frankly and that I was able to obtain corroborated information on all the important aspects of the case. There are, of course, many details concerning the actual manner in which Daal and the others died which were not known to my interlocutors - and which, without a thorough and independent inquiry, may never be known - but the fact that the deaths took place at the hands of the military, and that this is not denied by the Government, tends to minimise the relevance of such details, at least for ILO purposes.

52. Mr. Daal's tragic death - and that of the 14 others - took place in a political climate in which the military régime saw itself under serious pressure not only from a strong national movement for the restoration of democracy, which included Daal, academics, lawyers, industrialists and churches but also from external forces. Rightly or wrongly, the Government interpreted Daal's activities (strikes which had a destabilising effect, his political statements and demonstrations and his various contacts in Paramaribo) as being part of a subversive plot to overthrow it by force, and accordingly decided to remove him. In spite of the numerous warnings given to him by trade union colleagues and even by some employers, Daal continued with the strike of air traffic controllers and called a mass demonstration which coincided with the arrival of the Prime Minister of Grenada. There is no doubt that this caused great embarrassment and resentment in the upper levels of the military regime and in the final event was probably the decisive factor which led to his death.

53. As regards the trade union situation in general, there are no apparent restrictions on the exercise of trade union rights. Suriname has model legislation on trade union rights and indeed, as may be seen from the information obtained during the mission, there are no practical limitations on trade union action. However, if the events of 8 December 1982 have not put a stop to the exercise of trade union rights they have undoubtedly created a climate in which the consequences of the exercise of these rights is far from being certain. Strikes and collective bargaining still go on but trade unions, in particular, must obviously think twice before embarking on any action which might be interpreted by the Government as being a political act of opposition.

54. Following the death of Daal the ICFTU-affiliated Moederbond is greatly weakened. The new leadership - constitutionally elected - is less charismatic, less aggressive and perhaps less politically motivated than Daal. It resents the criticism that it "collaborates" with the military but rather sees the situation as one in which a pragmatic approach must be taken in the present circumstances. Unless this organisation is successful in eliminating the differences that exist amongst its executive, it is likely to break up into smaller, weaker factions which would be undesirable for the trade union movement as a whole.

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55. It only remains for me to express my sincere thanks to the Government of Suriname and, in particular to the members of the National Commission for their courteous assistance in organising the mission's programme. I also wish to thank the representatives of all the workers' and employers' organisations whose helpfulness was greatly appreciated.

W.R. Simpson
Geneva, September 1983.

Case No. 1173

COMPLAINT PRESENTED BY THE WORLD CONFEDERATION OF
ORGANISATIONS OF THE TEACHING PROFESSION AGAINST
THE GOVERNMENT OF CANADA (BRITISH COLUMBIA)

551. In a communication dated 29 December 1982, the World Confederation of Organisations of the Teaching Profession (WCOTP) presented a complaint of violations of trade union rights in Canada/British Columbia. It sent additional information in support of its complaint on 21 January, 10 February, 25 August and 31 October 1983. The Government sent its observations on the WCOTP's initial communications in a letter dated 17 May 1983.

552. Canada has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); it has not ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151) or the Collective Bargaining Convention, 1981 (No. 154).

A. The complainant's allegations

553. In its communication of 29 December 1982, the WCOTP states that, due to sudden reductions in school board budgets imposed by the Provincial Government, current collective agreements between teachers and their employers, the school boards, will not be implemented and a large number of teachers may face dismissal. It also alleges that emergency legislation orders that salaries specified in collective agreements be reduced by five or 11 days' pay in view of a reduction by five days in the length of the school year.

554. The complainant points out that, although school boards are responsible for their own budgets, the tax procedures are such that boards are dependent on annual grants from the Provincial Government. The reduction of such grants is of such a magnitude that boards cannot meet the salary obligations arising from the current collective agreements. Accordingly, in some school districts the boards are offering unions the choice between voluntarily reopening collective agreements and accepting salary roll-backs or dismissal of teachers.

555. According to the WCOTP, the Minister of Education has called on teachers to accept renegotiation and has stated that he will use the financing formula to force a freeze on salaries for 1983. Although the pertinent provincial legislation is silent on the right of public servants to strike outside collective bargaining issues, the Minister of Education has threatened to dismiss any teachers who take part in any work stoppage called in protest against the measures described above.

556. In its communication of 21 January 1983, the WCOTP supplies a copy of the emergency legislation - the School Services (Interim) Act - which became law on 14 October 1982. According to sections 1(3) and 5(3), the school boards shall reduce salary instalments payable to each employee by an amount equal to five working days' pay between the period 1 January 1983 to 30 June 1983 and, if there is no agreement between boards and teachers over non-payable non-teaching days during the 1982-83 school year, a further reduction of two working days' pay shall be made per month for the months of October, November and December 1982. The complainant points out that, under section 2, the Act is deemed to prevail over any provisions of a contract or existing law which conflict with the Act.

557. While noting that the Government of Canada has not ratified Conventions Nos. 98 and 154, the complainant alleges that this unilateral change in the terms of existing collective agreements constitutes a breach of the principle of bilateral determination of collective bargaining.

558. In addition, according to the WCOTP, the public comments of the Minister of Education threatening layoffs if agreements or awards grant salary increases, no matter how small, improperly affected arbitration proceedings which are compulsory in the case of failure to reach bilateral agreement. The complainant encloses a copy of the comments of one arbitration board referring to the Minister's threats as "totally unwarranted and an improper interference in the judicial functions of this board".

559. The complainant's communication of 10 February 1983 contains a copy of the decision of a highly respected arbitrator in the final stage of salary negotiations between certain teachers and their employing boards. The judgement - dated 4 December 1982 - refers to the discriminatory effect of the new Act (in that teachers alone bear the burden of salary reductions in agreed rates) and in particular awards an increase of 3.5 per cent for the teachers concerned despite the recommendations of the Minister of Education referred to above.

560. In its communication of 25 August 1983, the WCOTP refers to further draft provincial legislation which appears to have the objective of putting an end to the possibility of collective bargaining by public servants in general and teachers in particular. It encloses copies of the three Bills in question. The first is Bill 3 "the Public Sector Restraint Act" which empowers the employer, with unfettered discretion and without appeal, to dismiss employees for a wide range of economic reasons; where the existing collective agreements provide for due process, that provision remains valid only until the original intended date of expiry of the agreement, even if the agreement as a whole is unilaterally extended by other government measures. In addition Bill 3 applies the designation of "senior manager" to "a principal or vice-principal or any other teacher who is employed by a school board and who holds a supervisory position" thereby enabling the Lieutenant Governor in Council to fix their salaries, classification and terms of employment, rather than through the process of collective bargaining.

561. According to the complainant, Bill 11 amending "the Compensation Stabilisation Act" makes permanent the controls on collective bargaining which were introduced in 1982 as an emergency measure for a two-year period and adds further controls on collective bargaining. This Bill provides that the paramount consideration for determining compensation is the public sector employer's ability to pay. The complainant views this as dangerous in view of yet another bill, Bill 6 "the Interim Education Finance Act", under which the Government gives itself the power to control the ability to pay of the

teachers' employers namely the school boards. The WCOTP also alleges that Bill 11 empowers a government-appointed Commissioner to limit increases in, maintain or reduce compensation in the public sector in accordance with regulations issued by the Government at its pleasure.

562. The third piece of offending legislation in the complainant's opinion is Bill 26 amending "the Employment Standards Act" in such a fashion that where a collective agreement makes any provision regarding one of a number of matters listed in the Bill (e.g. hours of work, vacation, maternity leave, layoff), all the provisions of the Act regarding that matter - including those more favourable legislative provisions - are rendered invalid. Accordingly, states the complainant, in the British Columbian teachers' bargaining situation, if the employees manage to gain incomplete contractual conditions supplementary to the minimum standards contained in the Employment Standards Act, they risk losing even that minimum protection for all aspects of the negotiated item.

563. In a further communication dated 31 October 1983, the WCOTP states that the draft legislation referred to above has become law with two principal amendments being of concern to this complainant, namely the Public Sector Restraint Act (formerly Bill 3) which automatically designates school principals, vice-principals and other supervisory personnel as persons whose salaries will be unilaterally set by Cabinet without the formality of having them designated as "senior management" and, secondly, the Interim Education Finance Act (formerly Bill 6) which is in force until 31 December 1986. This means that the Government will control the employers' (the school boards') ability to pay teachers' salaries until then.

B. The Government's reply

564. In its communication of 17 May 1983, the Government refers firstly to the serious recessionary period of 1982-83 and states that the Province's large budgetary deficit was due to circumstances outside its control such as high interest rates, slumping energy demands and restrictive monetary policies all of which were initiated elsewhere. It points out that, in view of this emergency situation, the Government of British Columbia introduced an economic stabilisation programme comprised of a "restraint in Government programme" and a "compensation stabilisation programme", both of which apply to all provincial and municipal government employees numbering about 225,000.

565. The Provincial Government stresses that its "compensation stabilisation programme" is not discriminatory, is limited to two years, does not violate or reopen existing collective agreements (unless both parties agree), does not affect the right to free

collective bargaining or the right to strike and suggests merely voluntary guide-lines for wage increases of 0 to 10 per cent in the first year and 0 to 9 per cent in the second year. At the date of writing, 500 compensation plans covering nearly 100,000 public employees had been settled.

566. As regards the specific allegations in this case, the Government of British Columbia describes the usual process of collective bargaining for teachers and points out that the only change under the "compensation stabilisation programme" is that negotiated agreements (or awards where arbitration has been resorted to) are translated into a form in which they become compensation plans. Such plans must be submitted for review to the Commissioner charged with the administration of the programme. According to the Government, he has received all of the awards governing teachers which, by law, had to be made by 31 December 1982. The Government states that 11 compensation plans concerning teachers have been approved; they provide for increased rates of pay from 0 to 3.61 per cent - with individual local circumstances determining the actual pay increase - and take account of the Province's ability to pay during this temporary recession.

567. Regarding the reduction in the length of the school year, the Government of British Columbia notes that this only affects the amount of pay for teachers in 1983, not the rate of pay which was determined by collective bargaining. It also points out that the reduction results in increased productivity.

568. As regards the alleged threats against any protest action by teachers, the Government of British Columbia explains that at the moment strikes by teachers do not have the protection of the British Columbian Labour Code and unauthorised absences from the classroom are classified under the School Act as misconduct which is subject to disciplinary action, including dismissal. It further points out that strikes or lock-outs during the term of a collective agreement - which would be the situation of such action by teachers - have been illegal in every jurisdiction of Canada (except Saskatchewan) for the past 39 years. The Government replies to the allegation that the Minister of Education's statements influenced the arbitration processes by asserting that none of the 13 arbitration boards which sat in 1982 made the zero award recommended by the Minister, so they were obviously not intimidated. Moreover, according to the Government, the Minister has the right and the duty to make his views known as to the budgetary implications of the results of salary negotiations.

569. Lastly, the Government stresses that this flexible provincial programme of wage comparability and stabilisation meets its obligation to its population of preserving jobs and services and, being of a temporary and extraordinary nature, works fairly and without discrimination.

C. The Committee's conclusions

570. The Committee notes that this case essentially concerns alleged interference in collective bargaining through legislative provisions which effectively reduce the amount of pay to be received by a certain category of British Columbian public servants, namely teachers, in the 1982-83 school year which had previously been agreed upon during voluntary collective bargaining. There is an additional allegation that the provincial Minister of Education publicly threatened layoffs if any future collective agreements or awards granted any wage increases, no matter how small, and threatened dismissals if teachers attempted to protest the new legislation.

571. In addition, the Committee notes that the most recent communication from the complainant introduces new allegations concerning wage restraint legislation of British Columbia, to which the Government has not yet replied. The Committee will examine these allegations at a later date when it is seized of the Government's observations.

572. The Committee notes the Government's argument that, faced with an extraordinary economic recession, it was forced to introduce programmes for a two-year period to stabilise wages in the public sector. However, the Committee observes that the allegation under examination at present does not criticise the general wage restraint programme of the Government; on the contrary, the issue is that the Government is forcing particular public employers, the school boards, to resile previously agreed, existing contracts. The Government partly recognises this when it stresses that the legislation does not affect future collective bargaining or the right to strike or arbitration procedures.

573. After examining the legislation in question - the School Services (Interim) Act, the effect of which is to modify, in an adverse manner, the provisions of freely concluded collective agreements, the Committee concludes that such action is not consistent with the principles of freedom of association, all the more so because the legislation was adopted apparently without consultation with the workers involved, their unions or representatives. The Committee has stressed in the past¹ the importance it attaches to the principle of the autonomy of the parties to the collective bargaining process, a principle generally recognised in the preparatory discussions that led to the adoption by the International Labour Conference in 1981 of the Collective Bargaining Convention (No. 154). It follows from this

¹ See, for example, 211th Report, Case No. 1052 (Panama), para. 155.

principle that the public authorities should not as a rule intervene in order to modify the contents of collective agreements freely concluded. The Committee would also recall that restrictions on the right to collective bargaining might only be acceptable on condition that they are of an exceptional nature and only to the extent that they are necessary, without exceeding a reasonable period, and that they are accompanied by adequate safeguards to protect workers' living standards.

574. As regards the budgetary restrictions imposed in the present case and which limited the possibilities of the employing authorities of fulfilling their obligations, the Committee considers that the exercise of financial powers in a manner that prevents compliance with collective agreements already entered into by public bodies is not consistent with the principle of free collective bargaining.

575. An equally serious issue is raised in the Government's reply which, although not the subject of allegations, merits consideration by the Committee. The Committee notes that under the Government's compensation stabilisation programme, freely concluded agreements or awards are translated into so-called compensation plans which must be submitted for review to the Commissioner responsible for the programme. It appears that if such agreements or awards grant too high wage increases they can be disapproved. The Committee considers this a discouragement to the use of voluntary collective bargaining,¹ and, even where the intervention by the public authorities is essentially for the purpose of ensuring that the negotiating parties subordinate their interests to the economic policy pursued by the Government, irrespective of whether they agree with that policy or not, it is incompatible with the principle of non-interference by the public authorities.²

576. The allegation of threatened layoffs if any wage increases are granted is answered by the Government by reference to the fact that, to date, in spite of its guide-lines and certain statements made, 11 compensation plans involving increases of up to 3.6 per cent for teachers have been approved without any layoffs being made. In addition, the Committee notes the British Columbian arbitration boards' determination not to be swayed by public announcements, as evidenced by the information supplied by the complainant. It accordingly considers that this aspect of the case does not call for further examination.

¹ See, for example, 176th Report, Case No. 823 (Chile), para. 23.

² See, for example, 65th Report, Case No. 266 (Portugal), para. 70.

577. In addition, as regards the Minister of Education's public statements regarding possible dismissals if teachers take protest action in the form of work stoppages against the new legislation which according to the Government, would constitute "unauthorised absence from the classroom", and hence "misconduct" under the School Act, the Committee notes that neither the School Act nor the School Act Regulation define what constitutes "misconduct". Despite the Government's claim that strike action could fall into this category because it would be an "unauthorised absence from the classroom", the Committee can find no justification for this reasoning in the Act itself or the Regulation. Moreover, the Committee would point out that the principle whereby the right to strike may be limited or prohibited in the public service or in essential services, whether public, semi-public or private, would become meaningless if the legislation defined the public service or essential services too broadly. Such prohibition should be confined to public servants acting in their capacity at agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committee considers that teachers do not fall within this definition.¹ The Committee notes, however, that no allegation has been made that any dismissals have taken place as a result of protest action.

The Committee's recommendations

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

- (a) The Committee notes that the Government has not yet replied to the complainant's most recent communication referring to three recent pieces of British Columbian legislation on wage restraint and will, therefore, adjourn its examination of the new allegations until it has received the Government's observations.
- (b) As regards the alleged interference in collective bargaining through legislative provisions which effectively reduce the amount of pay to be received by teachers in the 1982-83 school year despite current collective agreements, the Committee considers that such action is not consistent with the principles

¹ See, for example, 221st Report, Case No. 1097 (Poland), para. 84; 226th Report, Case No. 1166 (Honduras), para. 343.

of freedom of association, all the more so because the legislation in question was adopted apparently without consultation with the workers involved.

- (c) As regards the budgetary restrictions imposed in the present case and which limited the possibility of the employing authorities of fulfilling their obligations i.e. the school boards' ability to pay teachers the sums previously agreed upon, the Committee considers that the exercise of financial powers in a manner that prevents compliance with collective agreements already entered into by public bodies is not consistent with the principle of free collective bargaining.
- (d) The Committee observes from the Provincial Government's general reply that its legislation package for public servants, including teachers, provides for the submission of negotiated agreements or awards to a public authority for approval. The Committee would point out that such action is not only liable to discourage the use of voluntary collective bargaining, but that it is also incompatible with the principle of non-interference in the collective bargaining process by the public authorities.
- (e) The Committee considers that the allegations regarding threats of layoffs of teachers and dismissals for misconduct made by the Minister of Education in public statements do not call for further examination; it would, however, draw the attention of the Government to the principle that a prohibition against the right to strike for public servants should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

Case No. 1186

COMPLAINTS PRESENTED BY THE INTERNATIONAL UNION OF METALLURGY
TRADE UNIONS, THE INTERNATIONAL CONFEDERATION OF FREE TRADE
UNIONS AND THE WORLD FEDERATION OF TRADE UNIONS
AGAINST THE GOVERNMENT OF CHILE

579. The complaints appear in communications from the International Union of Metallurgy Trade Unions (UISMETAL), the International Confederation of Free Trade Unions (ICFTU) and the World Federation of Trade Unions (WFTU) dated 21, 24 and 28 March 1983, respectively. The Government replied in a communication of 5 May 1983.

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

A. The complainants' allegations

581. UISMETAL, the ICFTU and the WFTU allege that on 18 March 1983 the police forcibly entered the headquarters of the Trade Union Confederation of Metallurgy Workers (CONSTRAMET), removed all the equipment and documents of that organisation, and the following day arrested its President, Ricardo Lecaros.

582. The ICFTU adds in its communication of 24 March 1983 that Mr. Lecaros is still being held in custody by the Chilean police, although no charges have been filed against him. The ICFTU further indicates that in 1980 Mr. Lecaros, together with other trade unionists, was tried, convicted and sentenced to 541 days in prison for organising the Confederation.

583. Finally, according to the WFTU, José Enrique Muñoz and Ramón Avello,¹ also CONSTRAMET leaders, were arrested on 24 March 1983 and their present whereabouts are unknown.

B. The Government's reply

584. The Government states that on 18 March 1983, Ricardo Lecaros González, President of the Trade Union Confederation of Metallurgy Trade Unions, was arrested and turned over to the courts. The grounds for his arrest were the discovery at Confederation headquarters of packages containing thousands of pamphlets with texts contrary to public order and security.

585. The Government adds that the Appeals Court of Santiago appointed an examining magistrate to determine whether a crime had been committed and to assign responsibility therefor. Having examined the facts and heard the testimony of the accused, the magistrate ruled that he bore no responsibility for the possible distribution of the pamphlets, and ordered his immediate and unconditional release. It is important to note that the existence of

¹ More detailed allegations concerning the detention of Mr. Avello have been made in Case No. 1191 and the Committee will examine these in that context.

the pamphlets was never at issue, only their presumed distribution, of which Mr. Lecaros was cleared of any responsibility.

586. Finally, the Government states that Messrs. José Enrique Muñoz and Ramón Avello, mentioned in the communication of the World Federation of Trade Unions, are not in custody.

C. The Committee's conclusions

587. The Committee notes that the allegations presented in the present case concern the arrest of three CONSTRAMET trade union leaders, and forcible entry at CONSTRAMET headquarters with confiscation of equipment and documents.

588. As regards the arrest of the CONSTRAMET trade union leaders, the Committee observes that, according to the Government, José Enrique Muñoz is not in custody. In view of the lack of precise and detailed information supplied by the complainants the Committee can only take note of this statement. The Committee further notes that the grounds for the arrest of Ricardo Lecaros were the discovery at CONSTRAMET headquarters of thousands of pamphlets with texts contrary to public order and security, but that the court, having examined the facts and heard the testimony of this trade union leader, ruled that he bore no responsibility for possible distribution of the pamphlets, and ordered his unconditional release.

589. In these circumstances, since no charges were upheld against Mr. Lecaros by the courts, the Committee regrets that this labour leader was held in custody for several days. The Committee draws to the Government's attention the fact that measures of preventive detention taken against trade union leaders constitute an inadmissible interference in trade union activities.

590. Finally, the Committee notes that the Government has not replied to the allegations of forcible entry and confiscation of equipment and documents at CONSTRAMET headquarters. The Committee requests the Government to submit its observations on those issues.

The Committee's recommendations

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

- (a) In the absence of more precise and detailed information from the complainants, the Committee can only note that, according to the Government, Mr. José Enrique Muñoz is not in custody.
- (b) The Committee regrets that the trade union leader, Mr. Lecaros, now released, was held in custody for several days.
- (c) The Committee draws the Government's attention to the fact that measures of preventive detention taken against trade union leaders constitute an inadmissible interference in trade union activities.
- (d) The Committee requests the Government to reply to the allegations regarding the forcible entry and the confiscation of equipment and documents at the CONSTRAMET headquarters.

Case No. 1200

COMPLAINTS PRESENTED BY THE WORLD FEDERATION OF TRADE UNIONS,
THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS
AND THE WORLD CONFEDERATION OF LABOUR AGAINST
THE GOVERNMENT OF CHILE

592. The complaints are contained in communications from the World Federation of Trade Unions (WFTU), the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) of 3, 6 and 19 May 1983. The WFTU sent additional information in a communication dated 27 May 1983; the ICFTU did likewise in communications dated 27 and 31 May 1983. The Government replied with two communications, dated 13 September and 12 October 1983.

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

A. The complainants' allegations

594. The complainants allege that on 30 April 1983, the headquarters of the National Trade Union of Independent Craftsmen in Santiago was broken into by seven armed civilians without a warrant, who proceeded to arrest 15 union members who were meeting to prepare the forthcoming International Labour Day; those arrested included María Lenina del Canto and Beatriz Salas, leaders of the Manual Workers' Union in the Metropolitan area, Luis Fuentealba, member of the Executive of the National Trade Union Co-ordinating Body (CNS), Ricardo Díaz, member of the CNS National Youth Department and Richard Molina Morgado, employee at the Workers' Church Movement (Vicaría Pastoral Obrera).

595. The complainants allege that the authorities refused the Democratic Union of Workers permission to hold a public gathering to commemorate Labour Day in the Don Bosco hall; they also refused to grant permission to trade union organisations such as the National Trade Union Co-ordinating Council to hold a cultural event in the Plaza de los Artesanos in Santiago, although they had carried out the necessary formalities to obtain a permit.

596. According to the complainants, there were many incidents throughout the country on 1 May, connected with the various events called by the Chilean Trade Union Movement, which were violently put down by the security forces and the police. For instance, the workers who had gathered peacefully in the Plaza de los Artesanos were violently repressed by police forces and para-military groups armed with blunt and sharp instruments, on the pretext that the meeting had been banned. In this particular case, the complainants point out that a group of between 30 and 50 civilians, armed with lassos with balls (bolas) and sharp instruments and working in co-operation with the uniformed police, proceeded to break up the peaceful meeting of workers by attacking them, as well as several journalists who were detained, beaten or assaulted. The complainants mention that this group had already intervened on 2 December of the previous year and that it was the object of an allegation contained in Case No. 1170¹ being examined at the moment.

597. According to the ICFTU, 78 workers were arrested, whereas the WFTU claim that the number arrested reached 300. These included Ricardo Calderón, member of the CNS Youth Department, Raúl Areos, metallurgical trade union leader, who was also wounded, Reinaldo Vallejos and Arnaldo Collados, both theatre artists. Furthermore, many workers were wounded, including the doctor Manuel Almeyda - seriously injured - and the trade union leader and Vice-President of the Confederation of Metallurgical Workers, Manuel Arcos. The acting President of the Confederation of Building Workers, Sergio Troncoso, was also savagely attacked whilst he was giving a talk.

598. Furthermore, the complainants allege that on 16 May, the Ministry of the Interior submitted a request to the Appeals Court that ten members of the Executive Committee of the Confederation of Copper Workers, accused of disturbing the public order, should be brought to trial for various violations of the State Security Act. The accused are: the President of the Confederation, Rodolfo Seguel Molina, and the trade union leaders Roberto Carvajal, Carolos Ogalde, Manuel Rodríguez, Luis Morgado, Raúl Montecinos, Roberto Guerra, Rubén

¹ See 226th Report, Case No. 1170 (Chile), para. 359.

Rivera, José Pérez and Luis Abarca Quinteros. The complainants claim that the charge was made because the Confederation of Copper Workers called a strike for 11 May 1983 and then renounced it in favour of a National Protest Day. In connection with the protest of 11 May, the Ministry of the Interior also summoned the trade union leaders Hernol Flores, Eduardo Ríos and Federico Mujica of the National Association of Employees of State Undertakings (ANEF), the Democratic Union of Workers (UDT) and the Confederation of Private Employees of Chile (CEPCH), respectively.

599. The complainants point out that during the National Protest Day of 11 May, the Chilean security services caused the death of two people: Víctor René Rodríguez, 15 years of age, who died as a result of wounds received from a bullet fired from a car by several policemen who were confronting a group of demonstrators; Víctor Fuente Sepúlveda, 21 years of age, who died in the same way. Furthermore, the violent police repression ended in hundreds of arrests (more than 500 according to the WCL) and tens of wounded.

600. Finally, the complainants allege that the State-run firm CODELCO lodged an appeal with the courts to remove trade union leaders working in various pits from office and to dismiss them. The complainants specifically refer to José Escobar, Raúl Montecino, Sergio Barriga, Nelson Rivera and Sabino Páez (from the El Salvador pit), Sergio Neira, José Pérez, Rafael Guitiérrez and Ricardo Opazo (from the Andina pit), Ramiro Vargas, Carlos Ogalde, Fredy Hinojosa and Nicanor Araya (from the Chuquicamata pit), and Armando Garrido, Manuel Rodríguez, Eugenio López and Rodolfo Seguel (from the El Teniente pit).¹

B. The Government's reply

601. With respect to the events which occurred on 1 May 1983 in the Plaza de los Artesanos, the Government states that the public meeting had not been authorised by the administrative authorities, precisely to avoid disturbances in public law and order; furthermore, the self-proclaimed organisation, the National Trade Union Co-ordinating Body, had not wanted to set itself up in compliance with the law and therefore lacks the representativity to request permission to hold public meetings. If freedom of association is to be valid, it must respect legality; since the self-proclaimed co-ordinating council failed to do this, it is not an occupational workers' association and, as such, lacks the necessary representativity.

¹ The Committee is examining these allegations within the framework of Case No. 1212.

602. Concerning the allegation that a group of civilians violently broke up an unauthorised public meeting on 1 May in the Plaza de los Artesanos, the Government states that the courts were notified of these events; after carrying out a full investigation, they were unable, unfortunately, to obtain the expected positive results. The Government condemns the aforementioned acts of violence and declares that it will deal severely with those found responsible by the courts.

603. The Government adds that Luis Fuentealba was arrested on 30 April 1983 as he had been caught in the process of planning to subvert public order on 1 May. After giving evidence, he was released on 3 May. On 7 July 1983, he was arrested for having infringed the State Security Act and brought before the court. The Appeals Court of Santiago appointed one of its members to set up an investigation, resulting in Lawsuit No. 42-83, which was finally stayed and he was released. The Government points out that Mr. Fuentealba's arrest and prosecution were in no way related to his trade union activities or to his involvement in the ceremony of 1 May 1983.

604. With respect to the alleged arrest of 300 persons, the Government declares that this accusation is totally devoid of truth.

605. Concerning the prosecution of four persons for their role in the events which occurred on 11 May 1983, the Government states that the members of the Executive Committee of the Confederation of Copper Workers organised a national protest movement against the Government which included bringing to a halt or suspending public services, as well as production, transport and trade. The above-mentioned protest ended with various acts of vandalism, resulting in considerable damage to private property, grave disturbances in law and order and paralysed national activities. The Ministry of the Interior, exercising one of the powers conferred upon it by section 26 of the State Security Act, in force since 1958, requested the Appeals Court of Santiago to appoint one of its members to set up an investigation into these occurrences and penalise those allegedly responsible for having committed acts of violence aimed at disturbing public law and order and interfering with the normal running of national activities. The Court of Appeals of Santiago (a civil, ordinary court, independent of the Government), complied with this demand and appointed Hernán Cereceda Bravo as Public Prosecutor. The latter, after carrying out initial investigations, submitted the accused, Rodolfo Seguel Molina, Roberto Carvajal Mieres, Manuel Rodríguez Echeverri and José Pérez Ahumada, to trial for having allegedly committed offences. Later, acting upon the defence counsel's request, he freed them on bail, which was also confirmed by the Court of Appeals. Nevertheless, on 23 September 1983, as a proof of its good intentions, the Government waived the lawsuit brought against the leaders of the Confederation of Copper Workers. On the same day, the Substitute Magistrate of the Court of Appeals declared a general dismissal of the proceedings.

606. With respect to the allegation that members of the Chilean security services had caused the death of two people, including that of a minor of 15 years of age, Víctor Rodríguez Célis, during the events which occurred on 11 May 1983, the Government states that the 14th Court of Criminal Investigation is looking into the responsibility of the alleged offenders, as the mother of the deceased has submitted a complaint of homicidal offence. As a result, the ordinary system of justice will deliberate on this crime. The Government does not consider that this aspect of the case constitutes in any way an alleged violation of freedom of association.

607. Concerning the dismissal of workers by the firm CODELCO, the Government points out that this firm had cancelled the labour contracts of various workers, including several trade union leaders, and that it had acted within the law. The Government declares that the persons concerned had brought an action against the firm, demanding that they be reinstated, and that the courts had not yet pronounced a sentence on the matter. However, the firm CODELCO, at the request of the Government and the trade union leaders, has agreed to set up committees to examine the reinstatement of the dismissed workers.¹

608. The Government concludes by stating that the various aspects contained in this case do not constitute a violation of the freedom of association and that the various measures the authorities have been obliged to adopt are only intended to safeguard the peace and order within the country, in accordance with the Political Constitution of the Republic.

C. The Committee's conclusions

609. The Committee notes that, in the present case, the allegations concern the breaking into a trade union's headquarters and the arrest of trade union leaders and trade unionists who were meeting there on the eve of 1 May 1983, as well as the refusal to grant permission, both to the Democratic Union of Workers and the National Trade Union Co-ordinating Body (CNS), to organise public events on 1 May; the allegations also concern the violent repressive measures taken against the workers who had congregated in the Place de los Artesanos to attend a public meeting of the CNS, measures which had been carried out by the police force in co-operation with the para-military group and which resulted in many persons being wounded and a considerable number of arrests, including also that of trade union leaders. The complainants also allege that the trade union leaders of the Confederation of Copper Workers had been brought to trial for having organised National Protest Day on 11 May 1983;

¹ The Committee is examining the Government's reply on this matter within the framework of Case No. 1212.

furthermore, they allege the death of two persons as a result of shot wounds received from officers in the security services who were confronting a group of demonstrators during this day of protest.

(1) Allegations concerning 1 May

610. With respect to the breaking in of the headquarters of the National Trade Union of Independent Craftsmen on 30 April 1983 by seven armed civilians without a warrant and the arrest of 15 members, including four trade union leaders, as they were meeting to prepare the International Labour Day, the Committee notes that the Government only referred to the arrest of the trade union leader Luis Fuentealba, who, it declared, had been caught on 30 April 1983 in the process of inciting the subversion of public law and order on 1 May and that, once he had made statements, he was released on 3 May.¹ In this respect, the Committee regrets that this trade union leader had been held in detention for four days only to make statements. The Committee also regrets that the Government has not replied either to the allegation concerning the breaking in of the headquarters of the trade union in question or to that concerning the arrest of 14 trade union leaders and trade unionists. The Committee therefore draws the Government's attention to the fact that the right of the inviolability of union premises also necessarily implies that the public authorities cannot enter such premises without having obtained a legal warrant to do so. It also draws the Government's attention to the fact that the detention of trade union leaders or trade unionists for trade union activities, even if this is only for a short period, constitutes an infringement of the principles of freedom of association. The Committee asks the Government to inform it if the trade union leaders and trade unionists in question have already been released.

611. With respect to the allegation concerning the authorities' refusal to allow public trade union meetings to be held on 1 May, especially the meeting called by the CNS in the Plaza de los Artesanos, the Committee notes that permission was refused on the grounds that it might disturb public law and order and that the CNS lacked the representativity to hold public meetings. In this respect, the Committee considers that as the CNS is an organisation which aims at promoting and defending workers' interests, it should enjoy the right to organise public meetings and demonstrations. In this context, the Committee wishes to point out that it itself has recognised the CNS as a trade union organisation on several occasions and declared its complaints receivable. On previous occasions, the

¹ The Government had also pointed out that this trade union leader was arrested only for one day on 7 July 1983 for reasons which had nothing to do with the allegations contained in the present complaint.