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Nigeria (ratifications: 1961/1960)

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

Convention (n° 26) sur les méthodes de fixation des salaires minima, 1928 (ratification: 1961)

Convenio sobre los métodos para la fijación de salarios mínimos, 1928 (núm. 26) (ratificación: 1961)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Convention (n° 95) sur la protection du salaire, 1949 (ratification: 1960)

Convenio sobre la protección del salario, 1949 (núm. 95) (ratificación: 1960)

Written information provided by the Government

The Government has provided the following written information.

On Article 1 of Convention No. 26 dealing with the scope of minimum wage, we note the Committee's observation on section 4 of the new National Minimum Wage Act 2019 on the exclusion of some categories of workers and which to state that the reduction of the minimum size of establishment to which the national minimum wage applies, from 50 to 25 persons, was a decision adopted by the Tripartite Committee on National Minimum Wage, after an extensive consideration of our national conditions and practices. It may also be noted that establishments employing less than 25 persons are usually in the informal economy and it is hoped that with the recent emerging focus on the informal economy, especially from the social protection perspective, the issue of scope of coverage may be revisited in the next review of the National Minimum Wage Act.

On Article 4(1) of Convention No. 26 dealing with the system of supervision and sanctions and the Nigeria Labour Congress (NLC) observations on non-compliant States in the Federation, we state that by the provisions of Item 34 of the Legislative Powers in the Nigerian Constitution, the matter of prescribing the national minimum wage for the Federation, and any part thereof, resides with the Federal Government on the Exclusive Legislative List. Accordingly, the four States yet to commence the payment of the national minimum wage are being monitored jointly by the State Labour Offices of the Federal Ministry of Labour and Employment in the concerned States, and the National Salaries, Incomes and Wages Commission, to ensure compliance. In this regard, the provisions of sections 12 and 13 of the National Minimum Wage Act 2019 on Monitoring, Compliance and Enforcement cover the steps to be taken by a worker or trade union on non-compliant employers to ensure social justice and equity. It should also be noted that during the minimum wage-fixing, the newly established standing Tripartite Committee machinery included the representative of the State Governors' Forum and they are therefore part of the process that gave rise to the new national minimum wage.

On Article 2 of Convention No. 95 on the protection of wages of homeworkers and domestic workers, we state that the practice of homeworking is not quite prevalent in Nigeria in terms of employment relationships. Homeworkers are usually self-employed workers found mostly in the informal economy and are engaged to work on a contractual basis with a beneficiary of their services or labour. Domestic workers are more common in household employment relationships and hence the emphasis of the reviewed Labour Bill on Domestic Workers.

We also note the Committee's observations on Articles 6, 12(1) and 7(2) of Convention No. 95 and reiterate the commitment of the Government to ensure the protection of workers' freedom to dispose of their wages by ensuring non-compulsion on how, where, and when such wages are expended and also protects and promotes periodicity of payment of wages. Sections 2, 3, and 6 of our extant Labour Act guarantee this freedom and non-exploitation of workers' wages. Integrated labour inspection enables supervision and application of sanctions where a breach is dictated and workers also have the right to bring a complaint against any ailing employer(s) to the Federal Ministry of Labour right from the District Labour Offices, the State Labour Offices, the Regional Labour Offices, and to the Minister of Labour and Employment. In a further bid at strengthening and reinforcing measures to ensure regular payment of wages, we intend to utilize the machinery of the National Labour Advisory Council (NLAC) with memberships comprising all 36 States of the Federation and FCT to drive home the need for protection of wages. The Committee is further assured that section 35 of the extant Labour Act which had been moribund, has been reviewed during the National Tripartite Labour Bill Reviews which had the ILO Regional Office for Nigeria, Ghana, Liberia, in attendance.

On the provisions of Article 14 on the provision of information on wages before entering employment and wage/pay statements, we state that section 7 of our extant Labour Act enjoins an employer to make available to an employee or worker a written statement specifying the particulars of that employment including the rates of wages and method of calculation thereof, as well as manner and periodicity of payment. Payslips are given to workers and are available on request retrospectively to ensure that workers are acquainted with the structure and nature of their wages.

We would like to conclude by stating unequivocally that Nigeria has, by the provisions of the National Minimum Wage Act, established The Tripartite Committee on National Minimum Wage as a statutory national minimum wage-fixing machinery. The Tripartite Committee consists of representatives of Government, organized labour and private sector employers on equal representation with a "plus" factor consisting of representatives from the informal economy. Also wage protection is of great concern to the Government and is within the mandate of the Federal Ministry of Labour and Employment, with State Labour Offices in the 36 States of the Federation and the Federal Capital Territory, as well as regional offices in the six geo-political zones in the country. The workers are also accorded a "voice" by extant labour laws to lodge labour complaints on any infringement up to the National Industrial Court and Appeals Court where need be.

Discussion by the Committee

Government representative – We thank the Committee for this opportunity to present our comments on the observation made by the Committee of Experts on the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and the Protection of Wages Convention, 1949 (No. 95).

The Government of Nigeria ratified Convention No. 26 in 1961, and Convention No. 95 in 1960. We would like to note with thanks the observations made by the Committee of Experts on the minimum wage fixing machinery and protection of wages covered by Conventions Nos 26 and 95, respectively.

On Article 1 of Convention No. 26, dealing with the scope of the minimum wage, we note the Committee of Experts' observation on section 4 of the new National Minimum Wage Act 2019, which deals with the exclusion of some categories of workers, and we wish to state that the minimum size of establishments to which the national minimum wage applies has been reduced from 50 to 25 persons – because, in the last Minimum Wage Act, the number of persons for exclusion was 50, which has now been reduced to 25 persons. This was a decision adopted by the Tripartite Committee on National Minimum Wage after an extensive consideration of our national conditions and practices. It may also be noted that the establishments that employ less than 25 persons are usually in the informal economy, and it is hoped that with the recent emerging focus on the informal economy, especially from the social protection perspective, the scope of coverage may be revisited in the next review of the National Minimum Wage Act.

On Article 4(1) of Convention No. 26, dealing with systems of supervision and sanctions, and the Nigeria Labour Congress (NLC) observations on non-compliant states in the Federation, we state that, under the provisions of Item 34 of the Legislative Powers in the Nigerian Constitution, the matter of prescribing the national minimum wage for the Federation and any parts thereof resides with the Federal Government on the Exclusive Legislative List.

Accordingly, the four states which have yet to commence the payment of the national minimum wage are being monitored jointly by the State Labour Offices of the Federal Ministry of Labour and Employment in the concerned states and in the National Salaries, Incomes and Wages Commission, in order to ensure compliance. In this regard, the provisions of sections 12 and 13 of the National Minimum Wage Act 2019 on monitoring, compliance and enforcement cover the steps to be taken by a worker or a trade union against non-compliant employers, to ensure social justice and equity. It should also be noted that during the minimum wage fixing, the newly established standing tripartite committee machinery included the representatives of the State Governors' Forum, and they are therefore part of the process that gave rise to the new national minimum wage.

Similarly, on Article 2 of Convention No. 95, on the protection of wages of homeworkers and domestic workers, we would like to state that the practice of homeworking is not quite prevalent in Nigeria in terms of employment relationships. Homeworkers are usually self-employed workers found mostly in the informal economy and are engaged to work on a contractual basis with the beneficiary of their services or labour. Domestic workers are more common in household employment relationships, hence the emphasis of the reviewed Labour Bill on domestic workers.

We also note the Committee of Experts' observations on Articles 6, 12(1) and 7(2) of Convention No. 95. I reiterate the commitment of the Government of Nigeria to ensure the protection of workers' freedom to dispose of their wages by ensuring non-compulsion on how, where, and when such wages are expended, and to protect and promote the periodicity of payment of wages.

Sections 2, 3 and 6 of our extant Labour Act guarantee this freedom and non-exploitation of workers' wages. Integrated labour inspection enables supervision and application of sanctions where a breach is detected, and workers also have the right to bring a complaint against any erring employer or employers to the Federal Ministry of Labour. This process starts

from the district labour offices to the state labour offices, the regional labour offices and to the Minister of Labour and Employment.

In a further bid to strengthen and reinforce measures to ensure the regular payment of wages, we intent to utilize the machinery of the National Labour Advisory Council with membership comprising all 36 states of the Federation and the Federal Capital Territory, to drive home the need for protection of wages. The Committee is further assured that section 35 of the extant Labour Act, which had been moribund, has been reviewed during the national tripartite Labour Bill reviews, which had the ILO Country Office for Nigeria, Ghana, Liberia and Sierra Leone in attendance.

On the provisions of Article 14 of Convention No. 95 on the provision of information on wages before entering employment and wage statements, we further want to state that section 7 of our extant Labour Act enjoins an employer to make available to an employee or worker a written statement specifying the particulars of that employment, including the rates of wages and method of calculation thereof, as well as the manner and periodicity of payment. Further to this, payslips are given to workers and are available on request retrospectively to ensure that workers are acquainted with the structure and nature of their wages.

We would like to conclude by stating unequivocally that Nigeria has, by the provisions of the National Minimum Wage Act, established the Tripartite Committee on National Minimum Wage as a statutory national minimum wage fixing machinery. The Tripartite Committee consists of representatives of Government, organized labour and private sector employers with equal representation, with a "plus" factor consisting of representatives from the informal economy. Also, wage protection is of great concern to the Government and is within the mandate of the Federal Ministry of Labour and Employment with state labour offices in the 36 states of the Federation and the Federal Capital Territory, as well as regional offices in the six geopolitical zones in the country. The workers are also accorded a voice by extant labour laws to lodge labour complaints on any infringements with the National Industrial Court and Appeals Court, where the need arises.

Employer members – This case involves the application in law and practice by Nigeria of Convention No. 26 and Convention No. 95. These are both technical Conventions which Nigeria ratified in 1961 and 1960, respectively. Although the case is being discussed in the Committee for the first time, this is the third observation by the Committee of Experts on these Conventions since 2001. We note that the Committee of Experts dealt with Conventions Nos 26 and 95 in a consolidated comment.

The Committee of Experts raised two issues of concern under Convention No. 26. First, under Article 1 of the Convention: "Each Member of the International Labour Organisation which ratifies this Convention undertakes to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low".

The Committee of Experts noted that Nigeria's National Minimum Wage Act did not cover in its scope all workers in need of protection. The Committee of Experts requested the Government to rectify this in the context of the next review of the national minimum wage and provide information on progress made in this regard. On this aspect, the Employer members note the information submitted by the Government that the scope of coverage of the national minimum wage has already been reviewed following a decision adopted by the Tripartite Committee on National Minimum Wage, by reducing the size of covered establishments from 50 to 25 employed persons.

We also note the Government's commitment to revisit the scope of coverage in the next review of the National Minimum Wage Act. We accordingly invite the Government to provide information to the Committee of Experts on this matter, in consultation with the most representative employers' and workers' organizations.

The second issue of concern relates to Article 4 of Convention No. 26, specifically, the observations by the Nigeria Labour Congress (NLC) that some states were reluctant to apply the law on the national minimum wage. The Committee of Experts invited the Government to comment and indicate how it ensures the application of the national minimum wage at all levels, including at the state level. In this regard, we welcome the Government's comments that national minimum wage matters are the competence of the Federal Government under the Nigerian Constitution, and that measures at both federal and state levels have been undertaken to monitor the four states that are yet to start paying the national minimum wage. We therefore invite the Government to continue working with the most representative employers' and workers' organizations to ensure that all states in Nigeria comply with the obligations in terms of the national minimum wage.

Turning now to Convention No. 95 on the protection of wages. Article 2 of the Convention states: "1. This Convention applies to all persons to whom wages are paid or payable. 2. The competent authority may, after consultation with the organisations of employers and employed persons directly concerned, if such exist, exclude from the application of all or any of the provisions of the Convention categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are not employed in manual labour or are employed in domestic service or work similar thereto. 3. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any categories of persons which it proposes to exclude from the application of all or any of the provisions of the Convention in accordance with the provisions of the preceding paragraph; no Member shall, after the date of its first annual report, make exclusions except in respect of categories of persons so indicated. 4. Each Member having indicated in its first annual report categories of persons which it proposes to exclude from the application of all or any of the provisions of the Convention shall indicate in subsequent annual reports any categories of persons in respect of which it renounces the right to have recourse to the provisions of paragraph 2 of this Article and any progress which may have been made with a view to the application of the Convention to such categories of persons".

We note the Government's comments that homeworkers are not a prevalent phenomenon in Nigeria, except in the informal economy, and that emphasis is on domestic workers in the reviewed Labour Bill. The Employer members accordingly invite the Government to continue working to finalize the review of the Labour Bill, taking into account the national realities and in consultation with the most representative employers' and workers' organizations. The Government is also invited to provide information on progress in this regard to the Committee of Experts before 1 September 2022.

With respect to Articles 6, 7(2) and 12(1) of Convention No. 95, the Committee of Experts called on the Government to revise section 35 of the Labour Act, which allows the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until completion of their contracts. This provision is inconsistent with workers' freedom to dispose of their wages and with the requirement of payment of wages at regular intervals.

The Committee of Experts also called on the Government to indicate the measures taken to ensure that workers are not exploited when procuring goods and services from their employers.

We welcome the Government's indication that there are various protections in law and practice that ensure workers' freedom to dispose of their wages at will, guarantee regularity of payments and protect them against exploitation. The Government also stated that section 35 of the Labour Act was reviewed during the National Tripartite Labour Bill Reviews.

The Employer members, therefore, call on the Government to provide information in this regard to the Committee of Experts by 1 September 2022, including a copy of the reviewed section 35 of the Labour Act.

In respect of Article 14 of Convention No. 95, we note that the Convention states: "Where necessary, effective measures shall be taken to ensure that workers are informed, in an appropriate and easily understandable manner-- (a) before they enter employment and when any changes take place, of the conditions in respect of wages under which they are employed; and (b) at the time of each payment of wages, of the particulars of their wages for the pay period concerned, in so far as such particulars may be subject to change".

The Committee of Experts noted provisions of the Labour Act that were inconsistent with the requirements to inform workers of the applicable wage conditions before they enter employment, as well as for wage statements to be issued to them at the time of each payment. We note the Government's information that section 7 of the Labour Act satisfies the requirements by requiring a written statement of employment particulars to be given to the employee, including rates and methods of calculation of wages, as well as the manner and periodicity of payment.

We would welcome, in this regard, information from the Government on whether the Labour Act provides that all this information be given to workers before they enter employment.

Finally, the Employer members invite the Government to continue working with its social partners when harmonizing national laws with Convention No. 26 and Convention No. 95, taking into account the national realities in Nigeria, including the needs of sustainable enterprises.

Worker members – This is the first time this Committee is discussing the application of Convention No. 26 and Convention No. 95 in Nigeria.

Nigeria ratified these instruments in 1961 and 1960, respectively, as was already mentioned by the Employer members. However, the existing legal provisions contradicting international labour standards on minimum wage fixing and protection of wages demonstrate the failure of Nigeria to fully comply with Conventions Nos 26 and 95.

First, minimum wage coverage still does not extend to several categories of workers. Workers in establishments employing less than 25 persons; workers paid on commission or on a piece-rate basis, as well as workers in seasonal employment such as agriculture, are still excluded from the scope of the National Minimum Wage Act despite its revision in 2019.

We urge the Government to extend the minimum wage coverage to the categories of workers currently excluded which are in need of such protection, and to take measures to ensure equal remuneration for men and women for work of equal value, including with regard to minimum wage coverage.

The Worker members are also concerned about the lack of adequate systems of supervision and sanction. We note that the Nigeria Labour Congress (NLC) reported to the Committee of Experts that governments at the state level are reluctant to implement the law on the minimum wage. We must point out, as highlighted by the Committee of Experts, that each Member which ratifies a Convention of the ILO must take the necessary measures by way of a system of supervision and sanctions to ensure that the employers and workers concerned are informed of the minimum wage rates in force. The Government must provide further information on how it ensures that the national minimum wage is applied at all levels.

We call on the Government to ensure that state governments respect national minimum wage laws, in line with its obligations under both Conventions, and to put in place a system of supervision and sanctions to enforce its application at all levels.

The Worker members further note gaps in the protection of wages of homeworkers and domestic workers. These two categories are still excluded from the provision of the Labour Act and therefore their wages are not protected. The Government must finalize the legislative reform in this area by extending the relevant protection to these two categories of workers.

Additionally, we urge the Government to implement earlier recommendations of the Committee of Experts and to revise provisions of section 35 of the Labour Act that allow the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until the completion of their contract. We remind the Government of the principle contained in Articles 6 and 12(1) of Convention No. 95 that workers should enjoy freedom to dispose of their wages and regular payment of wages. We call on the Government to revise the above-mentioned provisions of the Labour Act accordingly.

We also note that section 6(1), of the Labour Act still provides that the Minister of Labour may, after consultation with the state authority, give approval to an employer to establish a shop for the sale of provisions to his workers. We call on the Government to ensure that section 6(1) is revised to be fully compliant with Article 7(2) of Convention No. 95, which requires that, where access to stores or services other than those operated by the employer is not possible, goods are sold, and services provided, at fair and reasonable prices and for the benefit of workers.

In several states in Nigeria, wages of workers are not paid regularly. We note that wage arrears has become an issue of great concern for workers. We urge the Government to address this issue without further delay by taking the necessary measures such as reinforcing supervision and strengthening sanctions and to provide all the relevant information to the Committee of Experts. In addition, we note that section 7(1) of the Labour Act still provides that rates of wages and methods of calculation and periodicity of the payment shall be communicated to workers not later than three months after the beginning of their employment and that the Labour Act does not provide for wage statements to be issued to workers at the time of each payment. This is contrary to Convention No. 95. The Government must ensure that workers are informed before they enter employment, and when any changes take place, of the conditions in respect of wages under which they are employed, in accordance with Article 14(a) of Convention No. 95.

We recall the importance of ensuring proper minimum wage fixing and protection of wage systems in accordance with Convention No. 26 and Convention No. 95.

Worker member, Nigeria – We have carefully read the report of the Committee of Experts concerning our country relating to Convention No. 26 and Convention No. 95. We warmly welcome and appreciate the message from the Committee of Experts. We shall make

efforts to speak to it by providing additional pieces of information and contexts to assist the job of this noble Committee.

Nigeria is a federal system with a central Government and autonomous governments at state and local levels. Concerning the governance arrangements, labour issues, including the minimum wage, are contained in the exclusive legislative list. Federated states have latitude in designing and implementing similar arrangements that do not reduce or degrade centrally legislated positions. The process that led to the subsisting national minimum wage adoption fulfilled the laid down legislation and procedures with all the relevant social partners and stakeholders. We can confirm that the Federal Government has since made, and continues to make, reasonable efforts to implement the National Minimum Wage Act 2019.

However, we have continued to witness deliberate actions from some state governments from paying this minimum wage of 30,000 Nigerian naira (NGN). Sadly, this same wage has come under severe battering by the combined effects of COVID-19, rising inflation, and the devaluation of the Nigerian currency. The minimum wage currently stands at US\$72 per month. Sadly, four states have not commenced the implementation of the minimum wage, while Abia State (south-east Nigeria) owes workers as much as 18 months of unpaid salaries. This is heartless. Nigerian workers wonder what other adjectives could describe such actions.

The Nigeria Labour Congress (NLC) wishes to affirm that, to the credit of the Federal Government, it has advanced funds to defaulting state governments to offset their unpaid wages. Unfortunately, several of these states hoarded the advanced funds rather than pay wages to starving workers.

This brings us to the issue of enforcement of the National Minimum Wage Act 2019. This Committee should prevail on the Federal Government to demonstrate genuine intentions to apply the Act's rules concerning default in payment of the minimum wages. Where workers' wages have been denied or misappropriated, we have not seen any effort or resolve to bring erring states and other entities to justice.

We have also witnessed that labour inspection and wage administration is weak. It is hampered by the absence of reliable statistics and resources for ensuring effective inspection. The Committee must demand a time-framed plan from the Nigerian Government on how it plans to reverse these weaknesses and on how to eliminate willful default of the application of the legislated national minimum wage.

The main rationale for developing, adopting and applying minimum wages is to have a wage anchor or benchmark below which wages should not fall. The other reasons are to protect unorganized workers, especially the millions in the informal sector of the economy, the majority being women and young people, and to fight poverty and inequality. Organized workers in Nigeria believe that all workers deserve to have a protected living wage. This is why we applaud the Committee of Experts' call on the country to do more to ensure that the national minimum wage covers all categories of workers, including those making a living in the informal sectors of the economy.

During the heat of COVID-19, Nigeria's organized labour and employers' associations came together to carve out an agreement to protect jobs and wages. We are happy to say that this tripartite arrangement preserved the wages of thousands of private sector workers. In a crisis, it is humane, moral, and profitable to put people before profit. And there is no better way to do so than to keep people at work and pay decent wages. In essence, we are saying that to protect wages is to create decent jobs. The unemployment rate in Nigeria is staggering.

The social security net is weak and inadequate. The minimum wage is one safety net that the Nigerian states should judiciously protect.

Membre gouvernementale, Maroc – Le Maroc a l'honneur de prendre la parole au titre de ce point à l'ordre du jour traitant de l'application par le gouvernement du Nigéria des deux conventions internationales du travail, la convention n° 26 et la convention n° 95.

D'après les informations communiquées par le gouvernement du Nigéria, il y a lieu de noter: d'abord, l'engagement du gouvernement du Nigéria en faveur de la protection de la liberté des travailleurs de disposer de leur salaire; ensuite, l'existence d'une inspection du travail intégrée permettant la supervision et l'application des sanctions en cas d'infraction; aussi, l'engagement du gouvernement pour renforcer les mesures visant à garantir le paiement régulier du salaire; et la mise en place de la commission tripartite sur le salaire minimum national en tant que dispositif national obligatoire de fixation des salaires minima.

Ces mesures, entre autres, prouvent que le gouvernement du Nigéria entend bien améliorer la législation et la pratique pour une meilleure application des conventions nos 26 et 95. À cet effet, le Maroc appuie et encourage le gouvernement du Nigéria dans les efforts déployés pour se conformer aux dispositions des deux dites conventions.

Worker member, South Africa – Let me start by stating that minimum wages have been introduced in many developed and developing economies so as to protect vulnerable workers from economic failures and greed corporatism, thereby reducing poverty in our society.

I note that the main objective for Nigeria's Minimum Wage Act is to provide for a national minimum wage, advance economic development and social justice by improving the wages of the lowest paid workers, protecting workers from unreasonably low wages, promoting collective bargaining and supporting economic policy.

In its report, the Committee of Experts noted that Nigeria is not complying with some articles of the Conventions. It has been noted that the Government has failed to extend the scope of the national minimum wage to all workers in Nigeria.

In South Africa, we also have a National Minimum Wage Act and also established the National Minimum Wage Commission chaired by an independent chairperson whose members are drawn from the social partners and independent experts appointed by the Minister of Employment and Labour. The National Minimum Wage Commission reviews the rates on an annual basis and make recommendations to the Minister on any changes to the national minimum wage.

South Africa has, through its basic conditions of employment, introduced earnings thresholds in its Act to protect vulnerable workers and allowed for flexibility regarding employees above the threshold. On inception, domestic workers and farm workers were set at, at least, 75 per cent and 90 per cent of the national minimum wage. As of 2022, the minimum wage for domestic workers is in line with the national minimum wage.

We want to impress on the Nigerian Government to do justice to the workers of Nigeria by implementing the national minimum wage in totality and, further, that it should establish a structure that will oversee the implementation of the national minimum wage and that such a structure should have powers to enforce full compliance with the national minimum wage.

Government member, Ghana – Ghana takes the floor to speak on the concerns raised by the Committee of Experts on Nigeria's commitment to the ILO Conventions Nos 26 and 95. It is refreshing to note that Nigeria has set its legislative framework with the enactment of

regulations to domesticate the essential provisions of these two ILO Conventions in the administration of the minimum wage and the necessary protection due to labour.

Furthermore, it is a step in the right direction that Nigeria has in place an administrative framework for the enforcement of this protection. We believe this provides an effective grievance resolution mechanism to ensure decent work.

It is commendable that the Government of Nigeria has identified the gaps in the legislative framework and is further committed to reviewing its law to help resolve all these lapses.

Just as Ghana enacted its Labour Domestic Workers Regulation, 2020, L.I 2408, to formalize domestic work and address such infractions, we believe Nigeria is on the right path to address these concerns, learning from our experiences in the subregion.

Worker member, Zimbabwe – I would like to commend the Government of Nigeria for coming up with a national minimum wage as a means for wealth distribution. While Africa's economies have grown from 368 billion to 1.3 trillion in the last 15 years, challenges and evidence on the ground shows that this massive growth is not being shared with the majority of people. The Nigerian Government has taken the right steps to address these challenges by establishing national minimum wages as provided for in the National Minimum Wage Act 2019. However, what worries me is the weak enforcement mechanism for such measures and the exclusion of domestic workers, homeworkers and others from the scope of the minimum wage law. This is discriminatory and must be addressed. I am also concerned at the refusal by some federal states in Nigeria to comply with the minimum wage regulations. What is also surprising is the Government's response to the matter. Allowing federal states to refuse to implement the minimum wage is an abrogation of the central Government's responsibilities. The Nigerian Government must provide measurable arrangements which it intends to engineer and deploy in ensuring full compliance by erring states. While the Nigerian Government should not make it look like it is delegating its responsibilities to the ILO, we do agree that tailor-made technical assistance to the Government should be accorded. The Government must act now and strengthen its labour inspection system to ensure that wealth is equitably distributed.

Membre gouvernemental, Algérie – L'Algérie remercie le représentant du gouvernement du Nigéria pour sa déclaration et salue le suivi effectué dans ses derniers rapports, ainsi que ses commentaires sur la mise en œuvre des conclusions de la commission pour donner effet, aussi bien dans le droit que dans la pratique, aux dispositions des conventions internationales du travail nos 26 et 95.

Mon pays se félicite de l'importance soutenue que le gouvernement du Nigéria attache à la mise en œuvre des normes internationales du travail et prend note des résultats des travaux de la commission tripartite sur le salaire minimum national qui prend en considération les conditions et les pratiques nationales. Il salue les engagements du gouvernement à réviser la loi nationale sur le salaire minimum en vue de couvrir les travailleurs exerçant dans les entreprises employant moins de 25 personnes tout en renforçant les actions de contrôle pour améliorer la protection des droits fondamentaux des travailleurs notamment dans le secteur informel.

L'Algérie encourage le gouvernement à poursuivre les réformes pour protéger et valoriser les salaires minimums et réduire les inégalités de salaires à l'effet de répondre aux besoins des travailleurs domestiques, en consultation avec les représentants des employeurs et des travailleurs.

Mon pays estime que la pratique des salaires proportionnelle à la conjoncture économique et sociale décidée par le gouvernement est pleinement conforme aux dispositions des conventions internationales n^{os} 26 et 95 et contribue à renforcer la cohésion sociale et le pouvoir d'achat des travailleurs, en concertation avec les partenaires sociaux. C'est pour toutes ces raisons que l'Algérie invite la commission à prendre en considération les réponses détaillées fournies par le gouvernement fédéral du Nigéria, ainsi que les progrès enregistrés dans ce pays.

Worker member, Canada – The Committee of Experts has noted the exclusions in minimum wage coverage in Nigerian law and calls on the Government to extend the scope of the National Minimum Wage Act to offer coverage to the categories of workers currently excluded and in need of such protection. The Committee of Experts' request represents a very basic step towards achieving decent work goals and ensuring employment that respects the fundamental rights of all workers.

Decent work must be universal. Protections must extend to all workers, including workers in the informal sector, which in Nigeria represents 80 per cent of the workforce and includes casual day labourers, domestic workers, industrial outworkers, undeclared workers and part-time or temporary workers without secure contracts, worker benefits or social protection. According to World Bank figures, 82 per cent of working women in Nigeria are in the informal sector. Minimum wages and strong collective bargaining are important for the transformation from informal to formal work. They are effective shields to protect workers against exploitative practices and unduly low pay and provide a level of income stability for workers and their families.

Exclusions and exemptions erode stable industrial relations. Minimum wages are an important mechanism to counter potentially negative race-to-the bottom business practices that force workers to bear the costs of competition.

We urge the Government of Nigeria to heed the Committee of Experts' request and ensure adequate minimum wage coverage and wage protection for all workers.

Government member, Zimbabwe – Zimbabwe has followed the discussion on Convention No. 26 and Convention No. 95 in respect of the case of the Federal Republic of Nigeria. The information presented before this Committee by the Government of Nigeria shows that the tripartite partners have been consulting each other to find ways of dealing with the challenges that confront them collectively.

Zimbabwe commends the work undertaken by the National Labour Advisory Council and the Tripartite Committee on National Minimum Wage in terms of strengthening their legislation and ensuring protection of the workers. In addition, the Government of Nigeria has highlighted their inclusion of the informal economy players in their tripartite-plus arrangement, which is a demonstration of the Government's commitment to leaving no one behind.

Zimbabwe therefore encourages the Office to provide technical assistance to strengthen social dialogue and to allow the tripartite constituents in Nigeria to address the challenges they face collectively.

Membre employeur, République démocratique du Congo – Pour le membres employeurs que nous représentons, il est tout à fait clair et précis que la loi sur le salaire minimum national de 2019 du Nigéria, par le libellé de son article 4, réduit la taille minimale des établissements auxquels s'applique ladite loi de 50 à 25 personnes, et, de ce fait, heurte indéniablement la convention n^o 26 qui oblige l'État concerné à prendre des mesures

nécessaires, au moyen d'un système de contrôle et de sanctions, pour que, d'une part, les salaires minima soient connus des travailleurs et des employeurs et, d'autre part, que ces salaires minima soient effectivement d'application à tous les niveaux.

En sus, il est constaté sans tergiversation la violation de la convention n° 95 du fait d'avoir écarté de l'application du salaire minimum des travailleurs à domicile et des travailleurs domestiques.

Par ailleurs, sans omettre la liberté du travailleur de disposer de son salaire et de paiement avec intervalles réguliers, tel que consacré aux articles 6 et 12 de la convention n° 95, lesquelles prérogatives étant violées par l'article 35 de la loi sur le travail du Nigéria, il y a nécessité de les restaurer.

À titre de suggestion de solution, nous exhortons le gouvernement du Nigéria à bénéficier de l'assistance technique de l'OIT en vue de rendre conforme sa législation interne du travail aux deux conventions susmentionnées et enfin à encourager le dialogue social entre le gouvernement et ses partenaires sociaux dans le respect des normes internationales du travail.

Worker member, Botswana – We recognize that minimum wage fixing constitutes one element of the policy that ensures the satisfaction of the needs of all workers and their families.

This means that the setting of minimum wages by a country is not effective as a stand-alone. It should be complemented by other initiatives to better realize, ensure and safeguard the welfare and well-being of all workers. One of the best ways to do this is by guaranteeing the protection of remuneration and earnings.

Every worker is deserving of his or her wages, which must be paid on time and when due. We recognize that Nigeria has revived the National Labour Advisory Council, this is appreciated. The expectation is that the Council should also be used in the promotion of the effective application of the national minimum wage and also for wage protection in Nigeria.

It is important that we recognize the adverse effects of insufficient implementation of the agreed minimum wage and non-payment of workers on their families and their jobs.

There is an established link between wages and mental health, as unpaid workers experience elevated levels of anxiety, depression and a sense of hopelessness. Families experience hardship and sometimes dislocations as a result of insufficient wage protection measures.

The Director-General of the ILO warns of an imminent triple crisis of food, fuel and finance, which are already adversely triggering and exacerbating inflation with dire consequences for wage earners. It is in a period such as this that one expects responsible and responsive governments to consider economic and social protection measures. A suitable minimum wage and wage protection should be adopted among other measures. Already, we are seeing an increase of cases of suicide by workers in Nigeria on account of non-payment of wages. The situation may get worse.

To close, we call for the Government of Nigeria to effectively deploy the Tripartite Committee, which is a critical structure that can help the Government to design implementation arrangements but also the creation of opportunities for remuneration and wage earning.

We also call on the Government to expand social protection safety nets to complement household earnings.

Membre gouvernementale, Sénégal – Le Sénégal voudrait remercier la délégation nigériane pour les réponses qu'elle a fournies aux préoccupations exprimées dans le rapport de la commission d'experts. Ma délégation voudrait saluer les efforts entrepris par le Nigéria dans la mise en œuvre des conventions n^{os} 26 et 95, à savoir, entre autres, la mise en place d'une commission tripartite nationale de fixation des salaires; et la concertation qui a sous-tendu l'élaboration de la nouvelle législation, comme en attestent les consultations tripartites et élargies.

Tout en réaffirmant son attachement aux idéaux et objectifs universels de l'OIT ainsi que la nécessité pour tout État Membre d'assurer le respect des droits et obligations découlant des conventions ratifiées, le Sénégal invite le gouvernement nigérien à poursuivre les progrès réalisés. Par ailleurs, nous encourageons le Nigéria à continuer de déployer les moyens appropriés pour améliorer sa législation et sa pratique, par le biais de réformes consensuelles garantissant une stabilité économique et sociale.

Le Sénégal invite ainsi le gouvernement nigérien à renforcer la coopération avec l'OIT, en vue de donner plein effet aux dispositions des conventions n^{os} 26 et 95.

Worker member, Republic of Korea – I am speaking on behalf of the Workers of Korea, Indonesia and the Philippines as a representative of the International Trade Union Confederation (ITUC)–Japanese Trade Union Confederation (JTUC–RENGO).

Under section 3(1) of the National Minimum Wage Act, 2019, every employer shall pay a national minimum wage of not less than 30,000 naira (NGN) per month to every worker. This rate is applied for five years from its adoption until it is reviewed. The Committee of Experts raised two issues in relation to the implementation of Convention No. 26.

First, currently the statutory minimum wage does not apply to all workers in all workplaces, but it excludes workers in an establishment employing less than 25 persons under section 4 of the Act. Second, even though section 2 of the Act stipulates that the minimum wage applies throughout the Federal Republic of Nigeria, several states have yet to implement the law.

All workers should enjoy adequate protection, including an adequate minimum wage for a human-centred future of work, as suggested in the ILO Centenary Declaration. Workers in small workplaces especially are more in need of such protection as these workplaces are usually in the informal economy. Amidst the global crisis, inflation in Nigeria soared to 16.8 per cent in April of this year, driven by a fuel and food price increase. At the time of an economic crisis, universal implementation of the Act is important more than ever to guarantee decent living conditions for all workers. It is unacceptable, therefore, that non-implementation of the statutory minimum wage by several state governments is not redressed.

I would like to call on the Government, as the Committee of Experts requires, to take the necessary measures to extend the minimum wage coverage to the categories of currently excluded workers which are in need of such protection. I also urge the Government to take the necessary measures, by way of a system of supervision and sanctions, to ensure that the national minimum wage is applied in all states throughout the country as stipulated in the law.

Membre gouvernementale, Cameroun – Le gouvernement du Cameroun remercie la délégation nigériane pour les informations utiles qu'elle a bien voulu porter à l'attention de la commission au sujet de la mise en œuvre des conventions n^{os} 26 et 95. Il ressort de l'exposé du gouvernement du Nigéria que, dans le cadre de la mise en œuvre des instruments susmentionnés, il a élaboré de manière tripartite et inclusive la loi sur le salaire minimum et prend de manière progressive des mesures pour que la mise en œuvre des dispositions de

cette loi soit étendue aussi bien dans les États que sur toute l'étendue du territoire de la République fédérale du Nigéria.

Entre autres actions dignes d'intérêt, l'élaboration d'un texte qui garantit la protection de la liberté des travailleurs de disposer de leur salaire ainsi que la non-exploitation desdits salaires, texte qui donne également la latitude aux inspecteurs du travail d'effectuer des visites au sein des entreprises et de traduire les récalcitrants devant les tribunaux du travail en cas de violation.

Par ces diverses mesures, le Nigéria réaffirme son engagement à mettre en œuvre les principes et droits fondamentaux au travail. Le gouvernement du Cameroun sera donc reconnaissant à cette auguste commission de permettre à ce pays frère de poursuivre les réformes entamées et de rendre compte aux instances de contrôle de l'OIT lors de la présentation des futurs rapports.

Le gouvernement du Cameroun félicite et encourage le Nigéria à poursuivre les efforts entamés et souhaite que les conclusions relatives à ce cas œuvrent en faveur d'une meilleure application des conventions ratifiées au Nigéria.

Worker member, United Kingdom – Minimum wages and wage protection are parts of a suite of measures, including collective bargaining, that reduce inequality, increase stability and – when properly enforced – act as a bulwark against other forms of exploitation and create conditions for decent work.

The Committee of Experts' comments on the scope of Convention No. 26 in Nigeria have some resonance with our experience in the United Kingdom. Like Nigeria, the United Kingdom exempted many domestic workers from our own national minimum wage. The Low Pay Commission (LPC), which advises the Government on minimum wage levels, has recommended that they end the exemption for domestic workers due to significant exploitation. The LPC interviewed domestic workers and found harrowing stories that mirror the experiences of domestic workers in Nigeria, including physical abuse and humiliating treatment. But a common feature of the British experience was that they were being paid well below the level of the minimum wage.

Next to some of those abuses, wage theft is comparatively easy to prove, but since the minimum wage has legal ambiguity with regard to domestic workers, employers can avoid prosecution. The exemption has therefore, as the LPC's own blog notes, acted as a barrier for these workers when they seek to protect their rights.

Similarly, where the fair and regular payment of wages is insufficiently enforced, other forms of exploitation follow. Noting the Committee of Experts' comments on the need for the Nigerian Government to prevent the non-regular payment of wages, we recall problems with minimum wage enforcement in the English city of Leicester where we also see several other forms of labour exploitation, up to and including modern slavery. Serious delays in payment are widespread. The link between the financial hardship created by such delays and exploitation is clear, and, in guidance issued by the UK Government, delayed payment of wages is listed as a risk factor of modern slavery. Again, this parallels the situation faced by Nigerian workers, where months-long delays in payment create a culture of debt and dependency that, in turn, fuels vulnerability.

We see that where either legal or practical protections for the levels and regularity of pay are absent, so is decent work. A minimum wage with the widest possible scope, and effective enforcement to protect the payment and value of wages, is an essential part of achieving decent work and social justice.

Government member, Kenya – The Kenyan delegation thanks the distinguished Federal Republic of Nigeria for their comprehensive and forward-looking response made on the observations of the Committee of Experts with respect to Convention No. 26 and Convention No. 95.

We note that the key concerns raised by the Committee of Experts, and in particular the exclusion of certain categories of workers from the application of the minimum wage, are matters which were dealt with by the national tripartite committee as established by the relevant laws.

We are also encouraged to note the Government's willingness to have the issue revisited during the next review of the National Minimum Wage Act and are hopeful the concerns will be duly considered.

We note that most of the other issues cited by the Committee of Experts relate to the practical application of existing legislative provisions. This is a responsibility that rests not only with the competent authorities but also with the tripartite partners and constituents who may be affected by the application, or lack thereof, of the laws. In this regard, we agree with the Government representative that, under the law, aggrieved parties including workers, may either directly or through their unions, petition the competent authorities, including the courts, for redress for their real or perceived labour violations.

In conclusion, and in view of the above, we find that most of the issues cited by the Committee of Experts could be comprehensively addressed within the framework of existing national tripartite mechanisms and relevant laws and that all parties may need to be encouraged to take full advantage of their existence for their own benefit.

Membre gouvernementale, Niger – Nous avons pris bonne note des informations fournies par le gouvernement du Nigéria devant la commission. Ces informations sont utiles pour apprécier les efforts fournis par ce pays pour mettre en œuvre les deux conventions objets de cette discussion.

Le Niger salue les efforts du Nigéria pour mettre en œuvre, en droit et en pratique, les conventions auxquelles il a volontairement souscrit, notamment la convention n° 26 et la convention n° 95. Aussi, le Niger félicite et encourage le gouvernement à engager un dialogue franc et sincère avec toutes parties prenantes concernées par la question. Nous espérons que la commission prendra en compte toutes les informations fournies par ces pays frères. Nous profitons de cette occasion pour demander au Bureau de continuer à appuyer à et assister le Nigéria dans ses efforts pour se conformer aux valeurs que véhiculent les normes internationales du travail adoptées au niveau de l'OIT.

Government member, Namibia – Namibia took note of the information provided by the Government of the Federal Republic of Nigeria in response to the Committee of Experts' queries on the implementation of Convention No. 26 and Convention No. 95.

Namibia applauds the steps taken by the Government of Nigeria to move along with the social partners to solve the challenges at hand in the spirit of tripartism, as it is on record that Nigeria has ratified, among other Conventions, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which speaks of tripartite consultation.

In conclusion, Namibia looks forward to the impartial conclusion of this matter by the Committee based on the information provided by the Government of Nigeria.

Government representative – The Government of Nigeria wants to thank all who have contributed and made interventions. We note all the comments that have been made and we thank you all for making all those comments.

Before I proceed, I want to correct some information that has been provided here which we feel is not correct. Concerning the issue of suicide rates in the country, I do not know where the speaker got the data from, but there is nothing like that in my country, that the suicide rate has gone up because workers are not paid their remuneration; that there are workers being forced to spend their wages by employers. We have employers from Nigeria here, and we have a law, the Labour Act of Nigeria, section 2 of which states: “No employer shall impose in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom any wages paid to the worker are to be expended; and every contract between an employer and a worker containing any such terms shall be illegal, null and void”. We want to state that if things like this are happening, we expect the workers to bring it to the attention of the Government so that action shall be taken immediately.

There is also information that there is a state government owing up to 18 months’ salary which – I think – has to be confirmed because we are not sure if this information is true.

We want to state that on the issue of minimum wage fixing, the Government of Nigeria did not wake up and just fix the minimum wage. It is done through tripartism, and every element in that national Minimum Wage Act was accepted by all and assented to by all before it was enacted. The Government does not work on its own. Such a dialogue system in Nigeria is very robust. The Government and the workers and employers, we work freely together and when there are issues, we expect it to be brought forward to all so that we can sit together as tripartite and thrash it out. We are surprised to see this case here because it was never brought forward before the Government. In any case, the National Minimum Wage Act has provided for monitoring, and this monitoring is made up between Government, employers and workers who are to come together to monitor implementation, and out of 36 states in the country, including the Federal Capital Territory, 32 states have implemented the national minimum wage, including the Federal Capital Territory, which leaves four states. Out of the four states, two have started implementation but not fully, and we hope to work to make sure that they implement the National Minimum Wage Act.

Furthermore, the National Labour Advisory Council has been resuscitated. It is a forum where all stakeholders come together, including the states’ governments that are being accused here today. They are members of the National Labour Advisory Council. The Council met in March. Before the meeting, an agenda was circulated. We expected that if there was an issue like this on the ground, it should have been brought forward as an agenda item, since all those concerned would be present, so that it can be discussed at that forum, but nothing like that was brought up, only for us to get this information that the workers are complaining about that.

On the issue of social protection, the Government was working seriously in the midst of COVID-19 and is doing so in the aftermath of COVID-19. The Government came up with a lot of policies to help families, such as extending grants to households that lost businesses due to COVID-19, companies that took loans were given the possibility of extending the period of payment, and several other policies to ensure that families recover from the effect of COVID-19 in the country were adopted. So it is not just the minimum wage that is the safety net to help workers, there were other programmes that were put in place by the Government to support families to make sure that they recover from the aftermath of COVID-19.

Regarding the issue of the unemployment rate in the country, we know that in the world the issue of unemployment is a problem, and my Government is working assiduously by equipping those that have no skills to make sure that they have skills so that they can be self-employed, so that they can earn a living and support their families.

As to the issue of the informal sector, the Government has also set up a department to make sure that we formalize the informal sector and bring them into the fold so that we can monitor them and assist them so that they can enjoy all the social protection that is necessary. I submit at this point.

Employer members – The Employers welcome the views expressed by many of the delegates on this case and take note of the information submitted by the Government of Nigeria to the Committee on 16 May 2022, and further elaborated on in this meeting today.

After considering the discussions, we invite the Government: (1) to provide information to the Committee of Experts on the next review of the National Minimum Wage Act; (2) to ensure that all states in Nigeria comply with their obligations in respect of the national minimum wage; (3) to continue working with the most representative employers' and workers' organizations to finalize the review of the Labour Bill and to provide information on its progress, in this regard, to the Committee of Experts; (4) to provide information to the Committee of Experts, before 1 September 2022, on measures it has taken to comply with Articles 6, 7(2) and 12(1) of Convention No. 95, including a copy of the reviewed section 35 of Nigeria's Labour Act; (5) to the extent that the Labour Act does not require provision of wage conditions before workers enter employment, to consider amending the law to comply with Article 14 of Convention No. 95, in consultation with the most representative employers' and workers' organizations, and to submit information on its progress in this regard to the Committee of Experts; and (6) lastly, to continue working with its social partners when harmonizing national laws with the two Conventions, taking into account the national realities in Nigeria, including the needs of sustainable enterprises, and to seek ILO technical assistance if required.

Worker members – We note the comments of the Government of Nigeria and we also want to thank all those who have taken the floor to contribute to this discussion.

We emphasize that the Government of Nigeria has an obligation to establish a mechanism for minimum wage fixing to protect wages and to establish a supervisory and sanction system in line with Conventions Nos 26 and 95.

We call on the Government to: (i) extend the minimum wage coverage to the categories of workers currently excluded, such as in establishments employing less than 25 persons; workers paid on commission or on a piece-rate basis; as well as workers in seasonal employment such as agriculture, and to take measures to ensure equal remuneration for men and women for work of equal value, including with regard to minimum wage coverage; (ii) put in place an appropriate system of supervision and sanctions to ensure that the national minimum wage is applied at all levels with technical assistance from the Office; (iii) extend the scope of wage protection provisions to domestic workers and home-based workers; (iv) revise the provisions of section 35 of the Labour Act that allow the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until the completion of their contract, in order to ensure that workers can enjoy freedom to dispose of their wages and regular payment of wages in accordance with Articles 6 and 12(1) of ILO Convention No. 95; (v) ensure that section 6(1) is revised to be fully compliant with Article 7(2) of Convention No. 95; and (vi) revise section 7(1) of the Labour Act to ensure that workers are informed before they enter employment and when any changes take place of the conditions in respect of wages under

which they are employed, in accordance with Article 14(a) of Convention No. 95. We want to urge the Nigerian Government to seek ILO technical assistance in this regard.

Conclusions of the Committee

The Committee took note of the written and oral information provided by the Government representative and the discussion that followed.

Taking into account the discussion, the Committee urges the Government, in consultation with the social partners, to:

- **consult with the social partners on the issue of extending the minimum wage coverage to the categories of workers currently excluded by the National Minimum Wage Act;**
- **ensure men and women receive equal remuneration for work of equal value, including with regards to minimum wage coverage;**
- **establish an effective system of supervision and sanctions to ensure that the national minimum wage is applied at all levels;**
- **consult with social partners on the issue of the application of the scope of wage protection to domestic workers;**
- **consult with the social partners on the provisions of section 35 of the Labour Act that allow the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until the completion of their contract in order to ensure that workers can enjoy freedom to dispose of their wages and regular payment of wages, in accordance with Articles 6 and 12(1) of Convention No. 95; and**
- **consult with social partners regarding amending sections 6(1) and 7(1) of the Labour Act to come into line with Convention No. 95.**

The Committee requests that the Government avail itself, without delay, of technical assistance from the Office to ensure compliance with the Conventions in law and practice.

The Committee requests the Government to submit a report to the Committee of Experts by 1 September 2022 with information on the application of the Convention in law and practice, in consultation with the social partners.