



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/1978/8/Add.11
13 February 1978

ORIGINAL: ENGLISH

First regular session, 1978
Agenda item 5. Implementation of the
International Covenant on Economic,
Social and Cultural Rights

REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX)
BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY
ARTICLES 6 TO 9

FEDERAL REPUBLIC OF GERMANY

/22 December 1977/

Introduction

By virtue of its Basic Law (Constitution) the Federal Republic of Germany is a social constitutional State with a liberal and democratic basic order. Human dignity and social justice are two of the fundamental values by which public policy is and must be guided. In terms of social policy this means not only removing fear from material want and loss of social status but also working towards more justice and genuine freedom in our society.

This report links up with the Report on Economic, Social and Cultural Rights in the Federal Republic of Germany submitted in April 1974 and covering the period up to 30 June 1973. ^{1/} In the subsequent period of time dealt with in this report efforts had to be concentrated on safeguarding, consolidating and further extending the system of social progress and achievements in taking account of the difficult situation owing to lower rates of economic growth and higher unemployment than in previous years. In the period covered by this report, social benefits increased from 252,634 m DM in 1973 to 356,900 m DM in 1976. The social benefit rate for the same period of time, i.e. social benefits as a percentage of the GNP, increased from 27.2 per cent to 31.4 per cent. Between 1973 and 1976, gross aggregate wages and salaries increased from 423,800 m DM to a total of 510,600 m DM, and the per capita annual income of wage and salary earners rose from 18,782 DM to 24,000 DM.

^{1/} E/CN.4/1155/Add.5.

Article 6: The right to work

Preliminary remarks

Reference is made to the Report on Economic, Social and Cultural Rights submitted in April 1974. Those comments are still generally applicable (see I, III A, III A 1, III A 3 of the report) and can be supplemented by the following: 2/

As a result of world-wide economic recession, which set in in autumn 1973, partly in consequence of the energy situation, employment opportunities declined in the Federal Republic as elsewhere. Thus, there was a marked increase in the rate of unemployment in the course of 1974 and 1975. The annual average figure for 1974 was 2.6 per cent, rising to 4.7 per cent in 1975 and 4.6 per cent in 1976. In addition, there was a significant number of short-time workers which was at its peak in 1975 with an annual average of more than 770,000 (with at the same time over one million unemployed).

In 1976 the number on short time was 277,000 on the annual average. The re-establishment of full employment therefore ranks first among the priorities of the Federal Government. To this end the Government has taken a plethora of exceptional cyclical and fiscal measures in the past few years which have in part been supported by specific employment policy measures. These are summarized in the list in Annex 1. 3/

In the same period, the Federal Institute of Labour increased its budget from 6,800 m DM in 1973 to 17,800 m DM in 1975 in order to take account of the higher demand for benefits in case of full or partial unemployment, and particularly for measures of active employment policy (job creation, assistance in order to re-integrate the unemployed, various kinds of assistance to increase geographical mobility, vocational training).

Employment policy measures by the Federal Government and the Federal Institute of Labour have considerably eased the situation on the labour market. A series of statutory regulations provided for higher benefits, thus giving the Institute wider scope for its remedial measures. In this context it is worth mentioning that payments in respect of wage debts in the event of bankruptcy have been introduced (see Art. 9, Annex 1).

A. Special mention is made of the following legislation:

- (a) Stability and Growth Promotion Act (see the 1974 report, I); 4/

2/ E/CN.4/1155/Add.5.

3/ A list of Annexes mentioned in the report is appended. The texts of all reference material are available for consultation in the files of the Secretariat in the original language.

4/ E/CN.4/1155/Add.5.

- (b) Employment Promotion Act (see the 1974 report, I, III A 3). ^{4/} The original version of this Act, which has been amended several times since, is included in the ILO Legislative Series, Federal Republic of Germany, 1969 No. 1;
- (c) Vocational Training Act (see Annex 2);
- (d) Vocational Training Promotion Act;
- (e) Article 12 of the Basic Law excludes compulsory and forced labour and guarantees the individual's basic right to choose his occupation, place of work and place of training.

The Federal Republic of Germany ratified ILO Conventions Nos. 29, 88, 105 and 122, the purpose of which is to ensure the exercise of the right of free choice of occupation.

- B. (1) Reference is made to the 1974 report (III A 1), to which the following remarks are added:

Article 3 (2) of the Basic Law guarantees equal rights of men and women at work. In 1976 48 per cent of women in the age bracket 15-65 were gainfully employed. The objective of government policy in this field is to enable women with family responsibilities generally to take up employment.

At present 1.9 m foreign employees are making use of the possibility to earn their living in a freely chosen and accepted employment.

Early in 1977 a joint Programme for Foreign Worker Employment was elaborated by the Federation and the Länder. It lays particular emphasis on the integration of foreigners already living in the Federal Republic. The recruitment ban introduced in autumn 1973 has been fully maintained in the interest of the German work force and the foreign employees living in the Federal Republic.

The Federal Republic of Germany ratified ILO Convention No. 111 concerning discrimination in respect of employment and occupation.

- (2) Reference is made to the preliminary remarks on Article 6.
- (3) The Federal Institute of Labour oversees a nationwide system of labour exchanges, branch and ancillary offices. There are a total of 146 labour exchanges and 532 branch offices providing general placement services, all easily accessible. In addition there are specific placement agencies for job seekers with higher qualifications.

Both for employees and employers, all placement services are free of charge. Placement agencies are independent and neutral. They work on

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the principle of confidentiality thus ensuring that every employee receives full promotion in respect of his employment opportunities.

- (4) Since the submission of the last report methods and organization of vocational guidance have been improved. Non-nationals have access to vocational guidance to the same extent as nationals.

Benefits in respect of vocational training promotion under Article 40 of the Employment Promotion Act have been adapted to the changing economic situation. As from 1 August 1974, children of non-nationals from outside the European Community have for the first time been included in the training promotion scheme provided that at least one parent has had lawful residence and employment in the Federal Republic of Germany during the last three years preceding the beginning of the period for which benefits are to be awarded.

In consequence of the continued unfavourable employment situation benefit conditions for the participation in vocational training programmes (minimum periods of employment) have been made less stringent by special regulations applicable as from early 1976. This measure has been to the particular benefit of young people.

In the course of economic recession the Federal Institute has significantly extended its promotion of vocational training measures for young workers. At present approximately 30,000 young people are taking part in vocational training programmes.

The vocational training scheme is set out in detail in Annex 3. The text of the Vocational Training Act is attached in Annex 2.

- (5) The Protection against Dismissals Act protects employees against socially unwarranted dismissal. In case of dismissal they may appeal to a labour court for review. The works council must be consulted before every dismissal, otherwise the notice is null and void.

For certain groups of persons, e.g. the severely disabled special protection against dismissal is provided for. Special collective agreements concerning the protection of employees against dismissal were concluded with the object of protecting employees against the effects of changes in production processes or working methods. Measures to this effect include dismissal-ban clauses in respect of older employees with a long period of service. Moreover, special collective agreements concerning the protection of older employees have been concluded in recent years, one aim of which is to preclude routine dismissals and guarantee the earnings for all employees covered by such collective agreements and having reached a certain age and completed a certain number of years of service.

- (6) See the preliminary remarks to Article 6 as well as the remarks to Article 9, 2 (h) and 3 as to social protection against the consequences of unemployment.

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C. See the preliminary remarks to Article 6.

The importance of the rehabilitation of the disabled and the special protection of the severely disabled was mentioned in the 1974 report. The text of the Severely Handicapped Persons Act is included in Annex 4. The following remarks might be added:

In the period under review the institutions of vocational rehabilitation have been further developed. The system of permanent interplant centres for the training of young people and retraining of disabled adults was extended and thus contributed to a significant increase in the number of available training and retraining places. In the same period the number of places in workshops for the disabled was increased to approximately 33,000.

The negative labour market trends which adversely affect the employment situation of the severely disabled are to be counterbalanced by specific finance programmes to reduce unemployment among the severely disabled (see in particular Annex 1, item 6).

In order to take account of the current employment situation it has been decided to amend the Labour Promotion Act within the scope of the Budget Structure Improvement Act of December 1975, with the aim of adjusting benefits for the promotion of vocational training to the current needs of the labour market and recent developments. The financial burden on the unemployment insurance system is to be eased by the speedier placement of unemployed persons, administrative procedures are to be simplified in order to accelerate the payment of benefits, and the provisions relating to investment of reserves are to be modified to improve the timing and scope of Federal Government financial support.

Article 7: The right to just and favourable conditions of work

Preliminary remarks

It is one of the major aims of social policy in the Federal Republic of Germany to provide just and favourable working conditions for the workers. This aim is achieved on the one hand by national legislation and on the other hand by numerous collective agreements which the trade unions conclude with the corresponding employers' associations or with individual employers within the limits of the autonomy which the constitution guarantees to both sides of industry. Also in the period under review, a number of collective agreements have been concluded which, as a whole, have ensured a constant improvement in the conditions of work.

National laws and regulations in their turn helped to improve the status of workers. Apart from various acts, which will be dealt with later on, mention should be made of improvements regarding the protection of workers against socially unjustified dismissal, paid holidays, the continuation of wage payments in the event of sickness, and the continuation of wage payments in respect of public holidays.

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The 1974 report already referred to the participation rights of the works councils (Sections I and III A 2). A copy of the Works Constitution Act which regulates these matters is attached to this report (Annex 1). Since the fifties freely elected worker representatives have been entitled to participate in decisions at company level. The Workers Participation Act entered into force on 1 July 1976. It gives workers considerably more rights in large undertakings, the main provisions being:

- Participation applies to undertakings with a legal personality of their own which employ more than 2,000 workers.
- It covers also groups of companies and parts thereof if the undertakings of the group employ on the whole more than 2,000 workers.
- The supervisory boards of the undertakings are composed of an equal number of shareholder representatives and worker representatives.
- The trade unions are adequately represented in the supervisory boards.
- Participation in the coal, iron and steel industry remains unaffected. The one-third representation under the 1952 Works Constitution Act continues to apply to smaller undertakings.

A copy of this Act is attached to this report (Annex 2).

Foreign workers living in the Federal Republic of Germany enjoy all the advantages and privileges of German labour law. They have a right to vote and to be elected in works council elections and in elections of worker representatives to supervisory boards. In addition, discrimination for any of the reasons mentioned in Article 2, paragraph 2, of the Covenant is prohibited. At this juncture reference should be made to the discrimination prohibition contained in Article 3, paragraph 3, of the Basic Law, in Section 75 of the Works Constitution Act, and in the Federal and Land Staff Representation Acts. Accordingly, the Federal Republic of Germany not only ratified the International Convention for the Elimination of All Forms of Racial Discrimination of 7 March 1966 but also Convention No. 111 of the International Labour Organisation concerning Discrimination in Respect of Employment and Occupation. In the period under review, the Federal Republic of Germany moreover ratified ILO Convention No. 135 concerning protection and facilities to be afforded to workers' representatives in the undertaking.

Finally the action programme "Research on the Humanization of Work" should be mentioned which was passed in May 1974. It advocates research planning which is geared to the needs of the workers and aims at humanizing working life. Research projects have been prepared to identify the principal stress factors at the place of work and to make possible the elimination of already known stress factors. A copy of this programme is attached hereto (Annex 3).

A. Remuneration

- (1) In the Federal Republic of Germany the fairness of wages, a principle which is

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embodied in the constitutions of several Länder, is ensured above all by means of a network of collective agreements based on the Collective Agreements Act. Special statutory provisions were made for homework and under certain conditions minimum wages may be stipulated for other sectors.

- (2) The wages and salaries laid down by the collective agreements form the basis for the remuneration of the majority of workers. In general collective agreements are concluded for individual industries and not for certain occupations. At present there are no minimum wages fixed by the state.

The collective agreements which are at present applicable in the Federal Republic of Germany cover the major part of the industry and service sectors and contain a series of provisions on working conditions for fields which are not regulated by the legislator but left to the social partners for regulation within the limits of wage autonomy, or for fields where the legislator laid down minimum requirements but where collective agreements often contain considerable improvements for the benefit of the workers concerned.

Whilst the general working conditions are laid down in skeleton collective agreements or in special agreements, the rates of wages and salaries are fixed by collective agreements on wages and salaries. The wages and salaries as well as the training pay are as a rule increased annually by the conclusion of new collective agreements, whereas provisions on general working conditions are operative for longer periods since the period of validity of skeleton collective agreements is also longer. Yet quite frequently improvements of working conditions are brought about by the conclusion of amendment agreements whilst the skeleton collective agreement is still in force.

From year to year, therefore, many collectively agreed regulations are improved for the benefit of numerous workers.

Since the coming into existence of the Federal Republic of Germany and the promulgation of the Collective Agreements Act in 1949 about 148,000 collective agreements had been concluded by the end of 1976, of which about 30,000 are in force at present. Over the past few years between 7,000 and 8,000 new collective agreements are concluded per year, which in part replace previous collective agreements.

For persons engaged in homework to whom in general the labour laws (sometimes with certain modifications) apply to the same extent as to other workers, the remuneration and other terms of the work contract are determined by collective agreements and, in so far as such agreements are not applicable to homeworkers, by binding decisions taken by joint homework committees with the consent of the competent labour authorities. These binding decisions have the effect of a generally binding collective agreement. They are thus binding also on all employers and benefit all

homeworkers alike, irrespective of whether they are trade union members or not. The Homework Amendment Act of 29 October 1974 brought important improvements for homeworkers; it provides in particular for a closer link between remuneration and other conditions and the collectively agreed wages and other collectively agreed working conditions. In addition, the protection against dismissal for homeworkers was considerably improved.

The works council has, among other things, to see that effect is given to Acts, regulations, collective agreements and plant agreements for the benefit of the workers and to make recommendations to the employer for action benefiting the establishment and the staff. In the absence of statutory provisions or collective agreements, the works council has a say in the following matters:

- the time and place for and the form of payment of remuneration;
- questions related to remuneration arrangements in the establishment, including in particular the establishment of principles of remuneration and the introduction and application of new remuneration methods or modifications of existing methods;
- the determination of piece and bonus rates and comparable performance-related remuneration including cash coefficients (i.e. prices per time unit).

(3) The collectively agreed remuneration of the workers consists in most cases of the basic wage plus allowances or increments for certain activities. Over and above the ordinary wages, the collective agreements provide for fringe benefits such as an additional holiday pay, the 13th monthly wage or contributions of the employer for capital formation purposes. The worker may request that the computation and composition of his remuneration be explained to him by the employer.

(4) Incomes have developed as follows:

Earnings from independent employment
per worker employed

Year	Gross earnings		Net earnings			
	annually DM	%	monthly DM	annually DM	%	monthly DM
1950	3 289	-	274	2 615	-	218
1951	3 817	+ 16.1	318	2 994	+ 14.5	250
1952	4 121	+ 8.0	343	3 207	+ 7.1	267
1953	4 376	+ 6.2	365	3 410	+ 6.3	284
1954	4 595	+ 5.0	383	3 599	+ 5.5	300
1955	4 969	+ 8.1	414	3 877	+ 7.7	323
1956	5 365	+ 8.0	447	4 170	+ 7.6	348
1957	5 718	+ 6.6	477	4 413	+ 5.8	368
1958	6 138	+ 7.3	512	4 649	+ 5.3	387
1959	6 460	+ 5.2	538	4 912	+ 5.7	409
1960	7 059	+ 9.3	588	5 300	+ 7.9	442
1960	7 051	-	588	5 294	-	441
1961	7 743	+ 9.8	645	5 785	+ 9.3	482
1962	8 439	+ 9.0	703	6 278	+ 8.5	523
1963	8 957	+ 6.1	746	6 630	+ 5.6	553
1964	9 701	+ 8.3	808	7 177	+ 8.3	598
1965	10 571	+ 9.0	881	7 885	+ 9.9	657
1966	11 374	+ 7.6	948	8 346	+ 5.8	696
1967	11 774	+ 3.5	981	8 586	+ 2.9	716
1968	12 572	+ 6.8	1 048	9 005	+ 4.9	750
1969	13 798	+ 9.8	1 150	9 678	+ 7.5	807
1970	15 877	+ 15.1	1 323	10 863	+ 12.2	905
1971	17 856	+ 12.5	1 488	11 934	+ 9.9	995
1972	19 574	+ 9.6	1 631	13 009	+ 9.0	1 084
1973	22 093	+ 12.9	1 842	14 092	+ 8.3	1 174
1974p	24 678	+ 11.7	2 057	15 482	+ 9.9	1 290
1975p	26 577	+ 7.7	2 215	16 593	+ 7.2	1 383
1976p	28 730	+ 8.1	2 394	17 336	+ 4.5	1 445

As at March 1977.

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Index of collectively agreed wages and salaries

Year	Wage-earners <u>1/</u> , <u>2/</u>		Salaried employees <u>1/</u> , <u>3/</u>	
	Men	Women	Men	Women
	1970 = 100			
1951	30.3	26.9	34.4	33.3
1952	32.0	28.3	36.6	35.3
1953	33.3	29.6	39.0	37.6
1954	34.0	30.4	40.4	39.0
1955	35.9	32.0	42.7	41.6
1956	38.8	35.6	45.9	45.1
1957	41.6	38.6	47.8	47.3
1958	44.0	42.0	50.4	49.8
1959	45.7	44.0	52.0	51.6
1960	48.8	47.7	55.6	55.1
1961	52.7	52.1	59.9	59.6
1962	57.9	57.6	64.3	64.0
1963	61.6	61.9	67.9	67.9
1964	65.7	66.0	71.0	71.1
1965	70.8	70.8	75.6	75.6
1966	75.9	76.5	80.3	80.4
1967	79.3	80.0	82.7	83.0
1968	82.5	88.1	85.4	85.7
1969	88.2	88.6	90.7	90.8
1970	100.0	100.0	100.0	100.0
1971	113.5	114.7	111.4	111.2
1972	124.2	126.4	121.0	120.9
1973	136.2	141.0	132.6	133.2
1974	152.1	159.0	147.8	148.5
1975	165.7	174.8	160.1	160.9
1976	174.9	184.7	168.7	189.2

1/ Highest age-group provided for in collective agreements.

2/ Without agriculture.

3/ Without agriculture and services.

As at August 1977.

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Average gross hourly earnings in industry 1/

Wage earners

Year <u>2/</u>	Men in DM	Women	Men	and %	Women 1970 = 100
1950	1.42	0.86	1.29		21.2
1951	1.63	0.99	1.48	+ 14.7	24.3
1952	1.76	1.04	1.60	+ 8.1	26.2
1953	1.83	1.09	1.66	+ 3.8	27.5
1954	1.88	1.12	1.72	+ 3.6	28.2
1955	2.01	1.19	1.83	+ 6.4	30.1
1956	2.18	1.31	1.99	+ 8.7	33.1
1957	2.37	1.44	2.17	+ 9.0	36.0
1958	2.52	1.58	2.32	+ 6.9	38.4
1959	2.65	1.67	2.44	+ 5.2	40.5
1960	2.90	1.87	2.68	+ 9.8	44.3
1961	3.18	2.11	2.95	+ 10.1	48.8
1962	3.54	2.37	3.29	+ 11.5	54.4
1963	3.81	2.67	3.54	+ 7.8	58.5
1964	4.12	2.79	3.88	+ 9.8	63.4
1965	4.53	3.03	4.27	+ 10.1	69.6
1966	4.88	3.32	4.58	+ 6.8	74.2
1967	4.01	3.45	4.70	+ 3.1	76.6
1968	5.20	3.59	4.89	+ 4.0	80.0
1969	5.73	3.98	5.39	+ 10.2	87.1
1970	6.52	4.47	6.11	+ 13.4	100.0
1971	7.28	5.03	6.84	+ 11.9	111.0
1972	7.92	5.51	7.44	+ 8.3	120.9
1973	8.75	6.18	8.23	+ 10.6	133.5
1974	9.63	6.90	9.13	+ 10.9	147.1
1975	10.40	7.62	9.85	+ 7.9	158.7
1976	11.03	8.02	10.49	+ 6.5	168.8

1/ Including civil engineering (plus construction trade).

2/ Based on categories applicable since 1973.

As at August 1977.

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Average gross weekly earnings in industry 1/

Wage earners

Year <u>2/</u>	Men	Women	Men and women		
	DM		%	1970 = 100	
1950	70	38	62	-	23.0
1951	79	43	70	+12.9	26.3
1952	85	46	76	+ 8.6	28.3
1953	89	49	80	+ 5.3	29.8
1954	93	51	82	+ 2.5	30.9
1955	99	54	88	+ 7.3	33.1
1956	107	59	95	+ 8.0	35.7
1957	111	64	100	+ 5.3	37.6
1958	116	67	105	+ 5.0	39.4
1959	122	72	111	+ 5.7	41.4
1960	134	80	120	+ 8.1	45.3
1961	147	89	133	+10.8	49.9
1962	161	99	146	+ 9.8	56.0
1963	172	106	157	+ 7.5	58.7
1964	187	115	172	+ 9.6	63.4
1965	206	127	190	+10.5	69.8
1966	217	136	201	+ 5.8	73.8
1967	216	137	200	- 0.5	73.4
1968	229	145	212	+ 6.0	78.4
1969	257	162	238	+12.3	86.9
1970	293	182	269	+13.0	100.0
1971	321	203	296	+10.0	108.8
1972	346	222	320	+ 8.1	117.4
1973	382	248	353	+10.3	129.7
1974	412	273	382	+ 8.2	140.0
1975	430	289	402	+ 5.2	146.3
1976	469	319	438	+ 9.0	158.2

1/ Including civil engineering (plus construction trade).

2/ Based on categories applicable since 1973. As at August 1977.

Real earnings

Men and women

	Index of real wages <u>1/</u> of wage earners in industry		Index of real salaries <u>1/</u> of salaried employees in industry, commerce, banking and insurance
	Hourly wage	Weekly wage	Monthly salary
	1970 = 100		
1950	32.9	35.7	-
1951	34.9	37.8	-
1952	36.9	39.9	-
1953	39.4	42.7	-
1954	40.3	44.2	-
1955	42.4	46.6	-
1956	45.5	49.0	-
1957	48.4	50.5	55.5
1958	50.6	51.9	57.4
1959	52.8	54.0	59.2
1960	56.9	58.2	62.6
1961	61.3	62.7	66.5
1962	66.4	67.2	70.1
1963	69.3	69.5	72.5
1964	73.4	73.4	75.5
1965	77.9	78.2	79.1
1966	80.3	79.9	81.9
1967	81.7	78.3	83.9
1968	84.2	82.5	86.7
1969	89.9	89.7	91.7
1970	100.0	100.0	100.0
1971	105.6	103.5	104.9
1972	109.2	105.1	103.3
1973	112.9	109.7	111.8
1974	118.5	110.8	115.4
1975	118.4	109.2	117.5
1976	120.4	113.7	119.5

1/ Calculated with the price index for the cost of living of medium-sized households of workers. As at August 1977.

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- (5) From the provisions of the Basic Law on equality of rights for men and women the Federal Labour Court has derived in its administration of justice a constitutional guarantee of the principle of equality of treatment and equal pay for men and women. This principle is not only directed to the State but binding also on both sides of industry, which in the Federal Republic of Germany settle matters relating to wages. It is a long time since schematic wage deduction formulas or special wage categories for women ceased to be included in collective agreements. Thus there are no longer differences in collectively agreed wages for men and women for equal work. For details cf. the 1974 report (III A 5).

With due regard to the preference of wage autonomy, employer and works council may regulate working conditions in plant agreements which are directly binding on the workers concerned. In all these matters employer and works council have to ensure that all persons employed in the firm are treated according to the principles of law and equity and in particular that there is no discrimination against persons on account of their race, creed, nationality, origin, political or trade union activity or convictions, or sex.

- (6) As regards the progress achieved see preliminary remarks on Article 7 and the statements under A 2. Difficulties of the type mentioned in the General Guidelines did not arise. The problem of "light wage groups" for women (cf. V of the 1974 report) is carefully studied. The ergonomic expertise mentioned in the 1974 report was in the meantime submitted and forwarded to the German Parliament. It found the consent of both sides of industry.

B. Safe and healthy working conditions

- (1) In the Federal Republic of Germany safe and healthy working conditions are guaranteed by numerous regulations of the Federal Government and the Länder, in particular on the basis of the Trade Act, but also by special acts such as the Maternity Protection Act, the Protection of Young Workers in Employment Act, and the Atomic Energy Act, as well as by the Accident Prevention Regulations issued by the accident insurance institutions. The works councils participate in this task.

A compilation of the applicable regulations is contained in the Accident Prevention Report which was submitted to the legislative bodies in October 1976.

In the period under review the following laws and regulations entered into force:

1. The Act on minimum requirements for worker accommodation, which requires the employer to ensure that communal accommodation for workers is of a fit standard. It must be ensured that such communal accommodation is of an adequate size and not overcrowded. Certain minimum requirements must be fulfilled regarding lighting, ventilation, protection against damp and noise, water and energy supplies, sanitary installations.

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2. The ordinance on workplaces. It stipulates how factories and workrooms, offices, store-rooms and shops have to be designed. This includes:
- premises with good ventilation, lighting and temperature;
 - sufficient room for movement at the place of work;
 - protection against harmful noises;
 - decent restrooms and toilets.

A copy of this ordinance is attached hereto (Annex 4).

3. The Act on plant physicians, safety engineers and other occupational safety advisers. By virtue of this Act the employers are obliged to appoint factory doctors, safety engineers and other safety advisers. With their expert application of the rules and findings of industrial safety and labour medicine these specialists will make the greatest possible use of the existing industrial safety and accident prevention methods.

A copy of this Act is attached to this report (Annex 5).

4. The Protection of Young Workers Employment Act, which has inter alia the following priorities:
- five-day week with 40 working hours;
 - improvement of medical care;
 - extension of paid annual holidays;
 - raising the minimum working age from 14 to 15 years;
 - improvement of industrial hygiene and protection against dangers by restrictions of the employment of juveniles in dangerous or hazardous jobs.

During the period under review ILO Conventions Nos. 73, 92, 113, 120, 126, 133, 134, 136 and 139 which deal with safe and healthy working conditions were ratified.

- (2) In the Federal Republic of Germany the implementation of the industrial safety provisions and the safety measures are supervised by the factory inspectors and by the technical supervisory officers of the statutory accident insurance carriers on the basis of the Trade Act and the Reich Insurance Code. A general administrative regulation ensures co-operation between both institutions.

The works council also participates in the creation of safe and healthy

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working conditions. It supports the authorities competent for industrial safety and the accident insurance carriers by offering suggestions, advice and information. The employer, the authorities competent for industrial safety, the statutory accident insurance carriers and other competent bodies are obliged to invite the works council or the members it delegates for that purpose to participate in all inspections and matters relating to industrial safety or accident prevention and in inquiries into accidents. The employer has to inform the works council immediately of any conditions imposed and instructions given by the bodies competent for industrial safety in connexion with industrial safety and accident prevention.

The employer has to inform the works council of any plans concerning:

1. the construction, alteration or extension of works, offices or other premises belonging to the establishment;
2. technical plants;
3. working processes and operations; or
4. work places

and has to consult the works council on the action envisaged, taking particular account of its impact on the nature of the work and the demands made on the workers. In their consultations the employer and the works council shall have regard to the established findings of ergonomics relating to the design of jobs to meet human requirements.

Where a special burden is imposed on the workers as a result of changes in jobs, operations or the working environment that are in obvious contradiction to the established findings of ergonomics relating to the tailoring of jobs to meet human requirements, the works council may request appropriate action to obviate, relieve or compensate for the additional stress thus imposed.

- (3) In the Federal Republic of Germany the creation of safe and hygienic working conditions for all workers is ensured by industrial safety provisions and corresponding supervision of their implementation.
- (4) The last Accident Prevention Report of September 1976 shows the following for the year 1975:

In 1975 a total of 1.97 m industrial injuries (accidents at work, commuting accidents, occupational diseases) were reported.

Thus for the first time since 1953 industrial accidents fell short of 2 m. As compared to 1974, this is a decline by approximately 240,000. Since 1970 the number of industrial injuries has decreased by 700,000 or 26 per cent.

In 1975, 4,724 fatal accidents and fatal occupational diseases were recorded, this means 495 cases or 9.5 per cent less than in 1974.

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Thus the number of industrial and commuting accidents dropped to its lowest level since 1953 - with serious accidents showing a very marked decline - and the number of fatal industrial diseases has never been lower since the establishment of the Federal Republic of Germany. The following diseases count among the most frequent occupational diseases:

- (a) hearing difficulties due to noise with 12,418 reported cases and 2,028 cases of first-award compensation;
- (b) serious skin diseases with 7,778 reported cases and 390 cases of first-award compensation;
- (c) silicosis with 6,324 reported cases and 1,092 cases of first-award compensation.

C. Equal opportunities for promotion

Section 75 of the Works Constitution Act lays down the principle of equal treatment, a principle which is also recognized by the labour courts as a general unwritten principle of labour law. The works council has to ensure its implementation.

Moreover the individual worker has the vested right to request that the employer discuss with him the appraisal of his performance and the possibilities of his occupational upgrading.

The works council has a right of participation as regards the elaboration of guidelines for the selection of workers in connexion with their occupational upgrading. The employer and the works council have to promote the vocational training of the staff within the framework of the manpower planning for the establishment and in collaboration with the bodies that are competent for vocational training and for the promotion of vocational training. At the request of the works council the employer must consult it on matters relating to further training. In this context the works council may make relevant proposals. In the framework of vocational training the works council has a number of other rights for the benefit of the workers in the establishment; thus it participates in the decisions relating to the implementation of vocational training programmes in the establishment.

It should furthermore be pointed out that the occupational upgrading is encouraged by financial aid from the Federal Institution for Employment. For example persons participating in further training measures for upgrading purposes may receive a maintenance allowance during the period of such training plus the reimbursement of the fees for the training course, the costs of teaching material, travel, working clothes, sickness and accident insurance. Non-single persons may receive reimbursement for the cost of accommodation and lodging, if they have to live out in order to be able to participate in the course.

Finally, the free public placement services take account of the justified

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wishes of those job-seekers who aim at an occupational upgrading. They are also accessible to workers who are still in an employment relationship but wish for an occupational advancement. In order to guarantee equal opportunities for men and women on the labour market the statutory principle which existed until 1969 and provided that placement and guidance services for women were to be exercised by women only was abolished. The joint placement of men and women has turned out to be very efficient.

D. Rest, leisure, limitation of working hours and holidays with pay

- (1) For most sectors in the Federal Republic of Germany these questions are regulated by: the Federal Holidays Act, the Severely Disabled Persons Act, the Protection of Young Workers in Employment Act, the Act on Wage Payments in Respect of Public Holidays, the Regulation on Working Hours and the Maternity Protection Act. Many collective agreements contain more favourable provisions on holidays and working hours than those prescribed by law.

The works council has a say in the following matters in so far as they are not prescribed by legislation or collective agreement:

- the commencement and termination of the daily working hours, including breaks and the weekly distribution of working hours;
- any temporary reduction or extension of the hours normally worked in the establishment.

In the period under review, Conventions Nos. 132 and 140 of the International Labour Organisation - Paid Annual Holidays (revised) and Paid Educational Leave - were ratified.

- (2) (i) The length of the weekly rest periods results first of all from the fact that in general no work is to be performed on Sundays and public holidays. In so far as this is in exceptional cases permissible at least 24 hours rest must be granted for each Sunday and holiday; where work is performed on two subsequent Sundays and holidays the period must be increased to 36 hours, in the case of Christmas, Easter and Whitsun to 48 hours. In addition, there is a daily rest period of 11 hours which in restaurants, public houses, establishments of the hotel industry and in transport may, under certain circumstances be reduced to 10 hours.

The regulation (EEC No. 543/69 of the Council of the European Communities) stipulates in general for drivers in road haulage a weekly rest period of 24 hours which must be preceded or succeeded by a daily rest period (of ordinarily 11 hours which, under certain circumstances may be reduced to 9 or 8 hours).

- (ii) The normal working hours on work-days must not exceed 8 hours or under certain circumstances 10 hours.

The above-mentioned EC regulation provides in general for a maximum of

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8 hours of actual driving per day which in certain cases may be increased to 9 hours.

At the end of 1976, about 92 per cent of all workers had a collectively agreed 40-hour week; in 1973 this was true for only 69 per cent of the workers.

For the remainder of the workers, i.a. in agriculture, the hotel and catering trade and in parts of the food and transport industry, the applicable collective agreements still provide for 41 to 45 hours per week. In 1976 there were reductions of working time for about 1.4 per cent of the workers. For the average of all workers the regular weekly working hours now amount to 40.24 hours (1975 = 40.27).

- (iii) Statutory holidays amount to 18 work-days (i.e. days other than Sundays or holidays), and for juveniles under 18 to between 25 and 30 work-days.

About 85 per cent of all workers enjoy a collectively agreed annual holiday of at least four weeks. 36 per cent even have holidays of five weeks or more.

Most collective agreements do not provide for a uniform period of holidays, but for a basic holiday which has to be granted to all adult workers and which increases by one or several steps up to the maximum attainable holiday. Criteria for such increases are age and/or length of service. For example, according to the collective agreements for the metal industry in North-Rhine Westfalia, all adult workers receive a holiday of at least 21 working days (= 25 work-days), from the age of 25 they receive 24 working days (= 28 work-days) and from 30 years 27 working days (= 32 work-days).

The most frequently agreed maximum attainable period of holidays is 31 work-days followed by 30, 32 and 27 work-days. For about 66 per cent of all workers the collective agreements provide for a maximum attainable holiday of five weeks or more (67 per cent of the wage earners and 66 per cent of salaried employees); in the preceding year this was the case for only 58 per cent.

The majority of workers are granted the maximum attainable holiday at the age of 30 or 40, on the average at just under 35 years of age. Where length of service counts, it usually takes about 10 years to reach maximum holidays.

Many collective agreements also contain provisions on additional holidays for certain workers or certain categories of workers. For about 23 per cent of the workers collective agreements provide for an additional holiday of up to six days (mostly, however, three days) in case of heavy or hazardous work. Collective agreements covering approximately 29 per cent of the workers provide for additional holidays for workers who, at the request of the employer, have to take their holidays in winter. In the majority of such cases an additional day per week of holidays is granted.

- (iv) Wages have to be paid in respect of working time lost for public holidays. The number of public holidays varies between 10 and 13 per year, depending on the Land.
- (3) Members of the police are as a rule civil servants of the Länder and as such subject to the respective state laws and regulations. In North-Rhine Westfalia e.g. the normal working hours of police amount in the average to 40 hours per week. The normal daily working hours or the length of one shift vary between seven and nine hours. Policemen must where possible have two consecutive rest days per week. Within a period of four weeks they are entitled to at least one Sunday off.

Special provisions apply to nursing personnel: they may work up to 60 hours per week, but the daily working hours should, as a rule, not exceed 10 hours with adequate breaks. In this context the collective agreements also contain far more favourable provisions: in public hospitals the normal working hours amount to 144 hours within a period of three weeks - thus an average of 48 hours per week (with possible variations in both directions). For private hospitals the relevant collective agreement provides for normal working hours of 120 hours within three weeks, thus on average 40 hours per week.

- (4) No further comments.

Article 8: Trade union rights

A,B. In the Federal Republic of Germany, Article 9, paragraph 3, of the Basic Law embodies the freedom of association. It guarantees to everyone and to all trades - thus also to members of the armed forces, of the police or of the administration of the State which may be subjected to special restrictions pursuant to Article 8, paragraph 2, of the Covenant - to form associations in order to safeguard and promote working and economic conditions.

Article 9, paragraph 3, therefore guarantees the right to establish or join trade unions. This right is also enjoyed by foreign workers and applies equally to men and women. This basic right is merely restricted by Article 9, paragraph 2, of the Basic Law, according to which associations whose purposes or activities conflict with criminal law or which are directed against the constitutional order or the concept of international understanding are prohibited.

The Collective Agreement Act regulates questions which concern major fields of activity of the trade unions, and the Works Constitution Act also regulates questions which concern the position of trade unions in the firm.

The legal existence of a trade union depends neither on its recognition by the State nor on registration in a register of associations or elsewhere.

- C. Without any limitations, the trade unions are entitled to form national associations or confederations, and these in turn may form or join international trade union organizations. The trade unions make use of these rights.

- D. The trade unions have extensive rights and scope for action. By means of collective agreements they organize working life, they are consulted in the preparation of social laws, they send representatives to the self-governing bodies of the social insurance carriers and the Federal Institute of Labour and, by means of honorary judges proposed by them, participate in the work of the labour and social courts and are a respected partner of the Federal Government in discussions on economic questions, in particular in the framework of the "concerted action" and the "social policy round". They send representatives to supervisory boards of undertakings which have a worker participation structure (cf. preliminary remark concerning Article 7) and closely co-operate with the works councils, the members of which are predominantly trade unionists.
- E. The right to strike is guaranteed. Apart from exceptions there are no statutory provisions in the Federal Republic of Germany concerning labour disputes. In this field, which is not regulated by law, a number of rules have evolved on the basis of court decisions - in particular those of the Federal Labour Court - which are considered as criteria for determining whether strike action is legal or not. Thus strikes must conform to the principle of reasonableness and may only be used as the means last to be resorted to (ultima ratio) for settling a conflict of interests; strikes must be organized by a trade union and aim at regulating working and economic conditions.
- F. Members of the armed forces, the police, civil servants and judges whose conditions of employment and remuneration are - in contrast to other persons employed in the public service - not determined by collective agreement but by legislation, do not have the right to strike. They are, however, free to join a trade union of their choosing and the central organizations of their competent trade unions have to be consulted in the preparation of general regulations on civil service law. This is the usual practice.
- G. Up to now there have been no difficulties. As the practice of the courts is in part based on court rulings and as there are no detailed statutory regulations, attempts are being made to clarify trade union rights in fields where doubts still exist. Mention should be made of the following:
1. The insertion of section 12 a into the Collective Agreements Act in 1974 gave autonomy to quasi-employed persons. Thus this category of persons - in particular free-lance people in radio and television, free-lance journalists of daily papers and journals, writers and members of artistic occupations - can steadily improve its legal, social and economic status with the means provided by, and within the limits of, wage autonomy, and can catch up with the labour law and social level of employees. The collective agreements concluded up to now on the basis of section 12 a of the Collective Agreements Act as well as the current negotiations, are in line with this legislative objective.
 2. On 24 May 1977, the Federal Constitutional Court ruled that Article 5 of the Collective Agreements Act, according to which collectively agreed

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standards regulating the contents of an employment relationship may be declared generally binding, corresponds to the Basic Law. Thus the legal standards of such a collective agreement also cover employers and workers previously not bound by the collective agreement. This ruling is of considerable practical significance. The employment relationship of every fifth worker in the Federal Republic of Germany is, at least in part, regulated by a generally binding collective agreement.

Article 9: The right to social security

- (1) In the Federal Republic of Germany the guarantee of the right to social security is based on an extensive social system which protects, irrespective of nationality, nearly the entire population of the Federal Republic of Germany in the event of sickness, maternity, industrial accidents and occupational diseases, invalidity, old age and death.

In the field of social insurance the following basic legislation is particularly worth mentioning:

1. the Reich Insurance Code (sickness and accident insurance; pension insurance of wage earners);
2. the Salaried Employees Insurance Act (pension insurance of salaried employees);
3. the Reich Miners' Act (sickness and pension insurance in mining);
4. the Craftsmen's Insurance Act (pension insurance);
5. the Act on Old-Age Assistance for Independent Farmers;
6. the Act on Sickness Insurance for Farmers.

A series of further acts regulates specific problems or covers the social security of certain categories of persons (members of the free professions, district chimney-sweeps etc.). Additional provision is made on the basis of laws and collective agreements.

The relevant basic act for the social compensation law is the Federal Assistance to War Victims Act; originally it covered assistance to war victims, but as of late it also extends to vaccination damage and victims of acts of violence; it is incorporated into the Social Code which is mentioned further on.

The persons covered by the Federal Assistance to War Victims Act and its implementing laws are granted medical treatment for ailments which are recognized as being the result of an injury or which are caused by such injury sequelae. According to these laws, disabled persons with a reduced earning capacity of at least 50 per cent (severely disabled persons) are also granted medical treatment for illnesses that are not recognized as being the result

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of an injury if medical treatment is not provided otherwise. Under the same prerequisites, hospital treatment is granted to the family members of severely disabled persons, to recipients of an attendance allowance in respect of nursing staff, as well as to widows, orphans and parents entitled to benefits.

Due to the regular across-the-board adjustment of benefits under the Federal Assistance to War Victims Act to established pensions under the statutory pension insurance system, the pensions increased by an average of 139 per cent between 1970 and 1977, widows' pensions by as much as 158 per cent, and thus grew to a considerably greater degree than net wages in the same period.

The law on social security will in future be found in a uniform "Social Code", parts of which have already entered into force. The aim of this Code is to draw together all the different and often complicated areas of social law, to simplify it, and to make it more transparent. They include in particular legislation on training incentives and employment promotion, social insurance, social compensation, child benefit and rent allowances, social and youth assistance, and on procedures to be followed by the institutions paying benefits.

Up to now the "General Part" and the "Common Provisions for Social Insurance" have entered into force. They concern statutory health insurance, statutory accident insurance and the statutory pension insurance, including old-age assistance for farmers.

Benefits under social insurance, social compensation law and under works old-age pension schemes (see below item 3) are supplemented by social assistance, for which detailed provisions are laid down in the Federal Social Assistance Act (Bundessozialhilfegesetz). This report does not cover social assistance and child benefit, these will be dealt with elsewhere in the remarks on article 10 ff. of the Covenant.

- (2) For the main characteristics of the existing system, reference is made to the comments in the 1974 report (III B). Foreign workers in employment in the Federal Republic and their dependants are covered by the various branches of social security to the same extent as German workers and their dependants.
 - (a) Medical care together with other benefits in kind is provided for under the statutory health insurance. The insured person may freely choose any qualified panel doctor in independent practice or any physician who is included in the panel medical service as a hospital doctor. Medical and dental treatment, and if required in-patient treatment, are given free of charge.

In the case of pharmaceuticals, medicinal aids and appliances, the insured person is as a rule requested to bear 1 DM of the costs incurred. Early diagnosis measures have already been referred to in the 1974 report (III B).

The insurance, including benefits under items (b) and (c), is financed by

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contributions equally shared between the insured and their employers. Contribution rates vary, the average being about 11 per cent of the remuneration which is taken into consideration only up to the amount of the contribution assessment ceiling of, at present, 2,550 DM a month.

- (b) In the event of sickness wages continue to be paid by the employer for six weeks (see III A 4 of the 1974 report). Afterwards the insured person is entitled to sick pay from the statutory health insurance fund amounting to 80 per cent of wages lost because of unfitness for work. Sick pay is furthermore granted to persons on special short-term leave for the purpose of looking after a sick child.
- (c) Statutory health insurance benefits include a maternity allowance which is normally granted for 6 weeks before and 8 weeks after childbirth (in case of premature and multiple birth the maternity allowance is extended to 12 weeks after childbirth). Maternity allowance rates vary between 3.50 DM and 25 DM a day depending on previous wages. If the maternity allowance is less than the calendar day wage the employer makes up the difference.

Insured persons without entitlement to a maternity allowance (e.g. persons who make voluntary contributions to the statutory health insurance system) are granted a flat rate amount of 150 DM, and dependants covered by their insurance an amount varying between 35 and 150 DM.

Preliminary remarks on items (d) to (e):

The contingencies under items (d) to (e) are covered by the statutory pension system which embraces over 80 per cent of the population of the Federal Republic of Germany. In this context it is worth mentioning that civil servants, for instance, have their own pension scheme outside the scope of social insurance. The statutory pension insurance is financed by contributions equally shared between the insured and their employers. The contribution rates represent about 18 per cent of the remuneration which is taken into consideration up to the amount of the contribution assessment ceiling (currently 3,400 DM a month). In addition, there are considerable state grants covering at present approximately 15 per cent of the expenditure of the statutory pension system.

- (d) As to the computation of pensions, reference is made to the 1974 report (III B). As a rule there is a qualifying period of 60 months. The qualifying period is not applicable in case of invalidity in consequence of an industrial injury and in certain other cases specified by law.

A distinction is made between two types of invalidity: occupational incapacity and unemployability.

- (e) As to categories of persons and finance, see item (d) above, and as to the computation of pensions, see the 1974 report (III B). Here the qualifying period is 180 months.

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- (f) Survivors' pensions are payable to widows and, under certain conditions, also to widowers and divorced spouses and to orphans up to the completion of their eighteenth year. Where an orphan has not finished his studies or vocational training or in case of invalidity the orphan's pension is payable up to the twenty-fifth year of age, in certain cases (so-called delaying facts) it may even be extended. The pensions for widows, widowers and divorced spouses amount to 60 per cent of an occupational incapacity or unemployability pension provided that the insured person would have been entitled to any such pension at the time of his death. The corresponding pension rates for double orphans run at 20 per cent, for one-parent orphans at 10 per cent. In the case of orphans' pensions a child's supplement is payable amounting to 152.90 DM a month. The sum total of all survivors' pensions must, however, not exceed the unemployability pension which would have been due at the time of death.
- (g) Industrial injuries (including commuting accidents) and industrial diseases are covered by the statutory industrial accident insurance (see the 1974 report III B). It is financed entirely by employers' contributions.

These benefits, too, are "dynamized" (see para. 1 under item 3). Pensions are computed on the basis of the insured person's annual earnings and the reduction of his earning capacity, which must be at least 20 per cent. In case of total unemployability pensions amount to two thirds of the annual earnings which are taken into account by most insurance carriers up to a maximum amount of 48,000 DM a year; some insurance carriers even go beyond this limit. In certain cases child supplements may be granted in addition to the pension.

Survivors' pensions are payable in the case of death as a consequence of industrial injury. Apart from industrial injury pensions and survivors' pensions, pensions under the statutory pension scheme may be granted up to a certain maximum amount. Benefits granted under accident insurance may be equivalent to sickness insurance benefits particularly in cases where the injured has not been affiliated to the statutory sickness insurance.

- (h) Benefits in case of unemployment are served by the Federal Institute of Labour and financed from contributions equally shared by the insured person and his employer (1.5 per cent of the remuneration each).

Unemployment benefit is granted subject to a qualifying period of six months. The maximum duration of benefits is one year. The unemployment benefit amounts to 68 per cent of the net remuneration. Apart from unemployment benefit, unemployment assistance may be granted to the amount of 58 per cent of the net remuneration. Its duration is unlimited but its award is subject to a means test. Unemployment benefit and unemployment assistance have recently been "dynamized", implying regular adjustment as in the case of pensions under the statutory pension insurance system.

- (i) These aspects will be covered in the comments on article 10 of the Covenant.
- (3) During the period under review the following new developments have taken place in the field of social security:

Health insurance

As from 1 January 1974 there are no limitations to the duration of benefit for hospital treatment. As a result the previous maximum period of 78 weeks is no longer applicable. At the same time a new kind of benefit has been introduced in the form of sick pay to insured persons who have been forced to take leave in order to look after or take care of their sick child under 8 years of age. Another new type of benefit is the provision for home help. Entitlement to home help services arises where the household is disrupted because of one parent being in hospital, in a maternity ward or undergoing a health cure. In connexion with a Penal Code reform the catalogue of benefits of the statutory health insurance system has been extended to sickness benefits in case of lawful sterilization and abortion to be applied as from 1 December 1975.

As from 1 July 1975 the severely disabled have been able voluntarily to join the statutory health insurance system. At the same time compulsory coverage was extended to the disabled working in recognized sheltered employment or other institutions. Since the beginning of the academic year 1975/76, university students and trainees have also been covered by the statutory health insurance system.

Pension insurance

In the period under review, pensions under the statutory pension insurance system (wage earners, salaried employees, miners) have been adjusted as follows:

- as from 1 July 1973 by 11.35 per cent (16th Pension Adjustment Act of 8 June 1973);
- as from 1 July 1974 by 11.2 per cent (17th Pension Adjustment Act of 1 April 1974);
- as from 1 July 1975 by 11.1 per cent (18th Pension Adjustment Act of 28 April 1975);
- as from 1 July 1976 by 11.0 per cent (19th Pension Adjustment Act of 3 June 1976);
- as from 1 July 1977 by 9.9 per cent (20th Pension Adjustment Act of 27 June 1977).

With the 20th Pension Adjustment Act the date of future pension adjustments has been advanced from 1 July to 1 January of each year, beginning with 1 January 1979.

By virtue of the Act on Social Security for the Disabled of 7 May 1975, disabled persons working in workshops for the disabled or the blind or working in homes or other establishments or taking part in vocational training programmes provided by special institutions have been covered by the statutory health and pension insurance systems. Furthermore, provision has been made for unemployable persons to be eligible for an unemployability pension under the statutory pension insurance, provided that they have completed a total period of coverage (contribution periods and substitution periods) of 240 calendar months before the date of filing their application.

The First Marriage and Family Law Reform Act of 14 June 1976, most provisions of which entered into force on 1 July 1977, has some effect on the statutory pension scheme and its provisions as to the sharing of pension rights. In case of a divorce pension rights are to be shared, where for both or one of the spouses entitlements to a retirement pension or an occupational incapacity or unemployability pension have been acquired during the time of marriage. The spouse with higher entitlements in terms of value is under obligation to share them with the other spouse. The latter is entitled to half of the difference in value. The equalization is carried out by transfer and creation of entitlements under the statutory pension insurance system. Determination of these questions lies with the family court.

Under the Pension Reform Act of 1972, pension insurance carriers are under obligation to inform insured persons who have reached the age of 62 as to the amount of their retirement pension entitlement. By regulation of 22 December 1975, which came into effect on 1 January 1976, this obligation has been extended to insured persons having reached the age of 59.

In the 20th Pension Adjustment Act of 27 June 1977 provisions have been laid down to improve the financial basis of the statutory pension insurance system. The following aspects are particularly worth mentioning:

- (a) As of 1 January 1979, unemployed persons will be included in the category of compulsorily covered persons at the expense of the Federal Institute of Labour. This is to render the system less vulnerable to influences from the labour market. Under present law, periods of unemployment are as a rule considered as excused periods.
- (b) As of 1 July 1977, recipients of a flexible (from 62 or 63 years of age respectively) or an anticipated old-age pension (in certain cases from the age of 60) may take up additional employment which must, however, not exceed two months or 50 working days per year. For recipients of a flexible old-age pension additional earnings from permanent employment must not exceed 1000 DM and for recipients of an anticipated old-age pension they must not exceed 450 DM.
- (c) The children's supplement, which up to now has been linked to the general computation basis and thus been dynamized, was fixed at 152.90 DM a month as of 1 July 1977. This measure aims at bringing about the harmonization of the equalization of family burdens which began with the 1975 tax reform and the accompanying reform of children's allowances.

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- (d) Orphans having reached the age of 18 are no longer granted an orphans' pension if they receive on the basis of a training contract at least 1000 DM or a maintenance allowance of 730 DM a month under the Employment Promotion Act.
- (e) For pensioners who have taken out voluntary or private health insurance the statutory pension insurance carrier will pay a contribution subsidy amounting to 11 per cent of the pension as of 1 July 1977; from 1 January 1978 this contribution subsidy will be limited to the actual amount of the contribution which the insured person pays for his health insurance.

Accident insurance

In the period under review, the pensions and the attendance allowance under the statutory accident insurance have been adjusted as follows:

- as from 1 January 1974 by 9.4 per cent (16th Pensions Adjustment Act);
- as from 1 January 1975 by 11.9 per cent (17th Pensions Adjustment Act);
- as from 1 January 1976 by 11.7 per cent (18th Pensions Adjustment Act);
- as from 1 January 1977 by 7.0 per cent (19th Pensions Adjustment Act).

The adjustment rate for 1 January 1978 will amount to 7.4 per cent (20th Pensions Adjustment Act).

Orthopedic care for victims of accidents including the provision of artificial limbs and other appliances has been improved by the regulation of 18 July 1973. In the new regulation provisions are laid down as to the supply of artificial limbs and invalid chairs and grants for the acquisition of a motor car.

The regulation amending the Seventh Industrial Diseases Regulation of 8 December 1976 added another four items to the list of industrial diseases. The list now includes 55 industrial diseases qualifying for benefits.

Old-age assistance for farmers

The Seventh Act on the continuous adjustment of retirement pensions under the agricultural old-age benefits scheme of 19 December 1973 provided for a significant improvement of benefits. As from 1 January 1975 benefits will be adjusted in accordance with the statutory pension adjustments on the basis of the rates applicable in 1974 for agricultural retirement and early retirement pensions as well as for the land surrender pensions. A graduation of agricultural retirement pensions is to ensure that after 15 years of contributions the basic pension amount is increased by 3 per cent with every additional year for which full contribution has been paid. As from 1 January 1975 an orphan's allowance has been introduced which is included in the regular adjustments applicable to all other benefits.

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Supplementary insurance schemes

The Miners' Supplementary Insurance Scheme for the Saarland was amended by Act of 22 December 1971. The scheme covers the employees of the mines and several other companies of the iron producing, processing and manufacturing industry in the Saarland who on 1 December 1970 were members of the former miners' pension insurance scheme. Employees of other companies in these branches of industry may upon request be admitted to compulsory coverage provided that two thirds of the work force are in favour.

Benefits under this scheme are to be granted only as a supplement to comparable benefits under the statutory pension system. The conditions of statutory pension insurance are applied mutatis mutandis. Benefits have been increased as follows:

- as from 1 January 1973 by 9.5 per cent (1st Supplementary Pension Adjustment Regulation Saar of 15 December 1972);
- as from 1 January 1975 by 35.58 per cent (2nd Supplementary Pension Adjustment Regulation Saar of 5 November 1974);
- as from 1 January 1977 by 67.20 per cent (3rd Supplementary Pension Adjustment Regulation Saar of 11 November 1976).

Adjustment calculations take account of the basic amounts applicable before 1973.

For employees in agriculture and forestry a supplementary pension scheme has been established by Act of 31 July 1974. The Act is conceived as a complement to the collective agreement concluded on 20 November 1973 by employers and employees in agriculture and forestry. Persons with a long period of service in agriculture and forestry and their survivors are entitled, subject to certain conditions, to offset payments bringing their pensions in line with pensions under the statutory pension system and the above-mentioned collective agreement. The supplementary pension scheme is financed by state funds.

Rehabilitation

The Act, which took effect on 1 October 1974, on the harmonization of rehabilitation benefits under the various social insurance branches (statutory health insurance, accident and pension insurance, employment promotion, victims of war pension scheme) provided for an extension of the different rehabilitation benefits and for their harmonization as to amount and scope. During participation in a rehabilitation programme the amount of the previous net remuneration is generally granted by way of maintenance benefit which is adapted every year in accordance with the over-all economic trend. The procedures for initiating and carrying out rehabilitation programmes have been improved, involving a more extensive right to guidance for the disabled; an obligation for doctors to report disablements has also been introduced.

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Benefits under the Employment Promotion Act

In recent years unemployment and short-time work have clearly illustrated the importance of benefits under the Employment Promotion Act. Also in this respect the system of social security has been further developed in the period under review. The following changes are worth mentioning:

- (a) As from 1 October 1974, unemployment benefit, unemployment assistance and maintenance benefit have been annually adjusted in line with pensions under the statutory pension insurance system.
- (b) In cases where participation in training courses is necessary under the given employment situation (in case of existing or imminent unemployment and in the absence of vocational qualification) maintenance benefits for participants in vocational training programmes represent 80 per cent of the net wage. In all other cases the maintenance benefit amounts to 58 per cent (equivalent to the unemployment benefit). As in the case of unemployment benefits, maintenance benefits have now been made conditional upon the completion of a qualifying period.
- (c) Eligibility for unemployment assistance supplementing the unemployment insurance scheme was hitherto dependent either on the previous receipt of unemployment benefit or on a gainful employment of at least 10 weeks during the last year. Periods of vocational training and the receipt of certain social benefits may now replace the period of gainful employment which would otherwise be the condition for the payment of unemployment assistance. Moreover, the means test now makes allowance for considerably higher exemptions for property.
- (d) The maximum duration of the short-time work allowance had been 6 months, with the possibility of an extension to 12 months in case of an exceptional situation on the labour market. Provision has now been made for an extension of the maximum duration by regulation to:
 - up to 12 months in case of an exceptional situation in certain branches of industry or regions, and
 - up to 24 months if at the same time an exceptional situation is prevailing on the labour market as a whole.

In several instances these possibilities have already been put to use.

- (e) Payments in respect of wage debts in the event of bankruptcy have been introduced in 1974. These payments are conceived as compensation for wage claims in the last three months before the opening of bankruptcy proceedings. Payments are made to the amount of the net arrears. Social insurance contribution debts for the same period of time are equally provided for. The scheme is financed from a levy paid by the employers. Wage debts now constitute a debt chargeable against the State. A copy of the Act is attached as annex 1.

The importance of works' old-age pension schemes was already mentioned in the 1974 report (see III B). In the meantime the Act to improve works' old-age pension coverage dated 19 December 1974 has considerably improved the legal status of employees to whom old-age, invalidity or survivors' pension benefits have been pledged on the basis of their employment relationship (works' old-age pension coverage):

- (a) Prospective pension entitlement are no longer forfeitable in the case of an at least 35-year-old employee on condition that he has been covered by the pension pledge for at least 10 years or that he has been a member of the establishment for at least 12 years and been covered by the pension pledge for at least 3 years;
- (b) A protection against attrition clause has been introduced to ensure that increases of other pension payments as a result of adjustments to economic trends are not offset against works' old-age pension benefits;
- (c) The commencement of works' old-age benefits is harmonized with the commencement of the flexible or early retirement pensions under the statutory pension insurance system (see III B of the 1974 report);
- (d) In case of insolvency of the employer, entitlements under a pension pledge are protected by an insolvency insurance scheme;
- (e) The employer is required to examine the possibility of adjusting regular benefits provided under works' old-age pension coverage at three-yearly intervals and to reach his decision on the basis of equity.

A copy of the Act is attached as annex 2. 4/

4/ See foot-note 3.

Reference materials appended to the report*

Annexes

Article 6

1. Special Federal Government programmes to maintain employment.
2. Vocational Training Act - dated 14 August 1969.
3. Comments on article 6 concerning "Vocational Training Programmes".
4. Notification to promulgate a consolidated text of the Severely Handicapped Persons Act - dated 29 April 1974.

Article 7

1. Works Constitution Act - dated 15 January 1972.
2. Act respecting workers' co-participation (Co-participation Act) - dated 4 May 1976.
3. Research on the Humanization of Work - Action programme of the Federal Minister for Labour and Social Affairs and the Federal Minister for Research and Technology.
4. Ordinance on workplaces (Workplaces Ordinance) - dated 20 March 1975.
5. Act on plant physicians, safety engineers and other occupational safety specialists - dated 12 December 1973.

Article 9

1. Act respecting payments in respect of wage debts in the event of bankruptcy (Employment Promotion (Amendment) Act (No. 3)) - dated 17 July 1974.
2. An Act to improve works old-age pension coverage - dated 19 December 1974.

* These reference materials are available for consultation in the files of the Secretariat in their original language as received from the Federal Republic of Germany.