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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties to the Covenant
concerning rights covered by articles 6 to 9, in accordance
with the first stage of the programme established by the
Economic and Social Council in its resolution 1988 (LX)

Addendum

NETHERLANDS*

[22 January 1986]

I. BACKGROUND

1. The rights enumerated in articles 6 to 9 of the Covenant may be exercised in the Netherlands Antilles without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Nor is any distinction made in those respects between foreign workers and nationals, provided that foreign workers are in possession of a valid, official resident permit granting them permission to work.

* This document contains information relating to articles 6 to 9 of the Covenant in the Netherlands Antilles.

The reference material mentioned in the report is available for consultation in the Secretariat, as received from the Government of the Netherlands.

II. ARTICLE 6: THE RIGHT TO WORK

A. Principal laws

2. The principal statutory regulations regarding the right to work are: the Collective Agreements Ordinance (P.B.* 1958, No. 60); the Employment Office Ordinance (P.B. 1946, No. 109); the Termination of Employment Contracts Ordinance (P.B. 1972, No. 111); and the Civil Code (art. 1615 o, p and q).

B. Employment

3. The Kingdom of the Netherlands, which incorporates the Netherlands Antilles, is party to the Treaty of Rome which prohibits all forms of compulsory and forced labour. It has ratified ILO Conventions No. 29, banning compulsory and forced labour, and No. 105, concerning the abolition of forced labour.

4. With regard to guarantees against discrimination, there is no explicit general provision prohibiting discrimination in employment in the national legislation of the Netherlands Antilles. There are, however, a number of national regulations designed to eliminate discrimination in the sphere of employment.

5. Article 1(3) of the Collective Agreements Ordinance lays down that the terms of a collective agreement may not specify that the employer is obliged to engage or is prohibited from engaging persons of a particular race, religion or political conviction. Article 4 of the Employment Office Ordinance states that the national employment agency is to be accessible to all employers and all persons seeking work.

Economic policies

6. The international recession of recent years has had a serious impact on the economy of the Netherlands Antilles. Since the economy is heavily dependent on the tertiary sector, the fall in foreign demand in that sector is keenly felt, both directly and indirectly. The transport, hotel and ship-repair industries have suffered considerably, while the marked decline in tourism has dealt a severe blow to retailers and the national airline. To halt the trend the Government has outlined a policy designed to preserve and create jobs by promoting economic growth and to maintain adequate foreign currency reserves. The measures the Government intends to take to achieve those objectives include:

(a) A wages and prices policy which will stimulate economic activity while at the same time correcting unfavourable social consequences;

(b) A monetary policy which will guarantee the maintenance of adequate foreign currency reserves;

* Publicatieblad van de Nederlandse Antillen (Official Bulletin of the Netherlands Antilles).

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- (c) A policy designed to achieve a better balance of payments;
- (d) The elimination of bottlenecks in the labour market.

ILO Convention No. 122 on employment policy has been ratified on behalf of the Netherlands Antilles by the Kingdom of the Netherlands.

National employment office

7. A national employment office in the Netherlands Antilles, established by a special ordinance, assists employers in finding workers and those looking for work in finding jobs. It collects the data necessary to carry out that task.

8. In addition, most of the islands comprising the Netherlands Antilles have a department which is responsible for labour market policy and collects and analyses employment statistics.

Occupational training

9. Promoting occupational training is one of the duties of the employment office. The employment departments on the islands organize training courses for the unemployed. On Curaçao, for example, the programme includes training courses in brick-laying, carpentry, welding and plumbing. The Vocational Training and Education Foundation on Curaçao promotes such training outside normal school hours for young people and adults. It consists of representatives of the Government, employers and employees, and acts as technical advisor to the Government at meetings of the Technical Committee of the Inter-American Research and Documentation Centre on Vocational Training.

Protection from arbitrary dismissal

10. Legislation in the Netherlands Antilles protects employees from arbitrary dismissal.

11. The Termination of Employment Contracts Ordinance states that the consent of the director of the Department of Employment and Social Affairs must be obtained before an employee may be dismissed.

12. Article 1615 s and t of the Civil Code allows both the employee and the employer the opportunity to appeal to the courts if they consider that the other party has acted in a clearly unreasonable way in terminating employment.

13. The Civil Code also stipulates that anyone who terminates an employment contract without the other party's consent is obliged to pay compensation unless there are cogent reasons for having done so. (Some examples of reasons which may be regarded as cogent are given in the Civil Code.)

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Protection against unemployment

14. There is no statutory protection against unemployment in the Netherlands Antilles. The Government is seeking to eliminate or reduce unemployment, wherever possible, through an active employment policy (see art. 6 B(2)).

Statistical information

15. Levels of employment and unemployment on Aruba and Curaçao in February 1981 and December 1984 are given below.

	<u>Employed</u>	<u>Unemployed</u>	<u>Percentage unemployed</u>
Aruba 1981	23 500	2 500	9.4
1984	24 700	3 400	12.1
Curaçao 1981	48 800	10 500	17.8
1984	47 300	16 900	26.3

16. In February 1981 the working population on Curaçao numbered 59,300, consisting of 35,800 men and 23,500 women. Of that total, 10.5 per cent were unemployed, 60 per cent of whom were women. Most of the unemployed (over 70 per cent) had a low level of education or training.

17. The working population on Aruba in February 1981 comprised 26,000 people (16,500 men and 9,500 women) of whom 2,500 were unemployed, 45 per cent of them women.

18. The working population in February 1981 on the other four islands of the Netherlands Antilles - Bonaire, Saba, St. Eustatius and St. Maarten - totalled 10,900 persons, 9.2 per cent of whom were out of work. Unemployment stood at 11.5 per cent on Bonaire and 7.7 per cent on St. Maarten, while the number of unemployed in the other two very small economies of Saba and St. Eustatius was 29 and 79, respectively - i.e., 7.3 per cent and 14.5 per cent of the working population. An absolute rise in the total working population together with both an absolute and relative rise in unemployment is expected on all the islands in the next few years, with the exception of St. Maarten.

III. ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE
CONDITIONS OF WORK

A. Principal laws

19. The principal statutory regulations in the Netherlands Antilles concerning wage protection are contained in the Minimum Wages Ordinance (P.B. 1972, No. 110), which empowers the Government to lay down minimum wage requirements and prohibits

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the conclusion of employment contracts providing for wages below that minimum; and the Civil Code (art. 1614 b), which regulates the obligation of the employer to pay his employees at the agreed time.

B. Remuneration

20. Wages in the public sector are governed by Act of Parliament whereas in the private sector they are fixed partly by individual negotiation and partly by collective bargaining, taking due account of the statutory minimum wage levels.

21. In the Netherlands Antilles there are four different minimum wage levels, depending on the industrial or commercial sector concerned. They are adjusted each year in line with the increase in the price index for household consumption. The Government intends eventually to introduce one general minimum wage by adjusting each of the four existing minimum wage levels by a different percentage of the price index.

Other remuneration

22. Payments such as bonuses or cost-of-living differentials are not regulated by law but are fixed by individual or collective agreements and thus vary accordingly. Most collective agreements stipulate payment of a Christmas bonus (e.g., one month's salary) and a holiday allowance. The Act governing the payment of holiday allowances to public service employees was revoked for one year as from July 1984.

Statistical information

23. The statutory minimum monthly wage is shown below (Antillean guilders).

	<u>Category I</u>	<u>Category II</u>	<u>Category III</u>	<u>Category IV</u>
1980	712.45	512.10	429.80	205.65
1981	817.20	587.40	493.00	235.90
1982	910.40	654.40	549.20	262.05
1983	921.70	678.75	583.30	278.30
1984	925.40	686.90	594.95	283.85

24. The price index figures (December 1970 = 100) are given below:

December 1975	104.0	December 1980	164.7
December 1976	108.6	December 1981	178.8
December 1977	115.4	December 1982	187.2
December 1978	126.6	December 1983	191.3
December 1979	142.0	August 1984	194.3

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Provisions to ensure equal pay for work of equal value

25. The right to equal pay for work of equal value is regulated by law in the public sector, where salaries are fixed per post. It is also generally one of the terms in collective agreements in the private sector.

Measures to ensure fair remuneration

26. See the sections above relating to the introduction of a minimum wage system.

C. Safe and healthy working conditions

27. National legislation concerning safety at work in all sectors consists of the 1958 Safety Ordinance (P.B. 1958, No. 14) and subsequent implementation decrees. Articles 6-7 of the Safety Ordinance regulate the procedures and powers of the Safety Inspectorate, the body responsible for supervising compliance with the provisions of the Ordinance.

D. Equal opportunity for promotion

28. The Netherlands Antilles has no legislation enforcing equality of promotion opportunities in the private sector. However, it is often guaranteed in collective agreements. In the public sector promotion policy is based on objective norms.

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

29. Rest periods and working hours in the private sector are regulated by the 1952 Employment Regulations (P.B. 1958, No. 24). The right to holidays with pay is laid down in the 1949 Holiday Regulations (P.B. 1949, No. 17) and the Ordinance of 24 April 1965 (P.B. 1969, No. 44).

30. Weekly rest is governed by article 8 of the Employment Regulations. It includes Sundays, public holidays, and a daily period (morning or afternoon) ending or beginning at 1 p.m.

31. Normal hours of work and overtime are governed, respectively, by articles 5 and 6 and article 7 of the Employment Regulations. Article 5.1 states that normal hours of work may constitute eight hours per day and 45 hours per week, but no more than 8.5 hours per day in a working week of no more than five days. With regard to overtime, article 7 states that an employee may only on exceptional occasions work for longer than 11 hours per day and 55 hours per week.

32. In the public sector, normal hours of work are 39.5 hours per week for island public servants and 40 hours per week for state public servants.

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33. Article 2 of the Holiday Regulations provides for a minimum number of holidays per year of 15 days in the case of a five-day working week. In practice, longer holidays tend to be stipulated in collective agreements.

34. Public servants' holidays are governed by the Ordinance of 24 April 1969. Holiday entitlement is dependent on salary levels, the minimum being 19 days.

35. Remuneration for Sundays and public holidays is governed by article 23 of the Employment Regulations. Employees who work overtime on those days are entitled to at least twice the normal wage.

Industries where work is organized on a continuous basis

36. Such services and industries (police, health care, etc.) are governed by the same statutory regulations as noted above.

Realization of the rights outlined in article 7

37. No real difficulties are experienced here.

IV. ARTICLE 8: TRADE UNION RIGHTS

A. Principal laws

38. Relevant legislation includes the Constitution of the Netherlands Antilles, article 10; the Civil Code, articles 1665 ff.; the Labour Disputes Ordinance (P.B. 1946, No. 119); the Industrial Relations Decree II (P.B. 1957, No. 168); and the Industrial Relations Decree III (P.B. 1978, No. 243).

B. Right to form and join trade unions

39. Article 10 of the Constitution reads:

"The exercise of the right of association and assembly may, in the interests of public order, morality or health, be subject to regulations and restrictions laid down by Ordinance."

This provision, first, establishes the right of association and, secondly, indicates that restrictions may be imposed on the exercise of that right.

40. As part of the Kingdom of the Netherlands, the Netherlands Antilles is also party to ILO Convention No. 87 concerning freedom of association and protection of the right to organize.

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C. Right of trade unions to federate

41. Employers' organizations and trade unions are free to join national or international federations. That right is also guaranteed by article 10 of the Constitution. Almost all trade unions in the Netherlands Antilles are, in fact, affiliated to a national and/or international federation.

D. Right of trade unions to function freely

42. There are no limitations in the Netherlands Antilles on the right of trade unions to function freely, other than those necessary for the maintenance of public order.

E. Right to strike

43. the right to strike is not explicitly mentioned in Netherlands Antilles legislation but is none the less recognized. Article 6 of the European Social Charter, which governs the right to strike, has been ratified on behalf of the Netherlands Antilles by the Kingdom of the Netherlands (though not for public servants).

44. The right to strike is restricted in various ways in order to ensure that strikes are used as a last resort when all other means have failed. The restrictions are as follows:

(a) The Government may issue a decree prohibiting strike action for a period of up to 30 days (Labour Disputes Ordinance, art. 3A);

(b) For certain industries enumerated in the Industrial Relations Decree II, the period may be up to 90 days;

(c) No strike action may be taken in those industries while arbitration is in progress.

F. Special restrictions

45. the right to associate in trade unions extends to police officials and public servants, and there are several trade unions for those categories of employees in the Netherlands Antilles. The armed forces in the Netherlands Antilles come under military authority in the Netherlands and are therefore subject to the regulations in force there.

Realization of the rights outlined in article 8

46. There are no difficulties in this area in the Netherlands Antilles.

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V. ARTICLE 9: RIGHT TO SOCIAL SECURITY

A. Principal laws

47. The principal statutory regulations are the 1966 Health Insurance Ordinance, P.B. 1966, No. 15; Public Servants' Health Insurance Regulations, P.B. 1977, No. 135; Public Servants' Social Security Ordinance, P.B. 1964, No. 159; Accident Insurance Ordinance, P.B. 1966, No. 14; General Old Age Pensions Ordinance, P.B. 1976, No. 45; Widows' and Orphans' Benefits Ordinance, P.B. 1965, No. 195, and Redundancy Ordinance, P.B. 1983, No. 85.

B. Medical, sickness and maternity benefits

48. Medical care, sickness benefits and maternity benefits in the private sector are regulated by the 1966 Health Insurance Ordinance. In general, persons who are employed under the terms of a contract or who personally perform contract work are covered. The following employed persons are not insured:

- (a) Employees earning a daily wage which is above the statutory maximum daily wage;
- (b) The self-employed;
- (c) Domestic staff;
- (d) Home workers;
- (e) The master and crew of sea-going vessels;
- (f) Certain categories of casual workers;
- (g) Public servants.

49. Employees are entitled to medical care for up to two years after termination of employment. Sickness and maternity benefit amount to 80 per cent of the employee's daily wage for breadwinners, and 70 per cent for non-breadwinners. Employers are obliged to pay an annual premium to cover health insurance, which at present amounts to 7 per cent of the wages of each employee.

50. Public sector employees continue to draw their full wage during sickness and are reimbursed 90 per cent of their medical costs. Public servants who earn less than a given amount are entitled to free medical and surgical treatment.

51. Approximately 79,000 people are covered by the above schemes - i.e., around 93 per cent of the number of people in employment and 75 per cent of the working population. Various companies also run health insurance schemes for their employees.

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C. Accident insurance

52. Accident insurance is regulated by the Accident Insurance Ordinance, which covers the same categories of workers as the Health Insurance Ordinance. Certain occupational diseases are also included in the scheme. The level of benefit for the first 52 weeks amounts to 100 per cent of the employee's daily wage for breadwinners. For non-breadwinners, the percentages are 100 per cent, if they are cared for at home and 70 per cent if they are in hospital. The following rates apply thereafter: 80 per cent of the daily wage, and 80 per cent and 60 per cent, respectively, of the daily wage.

53. The maximum amount of accident benefit which may be paid per day is f.85 for a six-day working week, and f.102 for a five-day working week.

54. Employees are also entitled to aids which will alleviate or eliminate their disablement or improve their living conditions, and instruction in the use of such aids.

55. The accident insurance scheme is financed by a compulsory annual premium paid by employers. The amount of the premium varies, depending on the hazard category into which each company falls, and is calculated as a percentage of the employee's wages.

D. Old-age benefits

56. Old-age benefits are regulated by the General Old Age Pensions Ordinance, which guarantees all insured persons an old-age pension on reaching the age of 62. The amount of the pension is f.287 per month for single persons and f.487 per month for married breadwinners.

57. Pensions are linked to the price index for household consumption.

58. Pension contributions are levied on the basis of income earned per calendar year.

59. The number of persons currently drawing a pension under the old-age pension scheme is 19,508.

60. Public servants' pensions are regulated by the Public Service Pensions Ordinance. There are 2,976 persons in receipt of pensions under the scheme.

E. Widows' and orphans' benefits

61. The Widows' and Orphans' Benefits Ordinance is designed to insure widows and orphans against the financial consequences of the death of a husband, father or mother. Benefit levels vary according to age, ranging from f.128 to f.287 per month for widows and from f.94 to f.110 per month for orphans (1984 figures), and are linked to the price index for household consumption. The number of widows currently drawing benefits is 5,816.

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F. Unemployment benefits

62. There is no provision for payment of unemployment benefit in the Netherlands Antilles. Under the terms of the Redundancy Ordinance, however, employees are entitled to the following lump-sum payments on being made redundant through no fault of their own:

- (a) One week's wages per year of service for the first 10 full years of service;
- (b) One and one-quarter times a week's wages per year of service for the eleventh to twentieth full year of service;
- (c) Twice the full week's wages for subsequent years.

G. Family allowance

63. There is no general family allowance scheme in the Netherlands Antilles, but child benefit is incorporated in the wages of certain categories of workers.

H. Administration of benefit schemes

64. No difficulties are encountered in the administration of the above-mentioned schemes in the Netherlands Antilles.

65. The redundancy scheme introduced in 1984 may be regarded as an extension of social security for employees.
