PREM 19/1540

MT

PART 2

Confidential Filing

Wages Councils

Review of the Fair Wages Resolution

INDUSTRIAL POLICY

Pt 1 : March 1980

Pt 2 : April 1982

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~4.4.82~~		~~27.8.82~~					
~~2.4.82~~		~~14.9.82~~					
~~19.4.82~~		~~30.9.82~~					
~~28.4.82~~		~~4.10.82~~					
~~3.5.82~~		~~28.2.83~~					
~~24.5.82~~		~~8.3.83~~					
~~26.5.82~~		~~22.3.83~~					
~~4.6.82~~		~~13.2.84~~					
~~18.6.82~~		~~18/6/84~~					
~~30.6.82~~		~~18/7/84~~					
~~6.7.82~~		~~13/7/84~~					
~~13.7.82~~		~~30.11.84~~					
~~14.7.82~~		~~5.12.84~~					
~~22.7.82~~		~~14.1.85~~					
~~31.8.82~~		~~23.1.85~~					
~~14.9.82~~		~~18.3.85~~					
		~~26.3.85~~					
		~~27.3.85~~					
		~~1.7.85~~					
		28.6.85					
		PART ENDS					

PREM 19/1540

PART 2 ends:-

AT to PM 28.6.85

PART 3 begins:-

O letwin + P Warry to PM 1.7.85

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
E(A)(84) 69	30/11/1984
E(A)(84) 19th Meeting, item 2	18/07/1984
E(A)(84) 33	08/06/1984
E(82) 18th Meeting, item 2	14/07/1982
E(82) 56	05/07/1982
E(82) 48	20/05/1982
E(82) 47	13/05/1982

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 14/2/2014

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Wages Council Act 1979: Retail Trades (Non-food) Wages Council (Great Britain): Minimum Pay, Holidays and Holiday Pay. Issued by order of the Wages Council, 8 April 1983. Office of Wages Councils, Steel House, Tothill St, London SW1H 9NF

Signed J. Gray Date 14/2/2014

PREM Records Team

E.P.

CONFIDENTIAL

PRIME MINISTER

MEETING WITH SECRETARY OF STATE FOR EMPLOYMENT

The papers for the deregulation meeting canvass the possibility of taking an early decision on wages councils and announcing it as part of the deregulation package. Mr. King wants to take your mind on the options which are:-

(i) stay in ILO and reform councils at the margins.

(ii) announce deratification and a policy of reform plus case by case review of existence of each council.

(iii) announce deratification to be followed by abolition.

Whichever course is followed, there is a choice of announcing in association with the deregulation package or subsequently.

AT

(ANDREW TURNBULL)

28 June 1985

CONFIDENTIAL

CONFIDENTIAL

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213.....

Switchboard 01-213 3000

NBIT
CDP
17/6

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
LONDON SW1

17 June 1985

Dear Geoffrey,

I understand that the formal instrument of ratification of ILO Convention No. 23 about which I wrote on 26 March was registered with the International Labour Office in Geneva on 3 June 1985. I am grateful to you for arranging this.

Since my earlier letter, I find that we are also in a position to ratify Convention No. 126 (Accommodation on Board Fishing Vessels). A copy of the text is enclosed. This is the only other Convention identified under the procedure outlined in my earlier letter which is a candidate for ratification. Nicholas Ridley has confirmed that as a result of legislation enacted in 1975, UK law and practice is fully in accordance with its requirements. The TUC support ratification and I understand from Nicholas Ridley that, following consultation with his Department, the fishing industry employers have no objection. (The CBI have no fishing organisations in their membership.)

For the reasons I gave in my letter of 26 March, I see advantage in registering this further ratification at an early date and should accordingly be grateful if you would again set in motion the formal procedure for ratification by arranging for an official letter to be sent to the ILO Director General as soon as possible.

Copies of this letter and enclosure go to all members of the Cabinet, the Attorney-General, the Paymaster-General, the Chief Whip and Sir Robert Armstrong.

Yours

Ian

R 19/6

Wages Councils (?) IND POL.

Pt 2

INTERNATIONAL LABOUR CONFERENCE

Convention 126

CONVENTION CONCERNING ACCOMMODATION ON BOARD FISHING VESSELS

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fiftieth Session on 1 June 1966, and

Having decided upon the adoption of certain proposals with regard to accommodation on board fishing vessels, which is included in the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-first day of June of the year one thousand nine hundred and sixty-six the following Convention, which may be cited as the Accommodation of Crews (Fishermen) Convention, 1966 :

Part I. General Provisions

Article 1

1. This Convention applies to all sea-going mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when ships and boats are to be regarded as sea-going for the purpose of this Convention.

3. This Convention does not apply to ships and boats of less than 75 tons : Provided that the Convention shall be applied to ships and boats of between 25 and 75 tons where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that this is reasonable and practicable.

4. The competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, use length instead of tonnage as a parameter for the purposes of this Convention, in which event the Convention does not apply to ships and boats of less than 80 feet (24.4 metres) in length : Provided that the Convention shall be applied to ships and boats of between 45 and 80 feet (13.7 and

Price: 15 cents; 1s.

24.4 metres) in length where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that this is reasonable and practicable.

5. This Convention does not apply to—

(a) ships and boats normally employed in fishing for sport or recreation;

(b) ships and boats primarily propelled by sail but having auxiliary engines;

(c) ships and boats engaged in whaling or similar pursuits;

(d) fishery research and fishery protection vessels.

6. The following provisions of this Convention do not apply to vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port:

(a) Article 9, paragraph 4;

(b) Article 10;

(c) Article 11;

(d) Article 12;

(e) Article 13, paragraph 1;

(f) Article 14;

(g) Article 16:

Provided that in such vessels adequate sanitary installations as well as messing and cooking facilities and accommodation for resting shall be provided.

7. The provisions of Part III of this Convention may be varied in the case of any vessel if the competent authority is satisfied, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that the variations to be made provide corresponding advantages as a result of which the over-all conditions are no less favourable than those that would result from the full application of the provisions of the Convention ; particulars of all such variations shall be communicated by the Member to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organisation.

Article 2

In this Convention—

(a) the term " fishing vessel " or " vessel " means a ship or boat to which the Convention applies ;

(b) the term " tons " means gross registered tons ;

(c) the term " length " means the length measured from the fore part of the stem on the line of the forecastle deck to the after side of the head of the sternpost, or to the foreside of the rudderstock where no sternpost exists ;

(d) the term " officer " means a person other than a skipper ranked as an officer by national laws or regulations or, in the absence of any relevant laws or regulations, by collective agreement or custom ;

(e) the term "rating" means a member of the crew other than an officer;

(f) the term " crew accommodation " includes such sleeping rooms, mess rooms and sanitary accommodation as are provided for the use of the crew ;

(g) the term " prescribed " means prescribed by national laws or regulations, or by the competent authority ;

(h) the term " approved " means approved by the competent authority ;

(i) the term " re-registered " means re-registered on the occasion of a simultaneous change in the territory of registration and in the ownership of the vessel.

Article 3

1. Each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention.

2. The laws or regulations shall—

(a) require the competent authority to bring them to the notice of all persons concerned ;

(b) define the persons responsible for compliance therewith ;

(c) provide for the maintenance of a system of inspection adequate to ensure effective enforcement ;

(d) prescribe adequate penalties for any violation thereof ;

(e) require the competent authority to consult periodically the fishing-vessel owners' and fishermen's organisations, where such exist, in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.

Part II. Planning and Control of Crew Accommodation

Article 4

Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation shall be submitted to the competent authority for approval.

Article 5

1. On every occasion when—

(a) a fishing vessel is registered or re-registered,

(b) the crew accommodation of a vessel has been substantially altered or reconstructed, or

(c) complaint that the crew accommodation is not in compliance with the terms of this Convention has been made to the competent authority, in the prescribed manner and in time to prevent any delay to the vessel, by a recognised fishermen's organisation representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel,

the competent authority shall inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws and regulations.

2. Periodical inspections may be held at the discretion of the competent authority.

Part III. Crew Accommodation Requirements

Article 6

1. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces shall be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.

2. Emergency escapes shall be provided from all crew accommodation spaces as necessary.

3. Every effort shall be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and shall be watertight and gastight.

4. External bulkheads of sleeping rooms and mess rooms shall be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced shall be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care shall also be taken to provide protection from heat effects of steam and/or hot-water service pipes.

5. Internal bulkheads shall be of approved material which is not likely to harbour vermin.

6. Sleeping rooms, mess rooms, recreation rooms and passageways in the crew accommodation space shall be adequately insulated to prevent condensation or over-heating.

7. Main steam and exhaust pipes for winches and similar gear shall, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation ; where they do pass through such accommodation or passageways they shall be adequately insulated and encased.

8. Inside panelling or sheeting shall be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin shall not be used.

9. The competent authority shall decide to what extent fire prevention or fire retarding measures shall be required to be taken in the construction of the accommodation.

10. The wall surface and deckheads in sleeping rooms and mess rooms shall be easily kept clean and, if painted, shall be light in colour ; lime wash must not be used.

11. The wall surfaces shall be renewed or restored as necessary.

12. The decks in all crew accommodation shall be of approved material and construction and shall provide a surface impervious to damp and easily kept clean.

13. Overhead exposed decks over crew accommodation shall be sheathed with wood or equivalent insulation.

14. Where the floorings are of composition the joinings with sides shall be rounded to avoid crevices.

15. Sufficient drainage shall be provided.

16. All practicable measures shall be taken to protect crew accommodation against the admission of flies and other insects.

Article 7

1. Sleeping rooms and mess rooms shall be adequately ventilated.

2. The system of ventilation shall be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

3. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions shall, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans : Provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

4. Vessels engaged elsewhere shall be equipped either with mechanical means of ventilation or with electric fans. The competent authority may exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.

5. Power for the operation of the aids to ventilation required by paragraphs 3 and 4 of this Article shall, when practicable, be available at all times when the crew is living or working on board and conditions so require.

Article 8

1. An adequate system of heating the crew accommodation shall be provided as required by climatic conditions.

2. The heating system shall, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.

3. Heating by means of open fires shall be prohibited.

4. The heating system shall be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority shall prescribe the standard to be provided.

5. Radiators and other heating apparatus shall be so placed and, where necessary, shielded and fitted with safety devices as to avoid risk of fire or danger or discomfort to the occupants.

Article 9

1. All crew spaces shall be adequately lighted. The minimum standard for natural lighting in living rooms shall be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard shall be provided.

2. In all vessels electric lights shall, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting shall be provided by properly constructed lamps or lighting apparatus for emergency use.

3. Artificial lighting shall be so disposed as to give maximum benefit to the occupants of the room.

4. Adequate reading light shall be provided for every berth in addition to the normal lighting of the cabin.

5. A permanent blue light shall, in addition, be provided in the sleeping room during the night.

Article 10

1. Sleeping rooms shall be situated amidships or aft ; the competent authority may, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel, but in no case forward of the collision bulkhead.

2. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than—

(a) in vessels of 25 tons but below 50 tons . .	5.4 sq.ft. (0.5 sq.m.)
(b) in vessels of 50 tons but below 100 tons .	8.1 sq.ft. (0.75 sq.m.)
(c) in vessels of 100 tons but below 250 tons .	9.7 sq.ft. (0.9 sq.m.)
(d) in vessels of 250 tons or over	10.8 sq.ft. (1.0 sq.m.)

3. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than—

(a) in vessels of 45 feet (13.7 m.) but below 65 feet (19.8 m.) in length	5.4 sq.ft. (0.5 sq.m.)
(b) in vessels of 65 feet (19.8 m.) but below 88 feet (26.8 m.) in length	8.1 sq.ft. (0.75 sq.m.)
(c) in vessels of 88 feet (26.8 m.) but below 115 feet (35.1 m.) in length	9.7 sq.ft. (0.9 sq.m.)
(d) in vessels of 115 feet (35.1 m.) in length or over	10.8 sq.ft. (1.0 sq.m.)

4. The clear head room in the crew sleeping room shall, wherever possible, be not less than 6 feet 3 inches (1.90 metres).

5. There shall be a sufficient number of sleeping rooms to provide a separate room or rooms for each department : Provided that the competent authority may relax this requirement in the case of small vessels.

6. The number of persons allowed to occupy sleeping rooms shall not exceed the following maxima :

(a) officers : one person per room wherever possible, and in no case more than two ;

(b) ratings : two or three persons per room wherever possible, and in no case more than the following :

(i) in vessels of 250 tons and over, four persons ;

(ii) in vessels under 250 tons, six persons.

7. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, the number of ratings allowed to occupy sleeping rooms shall in no case be more than the following :

(a) in vessels of 115 feet (35.1 m.) in length and over, four persons ;

(b) in vessels under 115 feet (35.1 m.) in length, six persons.

8. The competent authority may permit exceptions to the requirements of paragraphs 6 and 7 of this Article in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.

9. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in some place in the room where it can conveniently be seen.

10. Members of the crew shall be provided with individual berths.

11. Berths shall not be placed side by side in such a way that access to one berth can be obtained only over another.

12. Berths shall not be arranged in tiers of more than two ; in the case of berths placed along the vessel's side, there shall be only a single tier where a sidelight is situated above a berth.

13. The lower berth in a double tier shall not be less than 12 inches (0.30 metre) above the floor ; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.

14. The minimum inside dimensions of a berth shall wherever practicable be 6 feet 3 inches by 2 feet 3 inches (1.90 metres by 0.68 metre).

15. The framework and the lee-board, if any, of a berth shall be of approved material, hard, smooth and not likely to corrode or to harbour vermin.

16. If tubular frames are used for the construction of berths, they shall be completely sealed and without perforations which would give access to vermin.

17. Each berth shall be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin shall not be used.

18. When one berth is placed over another a dust-proof bottom of wood, canvas or other suitable material shall be fitted beneath the upper berth.

19. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

20. The furniture shall include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority shall ensure that the locker is as commodious as practicable.

21. Each sleeping room shall be provided with a table or desk, which may be of the fixed, dropleaf or slide-out type, and with comfortable seating accommodation as necessary.

22. The furniture shall be of smooth, hard material not liable to warp or corrode, or to harbour vermin.

23. The furniture shall include a drawer or equivalent space for each occupant which shall, wherever practicable, be not less than 2 cubic feet (0.056 cubic metre).

24. Sleeping rooms shall be fitted with curtains for the sidelights.

25. Sleeping rooms shall be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

26. As far as practicable, berthing of crew members shall be so arranged that watches are separated and that no day-men share a room with watch-keepers.

Article 11

1. Mess room accommodation separate from sleeping quarters shall be provided in all vessels carrying a crew of more than ten persons. Wherever possible it shall be provided also in vessels carrying a smaller crew ; if, however, this is impracticable, the mess room may be combined with the sleeping accommodation.

2. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess room accommodation may be provided for the skipper and officers.

3. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

4. Mess rooms shall be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

5. Mess rooms shall be as close as practicable to the galley.

6. Where pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing them shall be provided.

7. The tops of tables and seats shall be of damp-resisting material, without cracks and easily kept clean.

8. Wherever practicable mess rooms shall be planned, furnished and equipped to give recreational facilities.

Article 12

1. Sufficient sanitary accommodation, including washbasins and tub and/or shower baths, shall be provided in all vessels.

2. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached shall, wherever practicable, be provided for each department of the crew on the following scale :

(a) one tub and/or shower bath for every eight persons or less ;

(b) one water closet for every eight persons or less ;

(c) one wash basin for every six persons or less ;

Provided that when the number of persons in a department exceeds an even multiple of the specified number by less than one-half of the specified number, this surplus may be ignored for the purpose of this paragraph.

3. Cold fresh water and hot fresh water or means of heating water shall be available in all communal wash places. The competent authority, in consultation with the fishing-vessel owners' and fishermen's organisations where such exist, may fix the minimum amount of fresh water which shall be supplied per man per day.

4. Wash basins and tub baths shall be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

5. All water closets shall have ventilation to the open air, independently of any other part of the accommodation.

6. The sanitary equipment to be placed in water closets shall be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

7. Soil pipes and waste pipes shall be of adequate dimensions and shall be so constructed as to minimise the risk of obstruction and to facilitate cleaning. They shall not pass through fresh water or drinking water tanks ; neither shall they, if practicable, pass overhead in mess rooms or sleeping accommodation.

8. Sanitary accommodation intended for the use of more than one person shall comply with the following requirements :

(a) floors shall be of approved durable material, easily cleaned and impervious to damp, and shall be properly drained ;

(b) bulkheads shall be of steel or other approved material and shall be water-tight up to at least 9 inches (0.23 metre) above the level of the deck ;

(c) the accommodation shall be sufficiently lighted, heated and ventilated ;

(d) water closets shall be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access : Provided that this requirement shall not apply where a water closet is located between two sleeping rooms having a total of not more than four persons ;

(e) where there is more than one water closet in a compartment, they shall be sufficiently screened to ensure privacy.

9. Facilities for washing and drying clothes shall be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

10. The facilities for washing clothes shall include suitable sinks equipped with drainage which may be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks shall be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.

11. The facilities for drying clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

Article 13

1. Wherever possible, an isolated cabin shall be provided for a member of the crew who suffers from illness or injury. On vessels of 500 tons or over there shall be a sick bay. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, there shall be a sick bay on vessels of 150 ft (45.7 metres) in length or over.

2. An approved medicine chest with readily understandable instructions shall be carried in every vessel which does not carry a doctor. In this connection the competent authority shall give consideration to the Ships' Medicine Chests Recommendation, 1958, and the Medical Advice at Sea Recommendation, 1958.

Article 14

Sufficient and adequately ventilated accommodation for the hanging of oilskins shall be provided outside but convenient to the sleeping rooms.

Article 15

Crew accommodation shall be maintained in a clean and decently habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

Article 16

1. Satisfactory cooking equipment shall be provided on board and shall, wherever practicable, be fitted in a separate galley.

2. The galley shall be of adequate dimensions for the purpose and shall be well lighted and ventilated.

3. The galley shall be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water shall be supplied to the galley by means of pipes ; where it is supplied under pressure, the system shall contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water shall be provided.

4. The galley shall be provided with suitable facilities for the preparation of hot drinks for the crew at all times.

5. A provision storeroom of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space shall be provided.

6. Where butane or propane gas is used for cooking purposes in the galley the gas containers shall be kept on the open deck.

Part IV. Application to Existing Ships

Article 17

1. Subject to the provisions of paragraphs 2, 3 and 4 of this Article, this Convention applies to vessels the keels of which are laid down subsequent to the coming into force of the Convention for the territory of registration.

2. In the case of a vessel which is fully complete on the date of the coming into force of this Convention for the territory of registration and which is below the standard set by Part III of this Convention, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved, to be made when—

(a) the vessel is re-registered ;

(b) substantial structural alterations or major repairs are made to the vessel as a result of long-range plans and not as a result of an accident or an emergency.

3. In the case of a vessel in the process of building and/or reconversion on the date of the coming into force of this Convention for the territory of registration, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved ; such alterations shall constitute final compliance with the terms of this Convention, unless and until the vessel be re-registered.

4. In the case of a vessel, other than such a vessel as is referred to in paragraphs 2 and 3 of this Article or a vessel to which the provisions of

this Convention were applicable while she was under construction, being re-registered in a territory after the date of the coming into force of this Convention for that territory, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved ; such alterations shall constitute final compliance with the terms of this Convention, unless and until the vessel is again re-registered.

Part V. Final Provisions

Article 18

Nothing in this Convention shall affect any law, award, custom or agreement between fishing vessel owners and fishermen which ensures more favourable conditions than those provided for by this Convention.

Article 19

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 20

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 21

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 22

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the

registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 23

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 24

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 25

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 21 above, if and when the new revising Convention shall have come into force ;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 26

The English and French versions of the text of this Convention are equally authoritative.

NJ

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213.....7790.....

Switchboard 01-213 3000

NBM

CRD

27/3

Peter Ricketts Esq
Private Secretary to the
Foreign Secretary
The Rt Hon Sir Geoffrey Howe QC MP
Foreign and Commonwealth Office
Whitehall
LONDON
SW1

27th March 1985

Dear Peter,

ILO CONVENTION 23 - REPATRIATION OF SEAMEN

My Secretary of State wrote to the Foreign Secretary this morning about this convention and we inadvertently omitted to enclose a copy of the convention. This I now attach with my apologies.

I am copying this letter, with enclosure, to the private secretaries of all recipients of my Secretary of State's letter.

Yours sincerely,

Iain Mackinnon

IAIN MACKINNON
Private Secretary

Inh. Bl.:
Wages Council
Pt 2.

Convention 23

CONVENTION CONCERNING THE REPATRIATION OF SEAMEN

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninth Session on 7 June 1926, and

Having decided upon the adoption of certain proposals with regard to the repatriation of seamen, which is included in the first item of the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-third day of June of the year one thousand nine hundred and twenty-six the following Convention, which may be cited as the Repatriation of Seamen Convention, 1926, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation :

Article 1

1. This Convention shall apply to all sea-going vessels registered in the country of any Member ratifying this Convention, and to the owners, masters and seamen of such vessels.

2. It shall not apply to—

(a) ships of war,

(b) Government vessels not engaged in trade,

(c) vessels engaged in the coasting trade,

(d) pleasure yachts,

(e) Indian country craft,

(f) fishing vessels,

(g) vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.

Article 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them, viz. :

(a) the term " vessel " includes any ship or boat of any natu whatsoever, whether publicly or privately owned, ordinar ily engaged in maritime navigation ;

(b) the term " seaman " includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government ;

(c) the term " master " includes every person having command and charge of a vessel except pilots ;

(d) the term " home trade vessel " means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law.

Article 3

1. Any seaman who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, as shall be determined by national law, which shall contain the provisions necessary for dealing with the matter, including provisions to determine who shall bear the charge of repatriation.

2. A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel proceeding to one of the destinations prescribed in accordance with the foregoing paragraph.

3. A seaman shall be deemed to have been repatriated if he is landed in the country to which he belongs, or at the port at which he was engaged, or at a neighbouring port, or at the port at which the voyage commenced.

4. The conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated shall be as provided by national law or, in the absence of such legal provisions, in the articles of agreement. The provisions of the preceding paragraphs shall, however, apply to a seaman engaged in a port of his own country.

Article 4

The expenses of repatriation shall not be a charge on the seaman if he has been left behind by reason of—

(a) injury sustained in the service of the vessel, or

(b) shipwreck, or

(c) illness not due to his own wilful act or default, or

(d) discharge for any cause for which he cannot be held responsible.

Article 5

1. The expenses of repatriation shall include the transportation charges, the accommodation and the food of the seaman during the journey. They shall also include the maintenance of the seaman up to the time fixed for his departure.

2. When a seaman is repatriated as member of a crew, he shall be entitled to remuneration for work done during the voyage.

Article 6

The public authority of the country in which the vessel is registered shall be responsible for supervising the repatriation of any member of the crew in cases where this Convention applies, whatever may be his nationality, and where necessary for giving him his expenses in advance.

Article 7

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall come into force at the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Director-General.

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

3. Thereafter, the Convention shall come into force for any Member at the date on which its ratification has been registered with the International Labour Office.

Article 9

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 10

Subject to the provisions of Article 8, each Member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3, 4, 5 and 6 into operation not later than

1 January 1928, and to take such action as may be necessary to make these provisions effective.

Article 11

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 35 of the Constitution of the International Labour Organisation.

Article 12

A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.

Article 13

At least once in ten years the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision or modification.

Article 14

The French and English texts of this Convention shall both be authentic.

NBPM
CDP
20/3.

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
LONDON
SW1

26 March 1985

Dear Geoffrey,

In accordance with our ILO obligations, my Department periodically consults the CBI and TUC about the possibility of ratifying ILO Conventions adopted in earlier years which the United Kingdom has not previously ratified. Before initiating such approaches my officials undertake full consultations with Departments concerned to ensure that they are content for consultations on particular Conventions to go forward, and to get confirmation both that current UK law and practice is entirely consonant with the requirements of the Conventions concerned and that no policy changes are contemplated which ratification might impede.

Having completed consultations in accordance with this procedure I find that we are in a position to ratify ILO Convention No 23 (Repatriation of Seamen, 1926 - copy enclosed), which broadly requires arrangements to be made to return to their own country or port of engagement any seamen who are landed abroad through sickness, injury or other causes outside their responsibility. The CBI have no objection to ratification and the TUC support it. Nicholas Ridley has commented that although British seafarers have for many years enjoyed all the protection of this Convention, its ratification would be a positive expression of Government support for them, and he agrees that we should set in train the formal procedure for ratification. For my part I see advantage, in view of our recent decision on ILO Convention No 26 in relation to Wages Councils (E(A)(84) 29th Meeting Conclusions refer), in being in a position to cite the ratification of this Convention in rebutting the charge that we have embarked on a general policy of whittling away ILO obligations regardless of their merits.

I should accordingly be grateful if you would set in motion the formal procedure for ratification by arranging for an official letter to be sent to the ILO Director General as soon as possible.

Copies of this letter and enclosure go to all members of the Cabinet, the Attorney-General, the Paymaster-General, the Chief Whip and Sir Robert Armstrong.

DM/A35

cc AOO

010

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

NBPM

Andrew Turnbull Esq
Private Secretary
10 Downing Street
LONDON SW1

21st March 1985

Dear Andrew,

WAGES COUNCILS - CONSULTATIVE PAPER

... I attach a final copy of the Paper which my Secretary of State is to publish today. The Paper incorporates most of the suggestions which other Ministers made in response to the draft circulated last week.

I am sending copies of this to Private Secretaries of other members of E(A), the Home Secretary, the Foreign Secretary, the Paymaster General and Sir Robert Armstrong.

Yours sincerely,

Iain Mackinnon

IAIN MACKINNON
Private Secretary

CONSULTATIVE PAPER ON WAGES COUNCILS

1. The Government attaches the highest priority to removing unnecessary obstacles to the creation of more jobs. Wages councils have been increasingly criticized as such an obstacle and the Government therefore believes that it is now right to consider whether the system should be retained and, if so, what reforms are needed. The purpose of this consultative paper is to set out the options and to invite comments on them.

Background

2. Wages councils were first established in the very different circumstances of the early years of this century. They were originally conceived as a means of combating the problems of 'sweated labour' in particular trades where conditions involving excessively long hours and very low pay had given rise to serious public concern. The first trade boards were established between 1909 and 1914 with powers to set legally enforceable minimum rates of pay in certain industries. Under subsequent legislation (now consolidated in the Wages Councils Act 1979) the system expanded, and by 1953 had reached its peak with a total of 66 wages councils covering about 3.5m workers. Since then the system has contracted as many, mainly smaller, councils have been wound up or amalgamated. These and other changes are described in the annex to this paper.

3. Economic and social circumstances have, of course, changed dramatically since 1909. Today average real pay is much higher and average hours worked are much lower (indeed one of the most significant changes is that a majority of those covered by wages councils today work part time); there is extensive legislation to protect the rights of individual employees; and social security benefits and welfare provision have been greatly improved. In recent years there has been increasing controversy about the continued relevance of the remaining wages councils.

Wages councils today

4. There are at present 26 wages councils in Great Britain, covering about 2.75m workers primarily in service industries such as retailing, catering and hairdressing. Employment in the wages councils sector is not typical of employment in the economy as a whole. About two-thirds of the wages council labour force works part-time (compared with about one-fifth in the economy generally) and four-fifths of wages council workers are female. About 5 per cent of the wages council work force are full time employees under the age of 18; this represents about 20 per cent of all young people in employment.

5. The councils consist of equal numbers of employer and worker representatives, under independent chairmanship. Ministers have no power to intervene in their decisions. The councils set legally enforceable minimum rates of pay and holidays, published in the form of wages orders, in sectors where collective bargaining arrangements are limited. Most minimum full time rates (March 1985) for adults range from approximately £63 to £72 per week.

6. Enforcement of the orders issued by councils is a matter for the Wages Inspectorate. Compliance with the orders is generally high. Fuller details of the wages council system in Great Britain are given in the annex.

The main issues

7. Wages councils interfere with the freedom of employers to offer, and job-seekers to accept, jobs at wages that would otherwise be acceptable. This restricts job opportunities, particularly for young people. Some employers argue that the councils no longer see their purpose as providing a basic wage floor for vulnerable individuals but rather as setting 'going rates' for large groups of employees regardless of particular circumstances. In addition to statutory minimum rates they impose a proliferation of requirements concerning holidays and other conditions of work that are difficult for both employers and employees to understand, unnecessarily burdensome, and detrimental to flexibility and efficiency. The case for change is clear.

Impact on employment

8. A number of studies support the view that statutory minimum rates jeopardise employment. Since 1974, increasing numbers of wages council employees have come to be paid the statutory minima. Around 1m of the 2.7m workers in scope of the councils are now paid little or no more than the relevant statutory minimum rate. This suggests that those rates are now higher than would be necessary to recruit and retain workers, with repercussions which may extend through the whole structure of earnings.

9. Once the statutory minima set by wages councils begin to affect the pay levels of many people, not just a minority of individuals, the implications for employment cannot be ignored. There is a substantial body of analytical work which demonstrates the link between pay and jobs. The recent Treasury paper 'The relationship between employment and wages' fully surveys the available evidence on this and concludes that slower rises in real pay would lead to significant increases in job opportunities.

10. The effects of regulations which maintain pay at levels above those at which employers are willing to offer jobs, and for which prospective employees may be willing to work, are particularly obvious in the case of young people. In relation to adult workers, young people in wages councils trades enjoy a relatively high level of pay. Broadly, 16-year olds are entitled to about 65 per cent of adult minima and 17-year olds to about 75 per cent. These percentages are generally higher than those applicable to other groups of young workers covered by voluntary agreements elsewhere in the private sector.

11. There is a growing body of evidence that the employment prospects of young people are adversely affected by the level of their wages relative to adults. Pricing young people into jobs is especially important in wages councils trades, which have

CONSULTATIVE PAPER ON WAGES COUNCILS

This paper sets out options for the future of wages councils and seeks comments on the issues raised by 31 May 1985. These should be made in writing to:

W Tomkins
Department of Employment
(IRE 2) Rm 707
Steel House
Tothill Street
London SW1H 9NF

CONFIDENTIAL

traditionally offered a disproportionately large percentage of the openings for young people in the 16-17 age group; at present about one in every five young people in employment work in these trades. Many of the opportunities in the retailing and catering trades are especially suitable for those trying to enter and establish themselves in the labour market for the first time. There can be no case for the legal prescription of pay rates which have the effect of making it difficult for those who wish to take up employment to do so.

The burdens on employers

12. Apart from the concern about the effects of wages councils on employment opportunities they also impose considerable administrative burdens on employers and inhibit their flexibility in meeting changing market needs. Councils have had unlimited freedom to regulate every detail of pay, holiday and other conditions. The outcome is a set of wages orders from the 26 councils which typically are very complex. Amongst the main complaints are:

- the wages orders sometimes run to 30 pages in length and apply to many different grades or categories of worker;

- their provisions are frequently difficult for both employers and employees to understand, with the result that many of the underpayments which occur arise from misinterpretation rather than from wilful disregard of legal requirements;

- the rigidities of the orders inhibit employers in the development of sensible wage structures and systems of remuneration more appropriate to their businesses;

- the law permits the issue of orders with retrospective application which can cause real problems, particularly for smaller employers who can be faced with increased expenditure which they had not foreseen.

All these burdens can inhibit the growth of small businesses in the wages council trades and thus damage employment.

Options for action : abolition or reform

13. The Government believes that there are only two options for action: abolition of the whole system, or major reform of the powers and functions of the councils.

14. There is a substantial body of opinion, including many employers, which believes that total deregulation could be harmful and that reform is to be preferred to abolition. They point out that industrial relations have generally been good in wages councils industries and that many small companies have benefited from being able to conduct their wage negotiations as a group. They fear that total abolition might lead to uncertainty and instability on wages and conditions, and a consequent deterioration in industrial relations. They therefore believe that the system should be reformed rather than abolished.

15. Strong arguments have been advanced for abolition. Pay is best settled between employers and employees in the light of their particular circumstances. Deregulation is desirable in principle. The present system is inflexible and lacks relevance to today's needs. The cost of administering it is over £4m. The bureaucratic burdens it imposes fall most heavily on the smaller enterprises which characterise the wages council trades (two-thirds of establishments within their scope employ fewer than 10 workers). The principal argument put forward by those who favour abolition is that the wages councils system is a serious source of inflexibility in the labour market, damaging job prospects and working against the interests of the unemployed.

16. If the system is to be kept in some form, it would be imperative to tackle its damaging effect on youth employment. The simplest solution would be to remove young people entirely from the scope of the councils, restricting their role to setting minimum rates for adults. There is no obvious case for insisting on a minimum level of pay for young people seeking to enter the labour market for the first time.

17. A possible alternative to the complete exclusion of young people would be to put an upper limit on the rates which the councils can set for them. This might be done by taking powers to prevent any council from setting minima for young people which exceeded a given percentage (or percentages) of the rates which they set for adults. Such limits would apply to all councils, but as each council would determine the level of adult minima the absolute sums payable would of course vary.

18. The point at which adult rates might commence would also need to be decided. Although most councils commence adult rates at 18, and two of the largest at 19, the threshold need not necessarily be at either of those points and could indeed be higher. In Holland, for example, the full adult minimum rate is not reached until age 23.

19. Reforming legislation might also include steps to reduce the inflexibilities and burdens on businesses inherent in detailed statutory prescription of terms and conditions. There could be a much tighter definition of the function of the wages councils. Councils might be empowered to set only a single minimum hourly rate for adult workers, possibly coupled with a lower rate or rates for young people as discussed earlier. Provisions of some kind would continue to be appropriate for piece workers and home-workers. The effect of such simplication would significantly reduce the problems associated with wages orders. Councils would no longer be able to impose detailed minimum overtime and other premium payments, prescribe holidays and holiday pay, require pay guarantees of various kinds, or deal with other conditions.

20. Reforms of the kind outlined in paragraphs 16-19 would remove many of the detailed inflexibilities of the system and greatly reduce the bureaucratic burdens on employers, and above all help to promote job opportunities particularly for young people. But compared with the abolition option they are unlikely to have as much effect on the overall level of employment and risk maintaining artificially high rates of pay for adults, damaging to employment.

The United Kingdom's international obligations

21. The Government's over-riding concern is to maximize employment opportunities; and in this field flexibility and freedom of action are essential. For this reason, it is necessary to consider deratifying International Labour Convention No 26.

22. International Labour Organization (ILO) Convention No 26 requires those countries which ratify it to create or maintain minimum wage fixing machinery. The Wages Councils Act 1979 is the means by which the Government satisfies the requirements of the Convention. The Convention itself contains provision for deratification; this can be considered at 5 yearly intervals and it is necessary to give 12 months notice and to consult representatives of employers and trade unions. The next such period runs from June 1985 to June 1986. Obligations cease 12 months after notification of deratification.

23. The Government would deratify the Convention only after full consultation. Nonetheless the Convention as drafted lacks flexibility and therefore limits the Government's freedom of action in an area of vital public concern. Subject to the outcome of consultations in conformity with ILO rules, the Government proposes to deratify the Convention and thus regain freedom of action in this important field.

Conclusion

24. The Government would welcome views on the options outlined in this paper for the wages council system in Great Britain.

ANNEX

THE WAGES COUNCILS SYSTEM

Legislative history

1. The origins of wages councils lie in the Trade Boards Act of 1909.

2. The intention of the 1909 legislation was to provide for the regulation of pay to prevent 'sweating' which a House of Commons Select Committee had earlier defined as 'a rate of wages inadequate to the necessities of the workers or disproportionate to the work done, excessive hours of labour and the insanitary state of the houses in which the work is carried on'. The boards had power to fix only minimum time rates and piece work rates. A subsequent Trade Boards Act passed in 1918 gave the boards power to fix fall-back rates for piece-workers, overtime rates, and the point at which over-time became payable. The Holidays with Pay Act 1938 further extended their impact by enabling them to require up to one week's holiday with pay.

3. In 1938 and 1943 two new Acts were introduced to provide for minimum pay and holidays in the road haulage and catering industries in addition to those covered by the existing trade boards.

4. Another substantial extension of the powers of the boards took place in 1945 with the introduction of the Wages Councils Act. Apart from the change of title, the councils were given the power to deal with all aspects of pay and holidays. They were no longer limited to a period of one week in fixing holidays with pay. The road haulage board was absorbed into the wages councils system in 1948, and the catering boards in 1959.

5. The Wages Councils Act 1959 was a consolidating measure and the next major change did not come until 1975 when the Employment Protection Act amended the wages councils legislation to enable the councils to fix, in addition to minimum pay and holidays, 'any other terms and conditions (of employment)'. The 1975 Act also gave the Secretary of State the power to convert wages councils to Statutory Joint Industrial Councils (SJICs). These were to have powers similar to wages councils, but were to operate without independent members, the intention being that they should provide a stepping-stone on the way to the development of voluntary collective bargaining machinery. No SJICs have been established; and no wages council has so far used its power to fix 'any other terms and conditions (of employment)'.

6. The 1979 Wages Councils Act under which the system now operates was a further consolidating measure, incorporating the amendments made by the 1975 Employment Protection Act.

Growth and contraction

7. Over the last 75 years there have been substantial changes both in the numbers of councils and in the industries covered.

8. The system grew rapidly at the outset and by 1921 there were 42 trade boards covering about 3 million workers mainly in manufacturing industry. The next major expansion occurred between 1931 and 1940 with the addition of 8 boards, including those covering the baking, cutlery, furniture manufacturing and road haulage industries (the last, as already noted, under separate legislation). The final major expansion occurred between 1940 and 1948 with the addition of the service industries covering catering (again, under separate legislation), retailing and hairdressing.

9. A peak of 66 councils, embracing 3.5 million workers, was reached in 1953. Numbers have subsequently declined through abolitions and mergers to the present level of 26 councils covering about 2.75 million workers. The most recent contractions of the system have been brought about largely by mergers, though 16 councils have been abolished since 1969. A full list of changes is appended at A.

Wages Councils in 1985

10. The councils which exist today are listed at B. Nearly 400,000 establishments and about 260,000 employers are affected by their operation. In contrast to the emphasis on manufacturing and industrial processes when the system began, about 86 per cent of all workers are now in the service trades of retailing and catering (over 1 million in each) and hairdressing. Of the 14 per cent in industry, about two-thirds are in clothing manufacture.

11. Estimates suggest that up to two-thirds of the workers are employed on a part-time basis, and that about four-fifths of the total are female. Overall, the wages councils system establishes minimum rates for about 11 percent of the employed labour force.

Methods of operation

12. Wages councils today, like their predecessors the trade boards, have two 'sides' normally appointed by employers' associations and unions and three 'independent' members appointed by the Secretary of State. The Secretary of State nominates the employers' associations and unions. The aim is that all interests in the particular trade should have a voice in the proceedings and seats are not allocated simply according to the size of the organisation. The task of the independent members is primarily to mediate and bring the sides to agreement, but when this proves impossible they exercise a casting vote. Ministers have no powers to veto or amend wages councils' decisions.

13. Councils are required to send copies of their proposals for changes in minimum rates to all employers who are known to be affected by them. These 'proposal notices' must be displayed where workers can see them, and there must be an opportunity for both workers and employers to make representations against them before the new 'wages orders' become law.

Enforcement

14. Enforcement of wages council orders is the responsibility not of the councils but of the Department of Employment's Wages Inspectorate, which is organised in 15 geographical divisions throughout the country.

15. The Inspectorate aims to check the pay of workers at 40,000 (one-tenth) of the establishments on its register each year. These checks include the investigation of all complaints. About two thirds of the checks involve inspection visits. The remainder are conducted by the other methods described below:

- where a firm has a formal pay agreement, it is checked to ensure that its provisions are at least as favourable as those in the wages order. Where they are, and there is a satisfactory procedure for dealing with worker's pay grievances, compliance is assumed throughout the firm and no examination of pay records is carried out.

- in the case of multiple firms which have five or more branches and which keep their pay records centrally, the head office is visited to examine the records and a sample of the branches is selected for confirmation visits. Where the results are satisfactory the other branches are not visited and compliance is assumed throughout the firm.

- for smaller firms in the retail and hairdressing trades an initial check is normally made by postal questionnaire. Where the reply shows that no workers are being underpaid, no visit is made. However a sample of about 1 in 20 is selected for a visit to check the general validity of the postal enquiry method. Of the replies verified in this way, 95 per cent of the employers are found to be complying. If the reply indicates that there might be an underpayment, or if no reply is received, an inspection visit is carried out.

Compliance

16. The above methods of checking were evolved to reduce the number of unnecessary visits and to enable inspectors to devote more of their time to visiting firms where underpayments are more likely to be found. As a result, the proportion of establishments visited which are found to be underpaying is relatively high. The following are the figures for recent years:

	Establishments visited	Establishments underpaying	%
1981	24,399	10,074	42.0
1982	23,272	9,269	39.8
1983	26,332	9,842	37.4
1984 (provisional)	26,545	9,461	35.6

These figures cannot be taken as an indication of the overall level of compliance, not only because visited establishments are not typical, but also because where establishments are found to have underpaid, only one or two workers are normally involved. The proportion of workers found to be underpaid in all checks carried out by the Inspectorate therefore provides a more reliable indicator. Of the workers covered by checks by visit and other methods during the past three years, only about 6 per cent were found to be underpaid. In the experience of the Inspectorate over a half of these underpayments result from the employer not understanding, or incorrectly applying, the provisions of the wages order.

17. Where underpayments are found, inspectors assess the amount of arrears due. The figures for recent years are as follows:

	Workers underpaid	Arrears assessed
1981	25,482	£2,301,910
1982	20,406	£2,286,893
1983	20,832	£2,416,353
1984 (provisional)	18,043	£2,428,991

18. Priority is given to workers' complaints. About 10,000 are received each year, a quarter of which are satisfactorily cleared without any need to visit the employer. Underpayments are found in 70 per cent of the inspections arising from complaints. Over a third of these involve entitlement to accrued holiday pay on leaving employment.

Enforcement Policy

19. It has always been the Inspectorate's policy to secure compliance by advice and persuasion and the great majority of employers respond to this approach. The Inspectorate has powers to prosecute offending employers but such action is taken only when the offence is deliberate or repeated and the evidence adequate. Numbers of prosecutions have rarely exceeded single figures in any year. Advisory work on the other hand occupies a significant proportion of the Inspectorate's time.

Staffing and cost of the system

20. Total expenditure on the wages councils system amounts to approximately £4.2m per annum. It employs 247 staff of whom 224 (including 120 'on the road' inspectors) are in the Wages Inspectorate which costs £3.1m. The remainder of the staff and expenditure is accounted for by HQ executive and policy functions and support services for the wages councils, including the cost of printing and distributing wages proposals and orders.

WAGES COUNCIL/TRADE BOARD	ESTABLISHED	ABOLISHED
Tailoring (GB)	1910	1920[1]
Retail Bespoke Tailoring (GB)	1919	1924[2]
Furniture Manufacturing (GB)	1940	1947
Tobacco (GB)	1919	1953
Rubber Reclamation (GB)	1938	1955
Chain (GB)	1909	1956
Rubber Manufacturing (GB)	1938	1958
Drift Nets Mending (GB)	1919	1960
Fustian Cutting (GB)	1933	1960
Tin Box (GB)	1914	1960[3]
Hat, Cap and Millinery (England & Wales)	1919	1963[3]
Hat, Cap and Millinery (Scotland)	1920	1963[3]
Baking (Scotland)	1938	1963
Sugar Confectionery and Food Preserving (GB)	1913	1963
Cutlery (GB)	1933	1969
Jute (GB)	1919	1969
Paper Bag (GB)	1919	1969
Baking (England & Wales)	1938	1971
Boot & Floor Polish (GB)	1921	1974
Brush & Broom (GB)	1919	1974
Hair, Bass and Fibre (GB)	1920	1974
Stamped or Pressed Metal-wares (GB)	1914	1975
Keg & Drum (GB)	1928	1975
Paper Box (GB)	1910	1975
Milk Distributive (England and Wales)	1920	1975
Hollow-ware (GB)	1914	1975
Industrial & Staff Canteen Undertakings (GB)	1944	1976
Milk Distributive (Scotland)	1920	1976[3]
Retail Bespoke Tailoring (England & Wales)	1924	1977[3]
Retail Bespoke Tailoring (Scotland)	1924	1977[3]
Road Haulage (GB)	1939	1978
Retail Bread & Flour Confectionery (England & Wales)	1953	1979[4]
Retail Bread & Flour Confectionery (Scotland)	1953	1979[4]
Retail Food Trades (England & Wales)	1947	1979[4]
Retail Food Trades (Scotland)	1948	1979[4]
Retail Newsagency, Tobacco & Confectionery (England & Wales)	1947	1979[4]
Retail Newsagency, Tobacco & Confectionery (Scotland)	1947	1979[4]
Retail Bookselling & Stationery Trades (GB)	1947	1979[5]
Retail Drapery, Outfitting & Footwear Trades (GB)	1948	1979[5]
Retail Furniture & Allied Trades (GB)	1948	1979[5]
Pin, Hook & Eye, and Snap Fastener (GB)	1920	1980[6]
Corset	1919	1981[6]
Dressmaking & Women's Light Clothing (England & Wales)	1919	1981[6]
Dressmaking & Women's Light Clothing (Scotland)	1920	1981[6]
Ready-Made & Wholesale Bespoke Tailoring (GB)	1920	1981[6]

WAGES COUNCIL/TRADE BOARD	ESTABLISHED	ABOLISHED
Rubber Proofed Garment Making Industry (GB)	1956	1981[6]
Shirtmaking (GB)	1913	1981[6]
Wholesale Mantle & Costume (GB)	1919	1981[6]
Aerated Waters (England & Wales)	1920	1983[3]
Aerated Waters (Scotland)	1920	1983[3]
Unlicensed Residential Establishments (GB)	1945	DEFUNCT[7]

NOTES

1. Became Ready-Made & Wholesale Bespoke Tailoring
2. Council split into Retail Bespoke Tailoring; England & Wales; Scotland
3. Councils for England & Wales, and Scotland amalgamated into one for Great Britain
4. Councils amalgamated to form Retail Food & Allied Trades (GB)
5. Councils amalgamated to form Retail Trades (Non-Food) (GB)
6. Councils amalgamated to form Clothing Manufacturing (GB)
7. Council never functioned.

COVERAGE OF WAGES COUNCILS

Council	Estimated No of workers covered (1982)	No of establishments listed (1984)
Licensed Residential Establishment and Licensed Restaurant	555,300	30,192
Retail Food and Allied Trades	519,300	118,351
Retail Trades (Non-Food)	512,800	102,594
Licensed Non-residential	508,700	67,498
Clothing Manufacturing	252,800	8,292
Hairdressing Undertakings	135,600	33,344
Unlicensed Place of Refreshment	116,400	17,116
Laundry	33,700	1,110
General Waste Materials Reclamation	19,300	1,949
Toy Manufacturing	18,900	389
Aerated Waters	15,000	630
Boot and Shoe Repairing	7,100	2,372
Hat, Cap and Millinery	6,800	189
Linen and Cotton Handkerchief & Household Goods & Linen Piece Goods	5,200	203
Retail Bespoke Tailoring	5,200	757
Made-up Textiles	4,800	340
Fur	4,500	484
Rope Twine and Net	4,000	117
Button Manufacturing	2,100	62
Perambulator and Invalid Carriage	1,500	36
Flax and Hemp	1,400	13
Ostrich and Fancy Feather & Artificial Flower	1,400	32
Sack and Bag	1,400	108
Lace Finishing	800	66
Cotton Waste Reclamation	500	34
Coffin Furniture and Cerement Making	300	20
TOTALS	2,734,800	386,298

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

David Normington Esq
Private Secretary to the
Secretary of State
for Employment
Caxton House
Tothill Street
LONDON
SW1H 9NF

18 March 1985

Dear David,

WAGES COUNCILS : DRAFT CONSULTATIVE DOCUMENT

Mr King sent Mr Hurd a copy of the draft consultative document on the future of the Wages Councils.

Mr Hurd agrees that the consultative paper should be framed in terms of the Great Britain system - as indeed it is - but it would be helpful if it could be made a little clearer that this is the scope of the paper. This could most clearly be done by inserting at the end of paragraph 24 "for the Wages Council system in Great Britain". Similarly you may consider that it would clarify matters if the words "in Great Britain" were inserted after "Wages Councils" in the first line of paragraph 4 and after "system" in the last sentence of paragraph 6. I passed these amendments on to your office by telephone on Friday last, 15 March.

As you will know there are nine Wages Councils in Northern Ireland established under separate legislation which is not identical in all respects with that in Great Britain; for example there are no powers to regulate other conditions apart from pay and holidays.

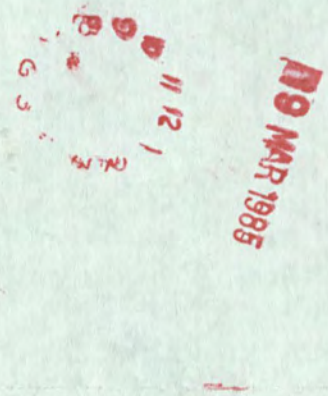
On the substantive issues Mr Hurd's intention would be to follow the established practice in relation to Employment Law in Northern Ireland which is to follow generally any policy changes in Employment Law in Great Britain after consultations with local interests. He will therefore be considering how to undertake local consultations following the publication of the Department of Employment's paper.

I am sending copies of this letter to the Private Secretaries to the Members of E(A) and to Sir Robert Armstrong.

Yours sincerely,
Neil Ward.

ssd N D WARD

IND 82 : Wages Councils A 2



CONFIDENTIAL

RLe

MJ2AFF
cc HMT
NIO
DN
SO
WO
DOE
LPSO
DTI
CDLO
MAFF
CS HMT
DTRANS
CO
PGO
MwP

10 DOWNING STREET

18 March 1985

From the Private Secretary

Wages Councils

The Prime Minister has seen your Secretary of State's recent minute covering a draft consultative paper on Wages Councils. She welcomes the consultative paper in general but would prefer a slightly stronger presentation of the arguments against Wages Councils and in favour of deratifying ILO Convention 26. In addition, she believes that there is room for a greater exposition of the academic evidence on the effects of Wages Councils on jobs. On presentation the Prime Minister considers that it is important for the Government's policy on Wages Councils to be considered in the context of that on employment more generally. She believes therefore that the Wages Councils' document should be published at the same time as the Government's employment measures preferably under a single press notice which will emphasise the coherence of the overall package.

I am copying this to the Private Secretaries to members of E(A) and to Sir Robert Armstrong.

Tim Flesher

Iain MacKinnon Esq
Deprtment of Employment

CONFIDENTIAL

ECL

010

CONFIDENTIAL

cc PO

CABINET OFFICE
70 Whitehall London SW1A 2AS Telephone 01-233 3299

From the Minister without Portfolio
The Rt Hon Lord Young of Graffham

The Rt. Hon. Tom King M.P.,
Secretary of State,
Department of Employment,
Caxton House,
Tothill Street,
London, S.W.1.

18th March, 1985

Dear Tom,

WAGES COUNCILS

with TF.

You sent me a copy of your recent minute to the Prime Minister enclosing a draft consultative paper.

In general, I think the draft document is a useful summary of our concerns about the operation of the Wages Council system and its effects on jobs.

My only specific comment is on paragraph 11. I am not altogether clear what the implication of the final sentence is intended to be. I suggest, however, that we need to avoid any possible implication that the Government sees training as a less attractive form of activity than employment for young people under 18, when we are about to announce a new two-year training scheme for this age group. The best solution might simply be to delete the opening clause of this sentence so that it would begin "There can be no case ...".

I am copying this to colleagues on E(A) and to Sir Robert Armstrong.

Yours,

CONFIDENTIAL

010

CONFIDENTIAL

cc NO

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

JF7832
Secretary of State for Trade and Industry

18 March 1985

The Rt Hon Tom King MP
Secretary of State for Employment
Department of the Employment
Caxton House
Tothill Street
LONDON
SW1H 9NF

NBPM

Dear Tom,

with TF

Thank you for sending me a copy of the draft consultative paper on Wages Councils.

2 I think the draft generally covers the ground and the options well. I assume the annex will contain all the supporting evidence. My reservation concerns the option of making Wages Council's recommendations advisory rather than legally binding as at present. Failing outright abolition this would be the next most radical option, which I feel should be aired. It would fit neatly after paragraph 15.

3 I have a few drafting suggestions:

- Paragraph 3 would be strengthened if orders of magnitude for the increase in real pay and the reduction in hours could be given

- I would prefer the first sentence of paragraph 15 to read:

> "On the other hand, there is a body of opinion, including some employers, which believes that reform would be better than abolition."

I believe that more fairly reflects the position.

- In paragraph 10 useful reference could be made to the lower pay of 16 and 17 year olds, in relation

to adult pay, of our European competitors.

4 I am copying this to the Prime Minister, colleagues in E(A) and to Sir Robert Armstrong.

NORMAN TEBBIT

(*b*) without any such application, subject however to the provisions of section 6 below. PART I

(2) The Secretary of State may at any time by order vary the field of operation of a wages council.

(3) The power of the Secretary of State to make an order under this section varying the field of operation of a wages council shall include power to vary that field by excluding from it any employers to whom there for the time being applies, as members of an organisation named in the order, an agreement, to which the organisation or any other organisation of which it is a member or on which it is represented, is a party, regulating remuneration or other terms or conditions of employment of their employees.

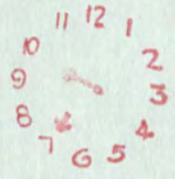
(4) Any organisation so named shall if it has not already done so furnish the Secretary of State with a list of its members and shall from time to time, and also if so required by the Secretary of State, furnish him with particulars of any changes in their membership which have occurred since the list was furnished or, as the case may be, when particulars were last furnished to him.

(5) An order under this section abolishing or varying the field of operation of one or more wages councils may include provision for the establishment of one or more wages councils operating in relation to all or any of the workers in relation to whom the first mentioned council or councils would have operated but for the order, and such other workers, if any, as may be specified in the order.

(6) Where an order of the Secretary of State under this section directs that any workers shall be excluded from the field of operation of one wages council and brought within the field of operation of another, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned council and may make such further provision as appears to the Secretary of State to be expedient in connection with the transition.

(7) Where an order of the Secretary of State under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by the wages council shall, except as respects things previously done or omitted to be done, cease to have effect or, as the case may be, cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(8) Schedule 1 to this Act shall have effect with respect to the making of orders under this section.



CC NO

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

18 March 1985

The Rt. Hon. Tom King MP
Secretary of State for Employment

NGLW

with TF?

WAGES COUNCILS: DRAFT CONSULTATIVE DOCUMENT

You copied to me your minute of 14 March to the Prime Minister.

Although preoccupation with the Budget has prevented me from examining the text of your draft in detail, I am concerned about its general balance. As it stands, the draft leaves the strong impression that we have decided on reform, or at least much prefer reform to abolition. But, as our E(A) discussion confirmed, that is not the case. I myself, as you know, strongly favour abolition, believing it would confer great psychological benefits on the small business community which reform alone would not produce. I am therefore anxious that the consultative document is at least neutral between reform and abolition.

You will also want to ensure after Tuesday that the paper is consistent with the thrust and tone of the Budget.

On the one hand, I think the draft exaggerates the advantages of freeing 16 and 17 year olds from the present impact of Wages Councils. Only a minority of Wages Council employees are in this age group. I accept, of course, that if the relative pay of young employees now covered by Wages Councils were reduced relative to adult rates, an increase in youth employment should result. But if no similar action were taken on adult minimum rates, the gains in youth employment would probably be largely offset by reductions in adult employment. The net reduction in unemployment would be small. I think we need to recognise this point - and that 16 and 17 year olds are only a small proportion of the 2¾ million employees involved.

I think the draft also needs to put the arguments for abolition much more clearly. We want to drive home the point that among the options discussed in the paper, only abolition offers the prospect of a significant effect on employment, benefiting both youth and adult unemployed. The draft might also note that it is the employed and the employers who have so far made representations on the future of the Wages Councils. No one has yet spoken up for the interests of the unemployed. I believe you made exactly this point when you appeared before the Select Committee on Employment recently.

I understand that you are planning to publish the consultative document this week. I strongly support early publication, particularly since the Select Committee on Employment seems to be intending to rush out an early report on Wages Councils. (I imagine that you will wish to warn them about the publication of your own document once the draft is agreed.)

AMENDMENTS TO DRAFT CONSULTATIVE DOCUMENT ON WAGES COUNCILS

Paragraph 4 Replace last sentence with:

"Of the 2¾ million employees, about 80 per cent are female and about [ ] are under 18 years old. About two thirds of wages council workers are part-timers; and of the 900,000 full-timers about [one in seven] is under 18."

Paragraph 7 line 4 for "especially" read "not least".

Paragraphs 8 & 9: see below.

Paragraph 10 first sentence. For "seem to be most damaging" read "are particularly obvious"

Paragraph 12 Add at end

"All these burdens inhibit the growth of small businesses in the Wages Council trades, and thus damage employment."

Paragraphs 14 and 15 Interchange the order of these two paragraphs.

In paragraph 14 (old 15) Redraft first sentence to read:

"There is a substantial body opinion which believes that total deregulation could be harmful".

Paragraph 15 (old 14) Replace with:

"15. However, strong arguments have also been advanced for abolition. Deregulation is desirable in principle. Pay is best settled by employers and employees in the light of their particular circumstances.

"The present system is inflexible and lacks relevance to today's needs. The cost of administering it is over £4 million, and the bureaucratic burdens it imposes fall most heavily on smaller enterprises, which characterise the Wages Council trades (two-thirds of establishments within their scope employ fewer than 10 workers).

"Most important, the Wages Council system is a serious source of inflexibility in the labour market, which damages job prospects for all age groups, both in the trades it covers, and elsewhere by a knock-on effect on pay levels. This is the principal argument put forward by those who favour abolition, and who argue that the interests of the unemployed are not given weight by those on both sides of industry who wish to see the wages council system retained.

Paragraph 16 Replace first sentence with:

"16. If the system were to be retained in some form, it would at least be desirable to remove its damaging effects on employment for young people"

and delete "obvious" in the last sentence.

Paragraph 17 Replace "could best be" with "might" in the second sentence. Delete third and fourth sentences.

Paragraph 18 First sentence: redraft as

"18. The age at which adult rates commence might also be increased."

Delete last sentence (covered later).

Paragraph 19 Redraft first sentence to read:

"19. Reforming legislation might include steps to reduce the inflexibilities and burdens on business inherent in detailed statutory prescription of terms and conditions."

Third sentence, to begin

"Councils might be empowered to set only ...."

Paragraph 20 Replace with:

"20. Reforms of the kind outlined in paragraphs 16 to 19 would remove many of the detailed inflexibilities of the system, and greatly reduce the bureaucratic burden on employers. They would help to promote job opportunities for young people, but compared with the abolition option, are unlikely to have much effect on the overall level of employment, and risk maintaining artificially high rates of pay for adults, damaging employment."

Paragraph 24 Replace with:

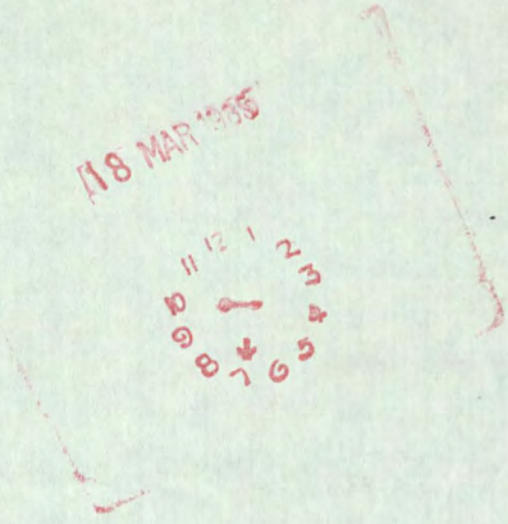
"24. The Government would welcome views on the options outlined in this paper."

Paragraph 8: Shorten to read:

"8. A number of historical studies support the view that statutory minimum rates jeopardise employment. Since 1974, increasing numbers of wages council employees have come to be paid the statutory minima. This suggests that those rates are artificially high and unrelated to recruitment and retention, with repercussions which may extend through the whole structure of earnings in some of the busineses concerned, and elsewhere.

Paragraph 9. Replace first sentence with:

"9. Once statutory minima affect pay levels in a significant way, for significant numbers of employees, the implications for employment cannot be ignored."


18 MAR 1935

CONFIDENTIAL

Prime Minister ①

In addition to be points raised by Oliver, I feel the case for derating by Convention is not made forcefully enough. Whether the Government goes for abolition; some reform or abolition of some councils and reform of the rest (an option not covered), derating is an essential first step.

Agree these comments be put to Mr King.

PRIME MINISTER 14 March 1985

Yes - vigorously

Also obvious point on the Monopoly

WAGES COUNCILS

(Wages Commission Yes)

Tom King's paper on Wages Councils presents the options clearly. But it does not make the argument against the Councils as forcefully as it should.

The argument is:

i. Either Wages Councils have no effect on wages, in which case, they are a wholly unnecessary bureaucratic apparatus;

ii. Or they force wages up, in which case they drive people out of work. At a time of high unemployment the first priority must be to create more jobs: this makes it right to remove the Councils if there is the slightest risk that they are impeding job-creation.

iii. In any case, the benefit system - which did not exist when the Wages Councils were invented - is a far more sensitive method of protecting the people who most need help: unlike the Wages Councils, it provides a safety net for families which cannot earn enough to survive, without making it impossible for young, single people to find jobs at low pay.

Not so - Suppl. would, plus many would, push up wages.

These points should be robustly set out in the Paper.

CONFIDENTIAL

CONFIDENTIAL

Evidence

There should also be a clear exposition of the academic evidence that the Councils impede job-creation. There are two major omissions:

a. D/Emp economists are working on the effects of Wages Councils on jobs. It is too soon to judge its value. It should be given top priority so that any useful results can be used in the Paper.

b. Even the most pessimistic estimates, produced by Neil Kinnock's economic adviser, Mr Neuberger, suggest that abolition of the Councils would increase employment. A Treasury study, which uses the same method as Mr Neuberger, concludes that, over a number of years, abolition might lead to 50,000 or more new jobs. This study ought to be checked and completed in time for the Paper.

There are also examples of people - particularly young people - who have been thrown out of work because of Wages Councils. And the recent 8.3% award by the Agricultural Wages Council is certainly not going to help employment on the farms.

Timing

The Paper presents the 'harsh' side of the Government's jobs policy. This is matched by the 'soft' job-creation measures, such as the YTS and the CP, which are announced in the Employment White Paper. It is therefore essential that the two documents should be published simultaneously and under a single Press Notice; otherwise, journalists will fail to see the coherence of the package.

CONFIDENTIAL

CONCLUSION

We recommend that you should:

1. welcome the Paper;

2. stress the need for a robust presentation of the argument against the Councils;

3. suggest that Tom King should include a clear exposition of the academic evidence; and

4. emphasise the importance of issuing this document at the same time and under the same Press Notice as the Employment White Paper.

OLIVER LETWIN

KS/023

CCPO

SECRETARY OF STATE FOR EMPLOYMENT

CONFIDENTIAL

PRIME MINISTER

At E(A) on 6 December I was invited to circulate a draft consultative document on the future of the wages councils. It was agreed that these should stress the increased employment opportunities, particularly for young people, that would flow from reforming the wages council system; that the option of abolishing the system should also be discussed but less prominently and without implying any Government commitment to it; and that the document should state the Government's intention, subject to the outcome of consultations, to denounce ILO Convention 26.

I am enclosing a draft consultative paper and should be glad to have any comments from colleagues by mid-day on Monday 18th. On issue the paper will be accompanied by a substantial annex which is in the course of preparation.

I am copying this to colleagues on E(A) committee and to Sir Robert Armstrong.

T K

March 1985

CONFIDENTIAL

WAGES COUNCILS - DRAFT CONSULTATIVE PAPER

1. The Government attaches the highest priority to removing unnecessary obstacles to the creation of more jobs. Wages Councils have been increasingly criticized as such an obstacle and the Government therefore believes that that it is now right to consider whether the system should be retained and, if so, what reforms are needed. The purpose of this consultative paper is to set out these options and to invite comments on them.

Background

2. Wages Councils were first established in the very different circumstances of the early years of this century. They were originally conceived as a means of combatting the problems of "sweated labour" in particular trades where conditions involving excessively long hours and very low pay had given rise to serious public concern. The first Trade Boards were established between 1909 and 1914 with powers to set legally enforceable minimum rates of pay in certain industries. Under subsequent legislation (now consolidated in the Wages Council Act 1979) the system expanded, and by 1953 had reached its peak with a total of 66 wages councils covering about 3½m workers. Since then the system has

contracted as many, mainly smaller, councils have been wound up or amalgamated. These and other changes are described in the annex to this paper.

3. Economic and social circumstances have, of course, changed dramatically since 1909. Today average real pay is much higher and average hours worked are much lower; (indeed one of the most significant changes is that most of those covered by wages councils today work part-time); there is extensive legislation to protect the rights of individual employees; and social security benefits and welfare provision have been greatly improved. In recent years there has been increasing controversy about the continued relevance of the remaining wages councils.

Wages councils today

4. There are at present 26 wages councils, covering about 2¾m workers primarily in service industries such as retailing, catering and hairdressing. Employment in the wages councils sector is not typical of employment in the economy as a whole. About two-thirds of the wages council labour force works part-time (compared with about one-fifth in the economy generally) and 80% of wages council workers are female.

5. The councils consist of equal numbers of employer and work-er representatives, under independent chairmanship. Ministers have no power to intervene in their decisions. The councils set legally enforceable minimum rates of pay and holidays, published in the form of Wages Orders, in sectors where collective bargaining arrangements are limited. Current (March 1985) minimum full-time rates for adults range from approximately £63 to £72 per week.

6. Enforcement of the Orders issued by councils is a matter for the Wages Inspectorate. Compliance with the Orders is generally high. Fuller details of the Wages Council system are given in the annex.

The main issues

7. Wages councils interfere with the freedom of employers to offer, and job-seekers to accept, jobs at wages that would otherwise be acceptable. This restricts job opportunities, especially for young people. Some employers argue that the councils no longer see their purpose as providing a basic wage floor for vulnerable individuals but rather as setting "going rates" for large groups of employees regardless of particular

circumstances. In addition to statutory minimum rates they impose a proliferation of requirements concerning holidays and other conditions of work that are difficult for both employers and employees to understand, unnecessarily burdensome, and detrimental to flexibility and efficiency. The case for change is clear.

Impact on employment

8. A number of historical and analytical studies support the view that statutory minimum rates jeopardise employment. The extent to which earnings exceed statutory rates has decreased in recent years. A recent study of pay and earnings in the retail industry showed that the degree to which average male earnings exceeded minima declined by about 40% between 1974 and 1982 whilst the decline for females was even greater, and their pay is now only about 12% above the minima. Around 1m of the 2.7m workers in scope of the councils are now paid little or no more than the relevant statutory minimum rate. It follows that the councils' operations are now having the effect of maintaining pay at levels higher than those which employers need to offer in order to recruit staff, with repercussions which may extend through the whole structure of earnings in some of the businesses concerned.

9. Once the statutory minima set by wages councils begin to affect pay levels in a significant way - as distinct from providing a safety net for a minority of individuals - the implications for employment cannot be ignored. There is a substantial body of analytical work which demonstrates the link between pay and jobs. The recent Treasury paper "The Relationship between Employment and Wages" fully surveys the available evidence on this and concludes that slower rises in real pay would lead to significant increases in job opportunities.

10. The effects of regulations which maintain pay at levels above those at which employers are willing to offer jobs, and for which prospective employees may be willing to work, seem to be most damaging in the case of young people. In relation to adult workers, young people in wages council trades enjoy a relatively high level of pay. Broadly, 16 year olds are entitled to about 65% of adult minima and 17 year olds to about 75%. These ratios are generally higher than those applicable to other groups of young workers covered by voluntary agreements elsewhere in the private sector.

11. There is a growing body of evidence that the employment prospects of young people are adversely affected by the level of their wages relative to adults. Pricing young people into jobs is especially important in wages councils trades, which have traditionally offered a disproportionately large percentage of the openings for young people in the 16-17 age group; at present about one in every five young people in employment work in these trades. Many of the opportunities in the retailing and catering trades are especially suitable for those trying to enter and establish themselves in the labour market for the first time. In a situation where more young people are in education or on training schemes than in employent, there can be no case for the legal prescription of pay rates which have the effect of making it difficult for those who wish to take up employment to do so.

The burdens on employers

12. Apart from the concern about the effects of wages councils on employment opportunities they also impose considerable administrative burdens on employers and inhibit their flexibility in meeting changing market needs. Councils have had unlimited freedom to regulate almost every detail of

pay, holiday and other conditions. The outcome is a set of Wages Orders from the 26 councils which typically are very complex. Amongst the main complaints are:-

- the Wages Orders sometimes run to 30 pages in length and apply to many different grades or categories of workers;

- their provisions are frequently difficult for both employers and employees to understand, with the result that many of the underpayments which occur arise from misinterpretation rather than from wilful disregard of legal requirements;

- the rigidities of the Orders inhibit employers in the development of sensible wage structure and systems of remuneration more appropriate to their businesses;

- the law permits the issue of Orders with retrospective application which can cause real problems, particularly for smaller employers who can be faced with increased expenditure which they had not foreseen.

Note
This section puts forward arguments for abolition but, as E(A) minutes record, without implying that the Government is committed to it.

Options for action

13. The Government believes that there are only two options for action: abolition of the whole system, or major reform of the powers and functions of the councils.

The abolition option

14. There are strong arguments for abolition. Pay is best settled between employers and employees in the light of their particular circumstances. Deregulation is desirable in principle and would lead to the creation of more jobs. The present system is inflexible and lacks relevance to today's needs. The cost of administering it is over £4 million. The bureaucratic burdens it imposes fall most heavily on the smaller enterprises which characterise the wages council trades (two-thirds of establishments within their scope employ fewer than 10 workers).

15. On the other hand there is a substantial body of opinion, including many employers, which believes that total deregulation could be harmful. They point out that industrial relations have generally been good in Wages Councils

industries and that many small companies have benefit ed from being able to conduct their wage negotiations as a group. They fear that total abolition might lead to uncertainty and instability on wages and conditions, and a consequent deterioration in industrial relations. They therefore believe that the system should be reformed rather than abolished.

Reform: excluding young people or controlling their rates

16. If the system is to be kept in some form, it would be imperative to tackle its damaging effect on youth employment. The simplest solution would be to remove young people entirely from the scope of the councils, restricting their role to setting minimum rates for adults. There is no obvious case for insisting on a minimum level of pay for young people seeking to enter the labour market for the first time.

17. A possible alternative to the complete exclusion of young people would be to put an upper limit on the rates which the councils can set for them. This could best be done by taking powers to prevent any council from setting minima for young people which exceeded a given percentage (or percentages) of the rates which they set for adults. The

level of such percentage limits would be for discussion. The same percentage limits would apply to all councils, but as each council would determine the level of adult minima the absolute sums payable would of course vary.

18. The point at which adult rates might commence would also be a matter for discussion. Although most councils commence adult rates at 18, and two of the largest at 19, the threshold need not necessarily be at either of those points. In Holland, for example, the full adult rate is not reached until age 23. The Government would welcome views on this issue.

Reform: simplication of the system

19. Legislation to deal with the powers of wages councils in relation to young people would provide an opportunity to make other reforms designed to remove the damaging inflexibility inherent in over-detailed statutory prescription of terms and conditions. There could be a much tighter definition of the function of the wages councils. The best option would be to empower the councils to set only a single Minimum Hourly Rate for adult workers, possibly coupled with a

lower rate or rates for young people as discussed earlier. Provisions of some kind would continue to be needed for piece workers and home-workers. The effect of such simplication would significantly reduce the problems associated with Wages Orders. Councils would no longer be able to impose detailed minimum overtime and other premium payments, prescribe holidays and holiday pay, require pay guarantees of various kinds, or deal with other conditions.

20. Reforms of the kind outlined in paras 16-19 would give the system a much-needed measure of flexibility, greatly reduce the bureaucratic burdens on employers, and above all help to promote job opportunities for young people.

The UK's international obligations

21. The Government's over-riding concern is to maximise employment opportunities; and in this field flexibility and freedom of action are essential. For this reason, it is necessary to consider deratifying International Convention No 26.

22. ILO Convention No 26 requires those countries which ratify it to create or maintain minimum wage fixing machinery in those trades, or parts of trades, where there are no other effective arrangements regulating wages and wages are "exceptionally low". The Wages Councils Act 1979 is the means by which the Government satisfies the requirements of the Convention. The Convention itself contains provision for de-ratification; this can be considered at 5 yearly intervals and it is necessary to give 12 months notice and to consult representatives of employers and trade unions. The next such period runs from June 1985 to June 1986. Obligations cease 12 months after notification of deratification.

23. The Government would deratify the Convention only after full consultation. Nonetheless the Convention as drafted lacks flexibility and therefore limits the Government's freedom of action in an area of vital public concern. Subject to the outcome of consultations in conformity with ILO rules, the Government intends? stands ready to deratify the Convention and thus regain freedom of action in this important field.

Conclusion

24.The Government would therefore welcome wide discussion of the options outlined in this paper.

25.Comments should be sent to by the end of May.

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

23 January 1985

N 23/1

Dear Tom,

WAGES COUNCILS (ABOLITION) BILL

Thank you for your letter of 14 January about this Bill, now taken up by Lord Harris of High Cross.

I am content with the general thrust of your proposal. As you indicate, since no Government decision has been taken on abolition it would not be appropriate directly to support the Bill; and it will be necessary to block it at Second Reading in the Commons.

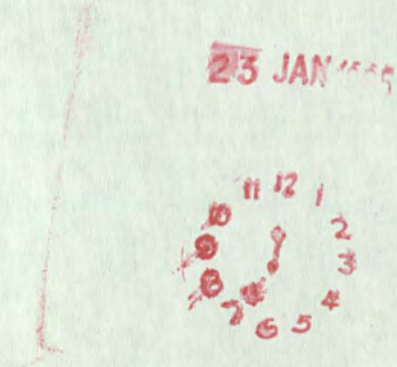
I am copying this letter to other Members of L and E(A) Committees and Sir Robert Armstrong.

John Biffen

JOHN BIFFEN

Rt Hon Tom King MP
Secretary of State for Employment

IND POL: Wages Councils: A2.



KS

CONFIDENTIAL

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

nzbh.
W
14/1

The Rt Hon John Biffen MP
Lord Privy Seal
Leader of the Commons
Management and Personnel Office
Cabinet Office
Whitehall
LONDON SW1

14th January 1985

Dear John,

WAGES COUNCILS (ABOLITION) BILL 1984

(PRIVATE PEER'S BILL - THE LATE LORD SPENS - NOW ADOPTED BY THE LORD HARRIS OF HIGH CROSS)

As you know the late Lord Spens' Bill to abolish the Wages Councils, which received its first reading in the House of Lords on 20 November, was subsequently picked up by Lord Harris of High Cross who will now be seeking a second reading (no date has been fixed).

The Bill provides simply for the total repeal of the Wages Councils Act 1979, the effect being to sweep away the wages councils system under which minimum pay and other conditions of employment are set for certain industries where voluntary collective bargaining arrangements are weak or non-existent. The Bill is identical in wording to one introduced earlier by Lord Spens which was debated in the House of Lords on 22 March 1982 (Official Report Cols 866-894) and failed to secure a second reading. Lord Harris of High Cross spoke in the debate in support of the Bill.

PP The future of the wages councils system has been under discussion in E(A), most recently on 6 December. Whilst our misgivings about the possible adverse effects of the machinery, especially on the job prospects of young people, are well known, it is by no means certain that we shall decide to abolish it; and even if we were to do so, that decision could not be put into effect until June 1986 at the earliest because

of our commitments under International Labour Convention 26. There is a considerable body of employer opinion opposed to abolition, and E(A) agreed that we should consult on reform of the system as well as on abolition.

In the circumstances, whilst we shall want to express support for the underlying objectives of the Bill (on the assumption that these are to improve the working of the labour market), we must seek to ensure that it does not make progress.

I am copying this to members of 'L' and E(A), and to Sir Robert Armstrong.

P.01453

PRIME MINISTER

Wages Councils
(E(A)(84)69)

BACKGROUND

Ministers collectively have discussed the Wages Council system on a number of previous occasions. The outcome of these discussions is summarised in the Annex to this brief. It has been generally accepted that the system is inconsistent with the Government's economic philosophy; takes too little account of market forces, particularly the ability of employers to pay; bears hard on small firms; and has restricted employment opportunities in those industries which it covers. However the scope for changes has been circumscribed by our international obligations under Convention 26 of the International Labour Organisation (ILO), and the need for legislation to amend the Wages Councils Act 1979.

2. The United Kingdom (UK) will be free to denounce ILO Convention 26 for 12 months from June 1985. The Secretary of State for Employment's memorandum, E(A)(84)69, fulfils the remit given to him by the Sub-Committee in July (E(A)(84)19th Meeting, Item 2) to report on:

FLAG A

FLAG B

a. the scope for restricting the powers of Wages Councils within ILO Convention 26;

b. the possibility of denouncing the Convention; and

c. possible arrangements in the absence of the Convention.

Proposals

3. Mr King identifies two main options:

i. Reforming the system:

a. to restrict its application to under 18s, either by excluding them altogether, or by restricting Wages Councils to setting a single minimum adult hourly rate, and requiring them not to exceed a set percentage of the adult rate in fixing rates for 16 and 17 year olds; and

b. to moderate its operation, eg:

- by requiring Councils to take into account the need to encourage employment, the state of the industry, and (possibly) to ignore family responsibilities in establishing minimum rates;

- by ending controls on overtime, premium payments, holidays and guaranteed hours;

- by ending Councils' powers to make retrospective awards.

ii. Abolishing Wages Councils altogether.

E(A)(84)69 says that it is not clear which of these options would be preferred by the majority of employers; both would be bound to be controversial and require legislation. Excluding under 18s and abolition could only be done following denunciation of the Convention; even requiring Wages Councils not to exceed a set percentage of the adult

rate in fixing wages for under 18s might be challenged in the ILO.

4. In view of these difficulties Mr King proposes:

i. consultation on the options, probably in the proposed Employment White Paper;

ii. denunciation of the Convention as soon as possible;

iii. legislation to effect the changes in the 1985/86 session.

MAIN ISSUES

5. The main issues are as follows.

i. Should ILO Convention 26 be denounced?

ii. Should the Government consult interested parties about the future of the Wages Councils system, either

a. on the basis of the options identified in E(A)(84)69, or

b. on some other basis?

iii. The form and timing of any such consultation.

Denunciation of ILO Convention 26

6. It will not be possible significantly to amend the Wages Councils system while the UK is bound by the Convention, and there has tended to be a presumption in earlier Ministerial discussions that denunciation would be desirable

in order to increase Ministers' freedom of manoeuvre. If the Convention is not denounced in the 12 months from June 1985, it will remain in force until at least 1990; observance can only end 12 months after denunciation.

7. In considering whether to denounce, the Sub-Committee will need to take account of:

i. the likely reaction of the trade union movement; (formal consultation will be required with the Trades Union Congress as well as with the Confederation of British Industry and this would be concurrent with consultation on the options for reform)

ii. any wider international implications. (there has been no dissent from the Foreign and Commonwealth Office who have not sought to be represented at the meeting)

8. If the decision is in favour of denunciation, the Government will need to explain (as was foreseen earlier) why it did not take the opportunity to denounce Convention 99, dealing with minimum wage-fixing in agriculture, in the 12 months to August 1984, with the result that the Agricultural Wages Boards cannot now be abolished until at least 1994.

Reform or abolition

9. Denunciation would give freedom either to abolish or radically reform the Wages Councils. In considering which course to pursue, the Sub-Committee will need to take account of the recently published Auld Report on the Shop Acts and Sunday working which suggested that Wages Councils have been effective and would have an important role in protecting retail workers following the easing of restrictions on working hours. Retailing employees account for about 35-40 per cent of the total of workers covered by Wages Councils. E(A)(84)69 says that there is support for abolition for some retailers and from the National Federation of Self-Employed and Small Businesses, but that both the CBI and the

British Retailers Association (whose members employ 20-25 per cent of employees covered by Wages Councils) would prefer reform. Some employers are concerned that abolition will lead to increased unionisation of their workers. Mr King therefore proposes that no final decision should be taken now on whether to abolish or reform but that both approaches should be canvassed in consultation.

10. If it is agreed that there should be consultation about particular proposals for reform as well as abolition, the Sub-Committee will need to decide which options should be canvassed.

Exclusion or restriction of under 18s

11. One of the main criticisms of Wages Councils is that they have inflated young people's wages and thus reduced their employment opportunities. Earlier Ministerial discussions have revealed general support for the suggestion that minimum rates for young people, as a percentage of minimum rates for adults, should be restricted. The main rationale for this particular suggestion is that it might be compatible with ILO Convention 26. However, this is uncertain as paragraph 11 of E(A)(84)69 implies: on the face of things it does not seem easy to square an upper limit on the amounts which Wages Councils could award with a Convention designed to underpin minimum rates. If the proposal is favoured in principle by the Sub-Committee, it would be prudent to ask the Law Officers to consider the legal position. Should the Government proceed to denounce Convention 26, the issue will be academic. If however the Government were not in the end to go ahead with denunciation, it would be useful to know whether this possibility of change might still be open.

Limitation of scope of Wages Councils to basic rates

12. Limiting the scope of the Councils to prescribing basic rates would be a considerable simplication, and by allowing employers to negotiate freely quite important components of labour costs would reduce one of the fundamental economic objections to the system. On the other hand it could lead to greater pressure for increases in basic rates.

Backdating

13. Earlier Ministerial discussions have revealed considerable support for preventing Councils from making retrospective awards, a practice which has aroused considerable opposition from employers.

Form and Timing of Consultation

14. The question of an Employment White Paper, to be published early in 1985, is being discussed separately. As Mr King points out, employing this as the vehicle for consultation on the future of Wages Councils would set the issue in the context of the Government's general policies for promoting employment and training and for deregulating the labour market. An alternative would be a White Paper on Wages Councils alone. As noted above, there would be advantages in combining consultation on denunciation of the Convention, (which is mandatory,) with consultation on reform or abolition (which is desirable).

15. There are two potential timing problems. The first is that Mr King's proposals anticipate the outcome of the Efficiency Unit's study of legal and administrative burdens on small firms, which is looking, inter alia, at Wages Councils. More importantly Ministers have yet to agree on what the Government's response should be to the Auld Report. Mr King and the Home Secretary are meeting today to discuss this, and Mr Brittan could be asked to report progress. It is unlikely that the Government's response can be made public before February 1985, which would probably be after any consultation on Wages Councils had begun.

HANDLING

16. It will probably be convenient to discuss the question of denunciation first, since if this is not pursued most

of the options for action on the Councils are foreclosed. If the Sub-Committee are content to accept Mr King's proposals for formal consultation, the Sub-Committee need not express a final preference between reform or abolition at this stage, although clearly it would be unwise to consult on any proposal which did not find support among a majority of the Sub-Committee.

17. You will wish to invite the Secretary of State for Employment to open the discussion. The Chancellor of the Exchequer and the Minister without Portfolio are likely to have views on the implications for the labour market. The Home Secretary will wish to contribute on the implications of the Auld Report. The Minister of State, Department of Trade and Industry and the Minister of Agriculture, Fisheries and Food may wish to comment on the implications for the industries affected by Wages Councils. The Solicitor General can advise on any international legal aspects.

CONCLUSIONS

18. You will wish the Sub-Committee to reach conclusions on the following:

i. whether the UK should denounce ILO Convention 26;

ii. whether to begin consultations on changes to the Wages Council system, either:

a. on the basis proposed in E(A)(84)69, or

b. on some other basis;

iii. the form and timing of any such consultation.

P L GREGSON

5 December 1984

ANNEX

PREVIOUS DISCUSSION OF WAGES COUNCILS IN THE MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY AND THE SUB-COMMITTEE ON ECONOMIC AFFAIRS

E(EA)(80)21st Meeting, 10 November 1980

The Sub-Committee was in general inclined to the view that Wages Councils served no useful purpose. Mainly for practical reasons, however, they agreed that the Wages Councils should be retained. They invited the Secretary of State for Employment to secure improvements in the present arrangements (such as better-quality independent Members and more, and more effective, employer participation) and to examine the possibility of removing young people and part-timers from the scope of Wages Council awards.

E(81)14th Meeting, 8 April 1981

The Committee confirmed that legislation should not be introduced to abolish Wages Councils or to provide for the exclusion from their scope of particular categories of worker. The Committee invited the Secretary of State for Employment to press ahead as quickly as possible with securing reductions in the numbers of Councils and with securing improvements in the system (such as recognition of the problems of small firms and the need to avoid backdating of awards).

E(82)2nd Meeting, 26 January 1982

The Committee invited the Secretary of State for Employment, the Attorney General and the Minister for Agriculture, Fisheries and Food and his territorial colleagues to consider further the possibility, without breaching ILO Conventions, of excluding young people and part-timers from the scope of Wages Councils.

E(82)18th Meeting, 14 July 1982

The Committee were advised that it would not be possible to exclude the categories identified at E(82)2nd Meeting without breaching the UK's international obligations under International Labour Conventions. The Secretary of State for Employment proposed using the provisions of the Wages Councils Act 1979 to abolish the Food and Non-Food Retail Councils, the main causes of complaint from employers (and certain other minor Councils).

The Committee were not able to reach conclusions. Some favoured delaying action until 1985, and the opening of the "window of opportunity" for the denunciation of ILO Convention 26. Others favoured the action proposed by the Secretary of State for Employment. Some members favoured the eventual abolition of the Wages Councils: others were opposed.

E(A)(84)8th Meeting, 2 March 1984

The Sub-Committee decided not to denounce ILO Convention 99, dealing with minimum wage-fixing machinery in agriculture. This decision was without prejudice to the possible denunciation of ILO Convention 26, a question to which the Sub-Committee wished to return. The Secretary of State for Employment was invited to examine and report on the scope for changes, if necessary through primary legislation, in the operation of Wages Councils within the terms of ILO Convention 26; and on the prospects for negotiating modifications to ILO Convention 26 to increase the scope for such changes.

E(A)(84)19th Meeting, 18 July 1984

The Sub-Committee accepted that it would not be worthwhile pursuing the possibility of amending ILO Convention 26. The Secretary of State for Employment was invited to do further work on the scope for restricting the powers of Councils, while complying with the Convention; and to evaluate the option of denouncing the Convention.

NAPM
AT
3/12

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

Roger Bone Esq
Private Secretary to the Secretary of State
for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
Whitehall
LONDON SW1

20th November 1984

Dear Roger,

INTERNATIONAL LABOUR INSTRUMENTS ADOPTED BY THE 69TH SESSION OF THE INTERNATIONAL LABOUR CONFERENCE 1983

In pursuance of our obligations under the Constitution of the International Labour Organisation, my Secretary of State has to present to Parliament a White Paper giving the texts of instruments adopted at the 69th Session of the International Labour Conference in 1983 together with a statement of the action the Government proposes to take with regard to the notification of acceptance of these instruments.

The instruments concerned are:

Recommendation No 167 on the Maintenance of Social Security Rights; Reject

Convention No 159 on Vocational Rehabilitation and Employment (Disabled Persons); Reject

Recommendation No 168 on Vocational Rehabilitation and Employment (Disabled Persons). Accept

The enclosed draft White Paper entitled "International Labour Conference 1983" has been prepared after consultation at official level with those Departments concerned, and with the CBI and TUC as required under ILO procedures.

My Secretary of State would be glad to know whether the Foreign Secretary and the other Ministers concerned are content with the draft. It is proposed that the White Paper be laid in the week beginning 17 December and I should therefore be grateful if you could let me have any comments by 5 December.

I am sending copies of this letter and its enclosure to the Private Secretaries to the Prime Minister, the other members of the Cabinet, the Attorney General, the Lord Advocate, the Secretary to the Cabinet and the Chief Press Secretary at No 10 Downing Street.

Yours sincerely,

Peter Smith

PETER SMITH
Private Secretary

1983 DRAFT WHITE PAPER

INTERNATIONAL LABOUR CONFERENCE

PROPOSED ACTION by her Majesty's Government in the United Kingdom of Great Britain and Northern Ireland regarding:

The Establishment of an International System for the Maintenance of Rights in Social Security Recommendation, 1983: (No 167)

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983: (No 159)

Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983: (No 168).

INTERNATIONAL LABOUR CONFERENCE 1983

The position of Her Majesty's Government in relation to one Convention and two Recommendations adopted by the International Labour Conference at its 69th Session, 1983, is set out below. The full texts of the instruments are set out in the Annex to this White Paper.

RECOMMENDATION NO 167 CONCERNING THE ESTABLISHMENT OF AN INTERNATIONAL SYSTEM FOR THE MAINTENANCE OF RIGHTS IN SOCIAL SECURITY

This Recommendation contains model provisions for bilateral or multilateral Social Security agreements. Although the preamble mentions both Convention No 118 on Equality of Treatment in Social Security and Convention No 157 on Maintenance of Rights in Social Security, the Recommendation flows directly from the latter instrument which, as well as requiring direct commitments, calls on ratifying states to set up bilateral or multilateral agreements with one another. The Recommendation further calls on all member states of the International Labour Organisation to take account of its terms "as appropriate". The United Kingdom Government has not ratified Convention No 157 for the reasons set out in Command No 9078, but complies with Convention No 118, which it has ratified, without the need for international agreements of the kind proposed.

The United Kingdom Government representative played an active part in the formulation of the Recommendation while making it clear that we had reservations regarding it. The model provisions which it contains are based on those of existing agreements and are generally sound; they may well be a valuable guide to governments entering this field for the first time, but as is recognised by the words "as appropriate" they are unlikely to be applicable precisely or as a whole to any particular bilateral or multilateral relationship. While it will continue to be necessary from time to time for United Kingdom governments to negotiate new or revised social security agreements with other states, such agreements

must meet particular circumstances and make the best use of available resources, which can best be done without commitment to particular forms of wording. For these reasons Her Majesty's Government is unable to accept the Recommendation.

CONVENTION NO 159 AND RECOMMENDATION NO 168 CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

The purpose of the Convention is to ensure that appropriate vocational rehabilitation measures are made available to all categories of disabled persons and to promote employment opportunities for these persons in the open labour market. The Convention stresses the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas and states that special positive measures taken to this end shall not be regarded as discriminating against other workers. The representative organisations of employers and workers shall be consulted on policy implementation, including measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation.

The United Kingdom Government representatives played an active part in the discussions on an international instrument on vocational rehabilitation at the 68th and 69th Sessions of the International Labour Conference held in 1982 and 1983, which led at the latter Session to the adoption of a Convention and a Recommendation.

At the 68th Session, the Conference Committee set up to formulate an instrument decided by a majority vote that the instrument should take the form of a Recommendation. Accordingly a report was presented by the International Labour Office to the 69th Session containing the text of a draft Recommendation for discussion by the Conference Committee. However, at a late stage in its proceedings, the 1983 Conference Committee narrowly voted to reverse the earlier decision in favour of a Recommendation and decided instead to recommend the adoption of two instru-

ments, namely a Convention and a Recommendation.

The United Kingdom Government representative and others protested at this decision, which resulted in the text of the Convention being drafted hurriedly and without the benefit of the detailed consultation and discussion normally accorded to these texts under the International Labour Conference double discussion procedure. The United Kingdom Government's reservations about this departure from the normal procedure for the adoption of International Labour Conference texts were also expressed by the United Kingdom Government delegate when the text of the Convention was adopted at the conclusion of the 69th Session of the Conference. More recently, in his address to the 70th Session of the Conference in 1984 on the general subject of international labour standards, the Secretary of State for Employment referred to the proceedings which led to the adoption of the Convention and referred to it as a example of an ill-drafted Convention.

Before ratifying a Convention, the Government, in accordance with its usual practice, has to satisfy itself that national law and practice are in full conformity with its terms. The Government's view is that a great deal is being done in the United Kingdom to promote the employment of disabled people, both through the provision of vocational rehabilitation and resettlement services, and in encouraging employers to adopt positive policies towards the employment of disabled people. However, while the existing legislation in this area, the Disabled Persons (Employment) Act 1944, and similar legislation in Northern Ireland, is based on the principle of a full share of jobs for disabled people, it does not provide in strict terms for equality of opportunity for disabled people either as a group or individually. Moreover, the Act applies only to employers who have twenty or more workers, and to those disabled people who choose to register under procedures laid down in the Act. For these reasons, the Government's view is that United Kingdom law cannot be held to be fully compatible with the precise terms of Article 4 of the Convention, which sets out the basic

principles of the policy to be adopted. This in turn has implications for the interpretation of Articles 2, 3, 5 and 6 which individually are broadly acceptable to the United Kingdom but which, in the way the Convention is drafted, appear to be dependent on Article 4. Articles 7 and 9 which are not affected by Article 4, are however, acceptable. In addition, the implications of the reference to "a duly recognised physical or mental impairment" in the definition of disabled person in Article 1(1) of the Convention are not clear and this ambiguity adds to the Government's reservations about the Convention.

For the foregoing reasons, the Government, in accordance with the customary strict rule the United Kingdom applies to Conventions, is unable to proceed with ratification. Nonetheless, it will be keeping the general aims of the Convention in mind throughout its consideration of relevant issues in the future.

The Recommendation supplements the Convention and sets out a series of measures aimed at increasing employment opportunities for disabled people, such as assistance and incentives to employers, establishment of various types of sheltered employment, encouragement of the creation of production workshops and co-operatives by and for disabled persons, elimination of physical and architectural barriers or obstacles, facilitation of adequate means of transport, exemption from taxes or other charges on materials and equipment required by rehabilitation programmes, provision of part-time employment, and research. The instrument emphasises collective participation notably that of representatives of organisations of employers and workers and of the disabled themselves, in determining needs and developing vocational rehabilitation services at national as well as community levels. It also deals with, among other matters, the special problems of rural areas and the training of personnel involved, directly or indirectly, in training, vocational rehabilitation, guidance and placement of disabled persons.

The Government considers that the Recommendation is a useful and flexible instrument. Its guidance on employment opportunities and the role of the organisations representing employers and workers are generally accepted in this country and should provide useful guidelines for developing countries. Although some parts of the Recommendation, for instance the section on vocational rehabilitation in rural areas, are not entirely relevant to the United Kingdom, and the ambiguity in the definitions of disabled people, also referred to above in the consideration of the Convention, gives rise to difficulties, the Government believes that taken as a whole the Recommendation can be supported, and therefore proposes to accept it.

In considering the Convention and Recommendation the Government sought the advice of the National Advisory Council on the Employment of Disabled People.

International Labour Conference
Conférence internationale du Travail

RECOMMENDATION 167

RECOMMENDATION CONCERNING THE ESTABLISHMENT
OF AN INTERNATIONAL SYSTEM FOR THE MAINTENANCE
OF RIGHTS IN SOCIAL SECURITY,
ADOPTED BY THE CONFERENCE AT ITS SIXTY-NINTH SESSION,
GENEVA, 20 JUNE 1983

RECOMMANDATION 167

RECOMMANDATION CONCERNANT L'ÉTABLISSEMENT
D'UN SYSTÈME INTERNATIONAL DE CONSERVATION DES DROITS
EN MATIÈRE DE SÉCURITÉ SOCIALE,
ADOPTÉE PAR LA CONFÉRENCE À SA SOIXANTE-NEUVIÈME SESSION,
GENÈVE, 20 JUIN 1983

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 167

RECOMMENDATION CONCERNING THE ESTABLISHMENT OF AN INTERNATIONAL SYSTEM FOR THE MAINTENANCE OF RIGHTS IN SOCIAL SECURITY

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-ninth Session on 1 June 1983, and

Recalling the principles established by the Equality of Treatment (Social Security) Convention, 1962, which relate not only to equality of treatment but also to the maintenance of rights in course of acquisition and of acquired rights, and by the Maintenance of Social Security Rights Convention, 1982, and

Considering it necessary to promote the conclusion of bilateral or multilateral social security instruments between Members of the International Labour Organisation, as well as the international co-ordination of these instruments, in particular for the application of the Equality of Treatment (Social Security) Convention, 1962, and of the Maintenance of Social Security Rights Convention, 1982 and

Having decided upon the adoption of certain proposals with regard to the maintenance of rights in social security, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Recommendation;

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Recommendation, which may be cited as the Maintenance of Social Security Rights Recommendation, 1983:

1. In this Recommendation–

(a) the term "Member" means any State Member of the International Labour Organisation;

(b) the term "legislation" includes any social security rules as well as laws and regulations;

(c) the term "refugee" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation;

(d) the term "stateless person" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;

(e) the term "members of the family" means persons defined or recognised as such or as members of the household by the legislation under which benefits are awarded or provided, as appropriate, or persons determined by mutual agreement between the Members concerned; where persons are defined or recognised as members of the family or as members of the household under the relevant legislation only on the condition that they are living with the person concerned, this condition shall be deemed to be satisfied in respect of persons who obtain their main support from the person concerned;

(f) the term "survivors" means persons defined or recognised as such by the legislation under which benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;

(g) the term "residence" means ordinary residence.

2. Members bound by a bilateral or multilateral social security instrument should endeavour by mutual agreement to extend to the nationals of any other Member, as well as to refugees and stateless persons resident in the territory of any Member, the benefit of the provisions of that instrument relating to–

(a) the determination of the applicable legislation;

(b) the maintenance of rights in course of acquisition;

(c) the maintenance of acquired rights and provision of benefits abroad.

3. Members should conclude among themselves and with the States concerned appropriate administrative or financial arrangements to remove possible obstacles to the provision of invalidity, old-age and survivors' benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under their legislation, to beneficiaries who are nationals of a Member or refugees or stateless persons resident abroad.

4. Where one of the Members bound by a bilateral or multilateral social security instrument has no legislation in force in respect of unemployment benefit or family benefit, the Members so bound should endeavour to conclude between themselves appropriate arrangements to compensate equitably the loss or the absence of rights resulting therefrom for persons who transfer their residence from the territory of a Member which has legislation in force in respect of the benefits concerned to the territory of a Member which has no such legislation, or for the members of the family of persons entitled to family benefit under the legislation of the first Member when these members of the family are resident in the territory of the second Member.

5. Where, in application of the Equality of Treatment (Social Security) Convention, 1962, the Maintenance of Social Security Rights Convention, 1982, or any bilateral or multilateral social security instrument, cash benefits have to be paid to beneficiaries residing in the territory of a State other than the one in whose territory the institution liable for the payment is located, this institution should, whenever possible, pay the beneficiary direct, particularly in the case of invalidity, old-age and survivors' benefits and also pensions in respect of employment injuries. The transfer of these benefits and pensions should be made with the minimum delay, so that beneficiaries may have them at their disposal as quickly as possible. In the case of indirect payment, the institution acting as intermediary in the country of residence of the beneficiary should do its utmost to see that the latter shall receive promptly the benefits due.

6. Members concerned should endeavour to conclude bilateral and multilateral social security instruments covering the nine branches of social security mentioned in paragraph 1 of Article 2 of the Maintenance of Rights in Social Security Convention, 1982; to develop the co-ordination of bilateral or multilateral social security instruments by which they are respectively bound; and to conclude an international agreement to this effect, with the assistance of the International Labour Office, where appropriate.

7. For the application of the provisions of Articles 6 to 8 of the Equality of Treatment (Social Security) Convention, 1962, and of paragraph 1 of Article 4 of the Maintenance of Social Security Rights Convention, 1982, Members bound by these Conventions should take account, as appropriate, of the model provisions and the model agreement annexed to this Recommendation, designed for the conclusion of bilateral or multilateral social security instruments and for their co-ordination.

8. Members concerned, even if they are not yet bound by at least one of the Conventions referred to in Paragraph 7 of this Recommendation, should endeavour to participate in the international system provided for by the Maintenance of Social Security Rights Convention, 1982, taking account, as appropriate, of the model provisions and the model agreement annexed to this Recommendation.

ANNEX I

Model Provisions for the Conclusion of Bilateral or Multilateral Social Security Instruments

I. Definitions

Article 1

For the purpose of these model provisions–

(a) the term "legislation" includes any social security rules as well as laws and regulations;

(b) the term "competent State" means a Contracting Party under whose legislation the person concerned can claim benefit;

(c) the term "competent authority" means the minister, ministers or other corresponding authority responsible for the social security schemes in all or any part of the territory of each Contracting Party;

(d) the term "institution" means any body or authority directly responsible for applying all or part of the legislation of a Contracting Party;

(e) the term "competent institution" means–

(i) in relation to a social insurance scheme, either the institution with which the person concerned is insured when he claims benefit, or an institution from which he is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Contracting Party where that institution is situated, or the institution designated by the competent authority of the Contracting Party concerned;

(ii) in relation to a scheme other than a social insurance scheme, or in relation to a family benefits scheme, the institution designated by the competent authority of the Contracting Party concerned;

(iii) in relation to a scheme consisting of obligations imposed on employers, either the employer or his insurer or, in default thereof, the body or authority designated by the competent authority of the Contracting Party concerned;

(f) the term "provident fund" means a compulsory savings institution;

(g) the term "members of the family" means persons defined or recognised as such or as members of the household by the legislation under which benefits are awarded or provided, as appropriate, or persons determined by mutual agreement between the Contracting Parties concerned; where persons are defined or recognised as members of the family or as members of the household under the relevant legislation only on the condition that they are living with the person concerned, this condition shall be deemed to be satisfied in respect of persons who obtain their main support from the person concerned;

(h) the term "survivors" means persons defined or recognised as such by the legislation under which benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;

(i) the term "residence" means ordinary residence;

(j) the term "temporary residence" means a temporary stay;

(k) the term "institution of the place of residence" means the institutional empowered, under the Contracting Party's legislation applied by it, to provide the benefits in question at the place of residence or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;

(l) the term "institution of the place of temporary residence" means the institution empowered, under the Contracting Party's legislation applied by it, to provide the benefits in question at the place of temporary residence of the person concerned or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;

(m) the term "periods of insurance" means periods of contribution, employment, occupational activity or residence which are defined or recognised as periods of insurance by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of insurance;

(n) the terms "periods of employment" and "periods of occupational activity" mean periods defined or recognised as such by the legislation under which they were

completed and such other periods as are regarded by that legislation as equivalent to periods of employment or periods of occupational activity respectively;

(o) the term "periods of residence" means periods of residence defined or recognised as such by the legislation under which they were completed;

(p) the term "benefits" means all benefits in kind and in cash provided in respect of the contingency concerned, including death grants, and–

(i) as benefits in kind, benefits aimed at the prevention of any contingency covered by social security, physical rehabilitation and vocational rehabilitation;

(ii) as benefits in cash, all components thereof provided out of public funds, and all increases, revaluation allowances of supplementary allowances, and any benefits awarded for the purpose of maintaining or improving earning capacity, lump-sum benefits which may be paid in lieu of pensions and, where applicable, any payments made by way of refund of contributions;

(q) (i) the term "family benefits" means any benefits in kind or in cash, including family allowances, granted to offset family maintenance costs, with the exception of increases in, or supplements to, pensions provided for the members of the family of the recipients of such pensions;

(ii) the term "family allowances" means periodical cash benefits granted according to the number and age of children;

(r) the term "death grant" means any lump sum payable in the event of death, other than the lump-sum benefits mentioned in subparagraph *(p)* (ii) of this article;

(s) the term "non-contributory" applies to benefits the award of which does not depend on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity, and to any scheme which exclusively awards such benefits.

II. Applicable Legislation

Article 2

1. Notwithstanding the general rule relating to the application of the legislation of the Contracting Party in the territory of which the employed persons are employed,[1] the legislation applicable to employed persons referred to in this paragraph is determined in accordance with the following provisions:

(a) (i) employed persons who are employed in the territory of a Contracting Party by an undertaking which is their regular employer and who are sent by that undertaking to work for it in the territory of another Contracting Party shall remain subject to the legislation of the first Party, provided that the expected duration of the work does not exceed the time-limit determined by mutual agreement between the Contracting Parties concerned and that they are not sent to replace other employed persons who have completed their period of secondment abroad;

(ii) if the work to be carried out continues because of unforeseeable circumstances for a period longer than originally foreseen and exceeding the determined time-limit, the legislation of the first Party shall remain applicable until the work is completed, subject to the consent of the competent authority of the second Party or of the body designated by it;

(b) (i) employed persons who are employed in international transport in the territory of two or more Contracting Parties as travelling personnel in the service of an undertaking which has its registered office in the territory of a Contracting Party and which, on behalf of others or on its own account, transports passengers or goods by rail, road, air or inland waterway, shall be subject to the legislation of the latter Party;

(ii) however, if they are employed by a branch or permanent agency which the said undertaking has in the territory of a Contracting Party other than the Party in whose territory it has its registered office, they shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated;

(iii) if they are employed mainly in the territory of the Contracting Party where they are resident, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its registered office nor a branch or permanent agency in that territory;

[1] See paragraph 1 *(a)* of Article 5 of the Maintenance of Social Security Rights Convention, 1982.

(c) (i) employed persons other than those in international transport who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they reside if their occupation is carried on partly in that territory or if they are employed by several undertakings or by several employers having their registered offices or their places of residence in the territory of different Contracting Parties;

(ii) in other cases they shall be subject to the legislation of the Contracting Party in whose territory the undertaking which employs them has its registered office or their employer has his place of residence;

(d) employed persons who are employed in the territory of a Contracting Party by an undertaking which has its registered office in the territory of another Contracting Party and whose premises lie astride the common frontier of the Contracting Parties concerned shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its registered office.

2. Notwithstanding the general rule relating to the application of the legislation of the Contracting Party in the territory of which self-employed persons engage in an occupation,[1] the legislation applicable to the self-employed persons referred to in this paragraph is determined in accordance with the following provisions:

(a) self-employed persons who reside in the territory of one Contracting Party and engage in their occupation in the territory of another Contracting Party shall be subject to the legislation of the first Party:

(i) if the second Party has no legislation applicable to them, or

(ii) if, under the legislation of each of the Parties concerned, self-employed persons are subject to that legislation solely by reason of the fact that they are resident in the territory of those Parties;

(b) self-employed persons who normally engage in their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they are resident, if they work partly in that territory or if, under that legislation, they are subject to it solely by reason of the fact that they are resident in the territory of that Party;

(c) where the self-employed persons referred to in the preceding subparagraph do not work partly in the territory of the Contracting Party where they are resident, or where, under the legislation of that Party, they are not subject to that legislation solely by reason of their residence, or where that Party has no legislation applicable to them, they shall be subject to the legislation mutually agreed upon by the Contracting Parties concerned or by their competent authorities.

3. Where by virtue of the preceding paragraphs of this article, a worker is subject to the legislation of a Contracting Party in whose territory he is neither employed nor engaged in an occupation nor resident, that legislation shall be applicable to him as if he were employed or engaged in an occupation or resident in the territory of that Party, as the case may be.

4. The competent authorities of the Contracting Parties may, by mutual agreement, make other provisions than those of the preceding paragraphs of this Article, in the interest of the persons concerned.

III. Maintenance of Rights in Course of Acquisition

A. Adding Together Periods

1. Medical Care, Sickness Benefit, Maternity Benefit and Family Benefit

Article 3

Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together and to the extent necessary, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

[1] See paragraph 1 *(b)* of Article 5 of the Maintenance of Social Security Rights Convention, 1982.

2. Unemployment Benefit

Article 4

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together and to the extent necessary, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

2. However, the institution of a Contracting Party whose legislation requires the completion of periods of insurance for the establishment of the right to benefit may make the adding together of periods of employment or occupational activity completed under the corresponding legislation of another Contracting Party subject to the condition that these periods would have been considered as periods of insurance if they had been completed under the legislation of the first Party.

3. The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, where the legislation of a Contracting Party provides that the length of the period during which benefit may be awarded depends on the length of the periods completed.

3. Invalidity, Old-age and Survivors' Benefit

Article 5

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

2. Where the legislation of a Contracting Party makes the provision of benefit conditional on the person concerned or, in the case of survivors' benefit, the deceased, having been subject to that legislation at the time at which the contingency arose, that condition shall be deemed to be fulfilled if the person concerned or the deceased, as the case may be, was subject at that time to the legislation of another Contracting Party or, failing that, if the person concerned or the survivor can claim corresponding benefits under the legislation of another Contracting Party.

3. Where the legislation of a Contracting Party provides that the period of payment of a pension may be taken into consideration for the acquisition, maintenance or recovery of the right to benefit, the competent institution of that Party shall for this purpose take account of any period during which a pension was paid under the legislation of any other Contracting Party.

4. Common Provisions

Article 6

Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods in an occupation covered by a special scheme or in a specified occupation or employment, only periods completed under a corresponding scheme or, in the absence of such a scheme, in the same occupation or in the same employment, as the case may be, under the legislation of other Contracting Parties, shall be taken into account for the award of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the award of benefits under the general scheme or, in the absence of such a scheme, the scheme applicable to wage earners or to salaried employees, as appropriate.

B. DETERMINATION OF INVALIDITY, OLD-AGE AND SURVIVORS' BENEFIT

Article 7

The determination of invalidity, old-age and survivors' benefit shall be carried out in conformity with either the method of apportionment or the method of integration, according to the choice made by mutual agreement between the Contracting Parties concerned.

ALTERNATIVE I—METHOD OF APPORTIONMENT

1. Common Provisions

Article 8

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, the institution of each of these Parties shall determine, in accordance with the legislation which it applies, whether such person, or his survivors, satisfies the conditions for right to benefit having regard, where appropriate, to the provisions of Article 5.

2. Where the person concerned satisfies these conditions, the competent institution of any Contracting Party whose legislation provides that the amount of benefits or certain parts thereof shall be in proportion to the periods completed may calculate those benefits or parts thereof directly, solely on the basis of the periods completed under the legislation which it applies, notwithstanding the provisions of the following paragraphs of this Article.

3. If the person concerned satisfies the conditions referred to in paragraph 1 of this Article the competent institution of any of the other Contracting Parties shall calculate the theoretical amount of the benefits he could claim if all the periods completed under the legislation of all the Contracting Parties concerned and taken into account for establishing entitlement, in accordance with the provisions of Article 5, had been completed exclusively under the legislation which that institution applies.

4. However,

(a) in the case of benefits the amount of which does not depend on the length of periods completed, that amount shall be taken to be the theoretical amount referred to in the preceding paragraph;

(b) in the case of non-contributory benefits the amount of which does not depend on the length of periods completed, the theoretical amount referred to in the preceding paragraph may be calculated on the basis of and up to the amount of the full benefit:

(i) in the case of invalidity or death, in proportion to the ratio of the total periods completed, before the contingency arose, by the person concerned or the deceased under the legislation of all Contracting Parties concerned and taken into account in accordance with the provisions of Article 5, to two-thirds the number of years which elapsed between the date on which the persons concerned or the deceased reached the age of 15–or a higher age fixed by mutual agreement between the Contracting Parties concerned–and the date on which the incapacity for work followed by invalidity or the death, as the case may be, occurred, disregarding any years subsequent to pensionable age;

(ii) in the case of old age, in proportion to the ratio of the total periods completed by the person concerned under the legislation of all the Contracting Parties concerned and taken into account in accordance with the provisions of article 5, to 30 years, disregarding any years subsequent to pensionable age.

5. The institution referred to in paragraph 3 of this Article shall then calculate the actual amount of the benefit payable by it to the person concerned on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 3 or of paragraph 4 of this Article, as appropriate, and in proportion to the ratio of the periods completed before the contingency arose under the legislation which it applies, to the total of the periods completed before the contingency arose under the legislation of all the Contracting Parties concerned.

6. If the total of the periods completed under the legislation of all the Contracting Parties concerned before the contingency arose exceeds the maximum period required by the legislation of one of these Parties for the receipt of full benefits, the institution of that Party shall, when applying the provisions of paragraphs 3 and 5 of this Article, take into account this maximum period instead of the total of the periods completed, without,

however, being obliged to award higher benefits than the full benefits provided for by the legislation which it applies.

Article 9

1. Notwithstanding the provisions of Article 8, where the total duration of the periods completed under the legislation of a Contracting Party is less than one year and where, taking into account only those periods, no right to benefit exists under that legislation, the institution of the Party concerned shall not be bound to award benefit in respect of the said periods.

2. The periods referred to in the preceding paragraph shall be taken into account by the institution of each of the other Contracting Parties concerned for the purpose of applying the provisions of Article 8, except those of paragraph 5 thereof.

3. However, where the application of the provisions of paragraph 1 of this Article would have the effect of relieving all the institutions concerned of the obligation to award benefit, benefit shall be awarded

(Alternative A) exclusively under the legislation of the last Contracting Party whose conditions are fulfilled by the person concerned, regard being had to the provisions of Article 5, as if all the periods referred to in paragraph 1 of this Article had been completed under the legislation of that Party.

(Alternative B) in accordance with the provisions of Article 8.

Article 10

1. If the person concerned does not, at a given date, satisfy the conditions required by the legislation of all the Contracting Parties concerned, regard being had to the provisions of Article 5, but satisfies the conditions of the legislation of only one or more of them, the following provisions shall apply:

(a) the amount of the benefit payable shall be calculated in accordance with the provisions of paragraph 2 or of paragraphs 3 to 6 of Article 8, as appropriate, by each of the competent institutions applying legislation the conditions of which are fulfilled;

(b) however:

(i) if the person concerned satisfies the conditions of the legislation of at least two Contracting Parties, without any need to include periods completed under any legislation the conditions of which are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of paragraphs 3 to 6 of Article 8;

(ii) if the person concerned satisfies the conditions of the legislation of one Contracting Party only, without any need to invoke the provisions of Article 5, the amount of the benefit payable shall be calculated exclusively in accordance with the provisions of the legislation the conditions of which are fulfilled, taking account of periods completed under that legislation only.

2. Benefits awarded under the legislation of one or more Contracting Parties concerned in the case covered by the preceding paragraph shall be recalculated automatically, in accordance with the provisions of paragraph 2 or of paragraphs 3 to 6 of Article 8, when the conditions prescribed by the other legislation or legislations concerned are satisfied, regard being had, where appropriate, to the provisions of Article 5.

3. Benefits awarded under the legislation of two or more Contracting Parties shall be recalculated, in accordance with the provisions of paragraph 1 of this Article, at the request of the beneficiary, when the conditions prescribed by the legislation of one or more of these Contracting Parties cease to be fulfilled.

Article 11

1. Where the amount of the benefits a person would be entitled to claim under the legislation of a Contracting Party, without regard to the provisions of Articles 5 and 8 to 10, is greater than the total benefits payable in accordance with those provisions, the competent institution of that Party shall pay a supplement equal to the difference between the two amounts. That institution shall bear the whole cost of the supplement.

(Alternative A) 2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive only whichever is the largest. The cost of

this supplement shall be apportioned among the competent institutions of the Contracting Parties concerned according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all the said institutions would have to pay.

(Alternative B) 2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive these supplements only within the limit of the highest theoretical amount calculated by these institutions in accordance with the provisions of paragraphs 3 or 4 of Article 8. If the total amount of the benefit and supplements exceeds the highest theoretical amount, each institution of the Contracting Parties concerned may reduce the amount of the supplement which it would have to pay, by a fraction of the excess determined according to the ratio between the amount of the latter supplement and the amount of the combined supplement which all the said institutions would have to pay.

3. The supplements referred to in the preceding paragraphs of this Article shall be regarded as a component of the benefit provided by the institution liable for payment. Their amount shall be determined once and for all, except where the provisions of paragraph 2 or paragraph 3 of Article 10 are applicable.

2. Special Provisions concerning Invalidity and Survivors' Benefits

Article 12

1. In the event of an aggravation of any invalidity for which a person is receiving benefit under the legislation of one Contracting Party only, the following provisions shall apply:

(a) if the person concerned has not been subject to the legislation of any other Contracting Party since he began to receive benefit, the competent institution of the first Party shall be bound to take the aggravation into account, when awarding benefit, in accordance with the provisions of the legislation which it applies;

(b) if the person concerned has been subject to the legislation of one or more other Contracting Parties since he began to receive benefit, the aggravation shall be taken into account when awarding benefit in accordance with the provisions of Articles 5 and 8 to 11;

(c) in the case referred to in the preceding subparagraph, the date on which the aggravation was demonstrated shall be regarded as the date on which the contingency arose;

(d) if in the case referred to in subparagraph *(b)* of this paragraph the person concerned is not entitled to benefit from the institution of another Contracting Party, the competent institution of the first Party shall be bound to take the aggravation into account, when awarding benefit, in accordance with the provisions of the legislation which it applies.

2. In the event of aggravation of any invalidity for which person is receiving benefit under the legislation of two or more Contracting Parties, the aggravation shall be taken into account, when awarding benefit, in accordance with the provisions of Articles 5 and 8 to 11. The provisions of subparagraph *(c)* of the preceding paragraph shall apply *mutatis mutandis*.

Article 13

1. Invalidity or survivors' benefit shall, where appropriate, be converted into old-age benefit, on conditions prescribed by the legislation under which they have been awarded and in accordance with the provisions of Articles 5 and 8 to 11.

2. Where, in the case referred to in Article 10, a recipient of invalidity or survivors' benefit payable under the legislation of one or more Contracting Parties becomes entitled to old-age benefit, any institution liable for the payment of invalidity or survivors' benefit shall continue to pay the recipient the benefit to which he is entitled under the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

ALTERNATIVE II–METHOD OF INTEGRATION

Formula A–Integration Linked with Residence

Article 14

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, he or his survivors shall be entitled only to the benefits

determined in accordance with the legislation of the Contracting Party in the territory of which they reside, provided that they satisfy the conditions prescribed by that legislation or by the Contracting Parties concerned, having regard, where appropriate, to the provisions of Article 5.

2. The cost of the benefits determined in accordance with the provisions of the preceding paragraph shall be:

(a) borne entirely by the institution of the Contracting Party in the territory of which the person concerned resides; however, the application of this provision may be made conditional upon the person concerned having been resident in that territory at the date of the submission of his benefit claim or, in respect of survivors' benefit, upon the deceased having been resident in that territory at the date of his death for a minimum period fixed by mutual agreement between the Contracting Parties concerned; or

(b) apportioned among the institutions of all the Contracting Parties concerned according to the ratio between the duration of the periods completed under the legislation which each of those institutions applies, before the contingency arose, and the total duration of the periods completed under the legislation of all the Contracting Parties concerned before the contingency arose; or

(c) borne by the institution of the Contracting Party in the territory of which the person concerned resides, but compensated by the institutions of the other Contracting Parties concerned according to a lump-sum arrangement agreed upon between all these Parties on the basis of the participation of the person concerned in the scheme of each of the Contracting Parties which is not liable to pay benefit.

3. If the person concerned does not satisfy the conditions of the legislation of the Contracting Party referred to in paragraph 1 of this Article or if that legislation does not provide for the award of invalidity, old-age or survivors' benefit, he shall receive the most favourable benefit to which he is entitled under the legislation of any other Contracting Party, regard being had, where appropriate, to the provisions of Article 5.

Formula B–Integration Linked with the Occurrence of Invalidity or Death[1]

Article 15

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, he or his survivors shall be entitled to benefit in accordance with the provisions of the following paragraphs of this Article.

2. The institution of the Contracting Party whose legislation was applicable when the incapacity for work followed by invalidity or death occurred shall determine, in accordance with the provisions of that legislation, whether the person concerned satisfies the conditions for right to benefit, regard being had, where appropriate, to the provisions of Article 5.

3. The person concerned who satisfies these conditions shall obtain the benefit from the said institution only, in accordance with the provisions of the legislation which it applies.

4. If the person concerned does not satisfy the conditions of the legislation of the Contracting Party referred to in paragraph 2 of this Article, or if that legislation does not provide for invalidity or survivors' benefit, he shall receive the most favourable benefit to which he is entitled under the legislation of any other Contracting Party, having regard, where applicable, to the provisions of Article 5.

Article 16

The provisions of Article 12, paragraph 1, shall apply *mutatis mutandis*.

C. DETERMINATION OF BENEFITS IN RESPECT OF OCCUPATIONAL DISEASES

Article 17

1. If a worker contracts an occupational disease after having been engaged in an occupation likely to cause that disease under the legislation of two or more Contracting Parties, the benefit to which he or his survivors may be entitled shall be awarded exclusively under the legislation of the last of the said Parties the conditions of which they fulfil, regard being had, where applicable, to the provisions of paragraphs 2 to 4 of this Article.

[1] This formula may be limited to cases where the person considered has completed periods exclusively under legislation under which the amount of benefits is independent of the duration of periods completed.

2. Where the legislation of a Contracting Party makes the right to benefit for occupational diseases conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled if this disease was first diagnosed in the territory of another Contracting Party.

3. Where the legislation of a Contracting Party explicitly or implicitly makes the right to benefit for occupational diseases conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to cause such a disease, the competent institution of that Party, when ascertaining the time at which the occupation in question was engaged in shall, to the extent necessary, take account of any occupation of the same kind engaged in under the legislation of any other Contracting Party, as if it had been engaged in under the legislation of the first Party.

4. Where the legislation of a Contracting Party explicitly or implicitly makes entitlement to benefit for occupational diseases conditional upon an occupation liable to cause the desease in question having been pursued for a specific period, the competent institution of that Party shall, to the extent necessary, take account, for the purpose of adding periods together, of periods during which such an occupation was followed in the territory of any other Contracting Party.

5. In those cases where the provisions of paragraph 3 or paragraph 4 of this Article are applied,

(Alternative I) the cost of benefits

(Alternative II) the cost of pensions

in respect of occupational diseases may be apportioned among the Contracting Parties concerned,

(Alternative A) in proportion to the ratio between the duration of exposure to the risk under the legislation of each of those Parties and the total duration of exposure to the risk under the legislation of the said Parties.

(Alternative B) in proportion to the ratio between the duration of the periods completed under the legislation of each of those Parties and the total duration of the periods completed under the legislation of the said Parties.

(Alternative C) equally between those Parties under whose legislation the duration of exposure to risk has reached a percentage, fixed by mutual agreement between the Parties concerned, of the total duration of exposure to the risk under the legislation of the said Parties.

Article 18

Where a worker having contracted an occupational disease has received or is receiving compensation from the institution of a Contracting Party, and in the event of an aggravation of his condition claims benefits from the institution of another Contracting Party, the following provisions shall apply:

(a) where the worker has not engaged, under the legislation of the second Party, in an occupation liable to cause or aggravate the disease in question, the competent institution of the first Party shall bear the cost of the benefit, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;

(b) where the worker has engaged in such an occupation under the legislation of the second Party, the competent institution of the first Party shall bear the cost of the benefit, leaving the aggravation out of account, in accordance with the provisions of the legislation which it applies; the competent institution of the second Party shall award to the worker a supplementary benefit the amount of which shall be equal to the difference between the amount of the benefit due after the aggravation and the amount of the benefit that would, in accordance with the provisions of the legislation which that institution applies, have been due before the aggravation if the disease in question had been contracted under the legislation of that Party.

IV. Maintenance of Acquired Rights and Provision of Benefits Abroad

1. Medical Care, Sickness Benefit, Maternity Benefit and Benefits Other than Pensions in respect of Occupational Injuries and Diseases

Article 19

1. Persons who reside in the territory of a Contracting Party other than the competent State and who satisfy the conditions for right to benefit prescribed by the legislation of the

latter State, regard being had, where appropriate, to the provisions of Article 3, shall receive in the territory of the Contracting Party in which they reside–

(a) benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these persons were affiliated to it;

(b) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.

2. The provisions of the preceding paragraph shall apply, *mutatis mutandis*, in respect of medical care, sickness and maternity benefits, to members of the family who are resident in the territory of a Contracting Party other than the competent State.

3. Benefits may also be provided to frontier workers and to members of their family by the competent institution in the territory of the competent State, in accordance with the provisions of the legislation of that State, as if they were resident in its territory.

Article 20

(Alternative I)

1. Persons who satisfy the conditions for right to benefit under the legislation of the competent State, regard being had where appropriate, to the provisions of Article 3, and–

(a) whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State; or

(b) who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a Contracting Party where they reside, other than the competent State, or to transfer their residence to the territory of a Contracting Party other than the competent State; or

(c) who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition,

shall receive–

(i) benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these persons were affiliated to it, for a period not longer than that which may be prescribed by the legislation of the competent State;

(ii) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.

2. *(a)* The authorisation referred to in subparagraph *(b)* of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the person concerned.

(b) The authorisation referred to in subparagraph *(c)* of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the person concerned resides.

3. The provisions of the preceding paragraphs of this Article shall apply, *mutatis mutandis*, to members of the family in respect of medical care, sickness and maternity benefits.

(Alternative II)

1. Persons who satisfy the conditions for right to benefit under the legislation of the competent State, regard being had, where appropriate, to the provisions of Article 3, and–

(a) whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State; or

(b) who, having become entitled to benefits payable by the competent institution, return to the territory of a Contracting Party where they reside, other than the competent State, or transfer their residence to the territory of a Contracting Party other than the competent State; or

(c) who go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition,

shall receive–

(i) benefits in kind, provided by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by that institution, as if these persons were affiliated to it;

(ii) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.

2. The provisions of the preceding paragraph shall apply, *mutatis mutandis*, to members of the family in respect of medical care, sickness and maternity benefits.

2. Unemployment Benefit

Article 21

1. Unemployed workers who satisfy the conditions for right to benefit prescribed by the legislation of one Contracting Party in respect of the completion of periods of insurance, employment, occupational activity or residence, regard being had, where appropriate, to the provisions of Article 4, and who transfer their residence to the territory of another Contracting Party, shall be deemed to have also satisfied the conditions for right to benefit prescribed by the legislation of the second Party, provided that they place themselves at the disposal of the employment services in the territory of that Party and file a claim with the institution of their new place of residence within 30 days of their transfer of residence, or such longer period as may be fixed by mutual agreement between the Contracting Parties. The benefit shall be paid by the institution of the place of residence, in accordance with the provisions of the legislation which that institution applies, the cost being borne by the competent institution of the first Party,

(Alternative I) for a period not exceeding any period which may be prescribed by the legislation of that Party.

(Alternative II) for a period not exceeding the shortest of the periods fixed by the legislation of each of the two Contracting Parties concerned.

(Alternative III) for a period not exceeding that prescribed by mutual agreement between the Contracting Parties.

2. Without prejudice to the provisions of the preceding paragraph, an unemployed person who, during his last employment, was resident in the territory of a Contracting Party other than the competent State shall receive benefit in accordance with the following provisions:

(a) (i) a frontier worker who is partially or incidentally unemployed in the undertaking which employs him shall receive benefit in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the competent institution;

(ii) a frontier worker who is wholly unemployed shall receive benefit in accordance with the provisions of the legislation of the Contracting Party in whose territory he resides, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the institution of the place of residence at its own cost;

(b) (i) a worker, other than a frontier worker, who becomes partially, incidentally or wholly unemployed and remains available to his employer or to the employment services in the territory of the competent State, shall receive benefit in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the competent institution;

(ii) a worker, other than a frontier worker, who becomes wholly unemployed and makes himself available to the employment services in the territory of the Contracting Party where he resides, or returns to that territory, shall receive benefit in accordance with the provisions of the legislation of that Party, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the institution of the place of residence at its own cost;

(iii) however, if the worker referred to in subparagraph *(b)* (ii) of this paragraph has become entitled to benefit from the competent institution of the Contracting Party to whose legislation he was last subject, he shall receive benefit in accordance with the provisions of the preceding paragraph, as if he had transferred his residence to the territory of the Contracting Party referred to in subparagraph *(b)* (ii) of this paragraph, for a period not exceeding the period laid down in the preceding paragraph.

3. As long as an unemployed person is entitled to benefit by virtue of subparagraph *(a)* (i) or subparagraph *(b)* (i) of the preceding paragraph, he shall not be entitled to benefit under the legislation of the Contracting Party in the territory of which he resides.

3. Family Benefit

ALTERNATIVE I–FAMILY ALLOWANCES

Article 22

1. Persons who are subject to the legislation of a Contracting Party, regard being had, where appropriate, to the provisions of Article 3, shall receive, in respect of the members of their family who are resident in the territory of another Contracting Party, the family allowances provided under the legislation of the first Party, as if these members of the family were resident in the territory of that Party.

2. The family allowances shall be paid in accordance with the provisions of the legislation of the Contracting Party to which the beneficiary is subject, even if the person or body corporate to whom these allowances are payable is resident or is located in the territory of another Contracting Party. In that case, by agreement between the competent institution and the institution of the place of residence of the members of the family, the family allowances may also be paid through the latter institution, on behalf of the competent institution.

ALTERNATIVE II–FAMILY BENEFIT

Article 23

(Alternative A)

1. Persons who are subject to the legislation of a Contracting Party shall receive, regard being had, where appropriate, to the provisions of Article 3, in respect of the members of their family who reside in the territory of another Contracting Party, the family benefit provided under the legislation of the latter party, as if the said persons were subject to its legislation.

2. The family benefit shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, at the expense of the competent institution, in an amount not exceeding the amount of the benefit due by the latter institution.

(Alternative B)

Where the members of the family of a person who works or resides in the territory of a Contracting Party reside in the territory of another Contracting Party, family benefits shall be paid to them by and at the expense of the institution of their place of residence.

4. Non-contributory Invalidity, Old-age and Survivors' Benefit

Article 24

(Alternative I) Where the provisions of Article 8 are not applicable, and where the beneficiary of non-contributory invalidity, old-age or survivors' benefit, the amount of which does not depend on the length of the periods of residence completed, is resident in the territory of a Contracting Party other than the one under whose legislation he is entitled to benefit, the benefit may be calculated in accordance with the following provisions:

(a) in the case of invalidity or death, in proportion to the ratio of the number of years of residence completed by the person concerned or the deceased under the said legislation between the date on which he reached the age of 15–or a higher age fixed by mutual agreement between the Contracting Parties concerned–and the date of incapacity for work followed by invalidity or of death, to two-thirds of the number of years separating those two dates, disregarding any years subsequent to pensionable age;

(b) in the case of old-age, in proportion to the ratio of the number of years of residence completed by the person concerned under the said legislation between the date on which he reached the age of 15–or a higher age fixed by mutual agreement between the Contracting Parties concerned–and the date on which he reached the pensionable age, to 30 years.

(Alternative II) Where the provisions of Article 8 are not applicable, and where the legislation of a Contracting Party provides for both contributory and non-contributory invalidity, old-age or survivors' benefits, the non-contributory invalidity, old-age or survivors' benefits whose amount does not depend on the length of the periods of residence are paid to the beneficiary who is resident in the territory of another Contracting Party in the same proportion that the contributory benefits to which that beneficiary is entitled bear to the total amount of the contributory benefits to which he would be entitled if he had completed the total duration of the periods required for entitlement.

V. Regulation of Undue Plurality

Article 25

Provisions in the legislation of a Contracting Party for the reduction, suspension or suppression of benefits where there is undue plurality with other benefits or other income, or because the person otherwise entitled is in employment or in an occupational activity, shall apply also to a beneficiary even in respect of benefits acquired under the legislation of another Contracting Party or of income obtained or employment or occupational activity undertaken in the territory of another Contracting Party. However, in applying this rule no account shall be taken of benefits of the same nature awarded in respect of invalidity, old-age, survivors or occupational disease by the institutions of two or more Contracting Parties in accordance with the provisions of Article 8 or of Article 18, subparagraph *(b)*.

Article 26

Where a person in receipt of benefit under the legislation of one Contracting Party is also entitled to benefit under the legislation of one or more of the other Contracting Parties, the following rules shall apply:

(a) where the application of the provisions of the legislation of two or more Contracting Parties would entail the concomitant reduction, suspension or suppression of such benefits, none of them may be reduced, suspended or suppressed to an extent greater than the amount which would be obtained by dividing the sum affected by the reduction, suspension or suppression in accordance with the legislation under which benefit is due by the number of benefits subject to reduction, suspension or suppression to which the beneficiary is entitled;

(b) notwithstanding the foregoing, where the benefits concerned are invalidity, old-age or survivors' benefits paid in conformity with the provisions of Article 8 by the institution of a Contracting Party, that institution shall take account of the benefits, income or remuneration entailing the reduction, suspension or suppression of the benefits due from it solely for the purposes of the reduction, suspension or suppression of the amount referred to in paragraph 2 or paragraph 5 of Article 8, but not for the calculation of the theoretical amount referred to in paragraphs 3 and 4 of the said Article 8; however, account shall be taken of such benefits, income or remuneration only to the extent of that fraction of their amount corresponding to the ratio of the periods completed, as prescribed in Article 8, paragraph 5.

Article 27

Where a person has a claim to medical care or sickness benefit under the legislation of two or more Contracting Parties, such benefit may be provided solely under the legislation of the Party in the territory of which he resides or, if he does not reside in the territory of one of those Parties, solely under the legislation of the Party to which this person or the person through whom entitlement to the said benefits arises was last subject.

Article 28

Where a person has a claim to maternity benefit under the legislation of two or more Contracting Parties, such benefit may be provided solely under the legislation of the Party in the territory of which the birth took place or, if the birth did not take place in the territory of

one of those Parties, solely under the legislation of the Party to which this person or the person through whom entitlement to the said benefits arises was last subject.

Article 29

1. Where death occurs in the territory of a Contracting Party, the right to a death grant acquired under the legislation of that Party may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.

2. Where death occurs in the territory of a Contracting Party and the right to a death grant has been acquired solely under the legislation of two or more other Contracting Parties, the right acquired under the legislation of the Contracting Party to which the deceased was last subject may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.

3. Where death occurs outside the territory of the Contracting Parties and the right to death grant has been acquired under the legislation of two or more Contracting Parties, the right acquired under the legislation of the Contracting Party to which the deceased was last subject may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.

Article 30

(Alternative I) Where, over the same period, family allowances are payable for the same members of the family under the provisions of Article 22 and under the legislation of the Contracting Party in the territory of which those members of the family reside, the right to family allowances payable under the legislation of the latter shall be suspended. However, in the case where a member of the family is engaged in an occupation in the territory of the said Party, that right shall be maintained, whereas the right to family allowances payable under the provisions of Article 22 shall be suspended.

(Alternative II) Where, over the same period, family allowances are payable for the same members of the family under the provisions of Article 22 and under the legislation of the Contracting Party in the territory of which those members of the family reside, the right to family allowances payable under the provisions of Article 22 shall be suspended.

VI. Miscellaneous Provisions

Article 31

Medical examinations prescribed by the legislation of one Contracting Party may be carried out, at the request of the institution which applies this legislation, in the territory of another Contracting Party, by the institution of the place of residence or temporary residence. In such event, they shall be deemed to have been carried out in the territory of the first Party.

Article 32

1. For the calculation of the amount of contributions due to the institution of a Contracting Party, account shall be taken, where appropriate, of any income received in the territory of any other Contracting Party.

2. The recovery of contributions due to the institution of one Contracting Party may be effected in the territory of another Contracting Party in accordance with the administrative procedures and subject to the guarantees and privileges applicable to the recovery of contributions due to a corresponding institution of the latter Party.

Article 33

Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates and documents required to be produced for the purposes of the legislation of another Contracting Party or of these model provisions.

Article 34

1. The competent authorities of the Contracting Parties may designate liaison bodies empowered to communicate directly with one another and, provided they are authorised to do so by the competent authorities of that Party, with the institutions of any Contracting Party.

2. Any institution of a Contracting Party, and likewise any person residing or temporarily residing in the territory of a Contracting Party, may approach the institution of another Contracting Party either directly or through the liaison bodies.

Article 35

1. Any dispute which arises between two or more Contracting Parties concerning the interpretation or application of these model provisions shall be settled by means of direct negotiation between the competent authorities of the Contracting Parties concerned.

2. If the dispute cannot be so settled within a period of six months from the beginning of negotiations, it shall be submitted to a commission of arbitration; the composition and the procedure of this commission shall be determined by mutual agreement among the Contracting Parties concerned.

3. The decisions of the commission of arbitration shall be binding and final.

VII. Provisions concerning the Maintenance of Rights in the Relations between or with Provident Funds

ALTERNATIVE I

Article 36

1. Where a person ceases to be subject to the legislation of a Contracting Party under which he has been registered with a provident fund, before the occurrence of a risk entitling him to obtain the payment of the amount credited to his account, he may, upon request, either withdraw the total amount or have it transferred to the institution to which he is affiliated in the territory of the Contracting Party to whose legislation he is now subject.

2. If this institution is itself a provident fund, the amount transferred shall be credited to the account opened by this institution in the name of the person concerned.

3. If the institution referred to in paragraph 1 of this Article is competent in respect of pensions, the amount transferred shall be paid to the institution concerned in order to enable the person concerned to buy back periods for the purpose of acquiring or improving his rights to benefits under the legislation applied by this institution. The method of buying back periods shall be determined either in accordance with the provisions of that legislation or by mutual agreement between the Contracting Parties concerned.

Article 37

Where a person ceases to be subject to the legislation of a Contracting Party under which he had been affiliated to a pensions scheme in order to move to the territory of another Contracting Party under whose legislation he is registered with a provident fund, before having acquired the right to a pension under the legislation of the first Party,

(Alternative A) the pension rights in course of acquisition of this person for himself and his survivors are maintained until the conditions required for the receipt of the pension are satisfied. Failing this, the amount of the contributions paid by this person or on his behalf shall be transferred to the provident fund under conditions fixed by mutual agreement between the Contracting Parties concerned.

(Alternative B) the amount of the contributions paid by this person or on his behalf shall be transferred to the provident fund under the conditions fixed by mutual agreement between the Contracting Parties concerned.

ALTERNATIVE II

Article 38

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to pension conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods during which a person was registered with a provident fund and required to make contributions to that fund.

2. Where the person concerned satisfies the conditions for payment of a pension taking account of paragraph 1 of this Article, the amount of the pension shall be determined in accordance with Articles 8 to 13.

3. Where the legislation of a Contracting Party makes the payment of amounts credited to a person's account under a provident fund conditional upon the completion of periods of contributions, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods of insurance, employment, occupational activity and residence completed under the legislation of a Contracting Party under which he was affiliated to a pensions scheme.

ANNEX II

Model Agreement for the co-ordination of bilateral or multilateral social security instruments

Article 1

For the purpose of this agreement–

(a) the term "Contracting Party" means any State Member of the International Labour Organisation that is bound by the agreement;

(b) the term "legislation" includes any social security rules as well as laws and regulations;

(c) the term "refugee" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation;

(d) the term "stateless person" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;

(e) the term "instrument" means any bilateral or multilateral instrument concerning the maintenance of rights in course of acquisition in social security that is binding or will be binding on two or more Contracting Parties;

(f) the term "institution" means any body or authority directly responsible for applying all or part of the legislation of a Contracting Party;

(g) the term "periods of insurance" means periods of contribution, employment, occupational activity or residence which are defined or recognised as periods of insurance by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of insurance;

(h) the terms "periods of employment" and "periods of occupational activity" mean periods defined or recognised as such by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of employment or periods of occupational activity, respectively;

(i) the term "periods of residence" means periods of residence defined or recognised as such by the legislation under which they were completed;

(j) the term "benefits" means all benefits in kind and in cash provided in respect of the contingency concerned, including death grants and–

(i) as benefits in kind, benefits aimed at the prevention of any contingency covered by social security, physical rehabilitation and vocational rehabilitation;

(ii) as benefits in cash, all components thereof provided out of public funds, and all increases, revaluation allowances or supplementary allowances, and any benefits awarded for the purpose of maintaining or improving earning capacity, lump-sum benefits which may be paid in lieu of pensions and, where applicable, any payments made by way of refund of contributions.

Article 2

In the field governed by this agreement, coverage by the provisions of each instrument binding on two or more Contracting Parties shall be extended to the nationals of any other Contracting Party, as well as to the refugees and stateless persons resident in the territory of any Contracting Party.

Article 3

This agreement shall be applicable to all persons covered by the provisions of two or more instruments.

Article 4

1. The provisions of an instrument binding on two or more Contracting Parties, concerning the adding together of periods of insurance, employment, occupational activity or residence for the acquisition, maintenance or recovery of the right to benefit shall be applicable to corresponding periods completed under the legislation of any other Contracting Party bound with the said Parties by an instrument which also comprises provisions concerning the adding together of such periods, provided that the periods to be added together are not overlapping.

2. If, under the provisions of paragraph 1 of this Article, the institution of a Contracting Party should apply the provisions of two or more instruments which contain different modalities for the adding together of periods, this institution shall apply exclusively the provisions which are most favourable for the person concerned.

3. In the case of benefits which, under all relevant instruments, are awarded in conformity with the legislation of only one Contracting Party, the adding together referred to in paragraph 1 of this Article is carried out only to the extent necessary for the acquisition, maintenance or recovery of the right to the most favourable benefits provided for under this legislation.

Article 5

1. If the provisions of Article 4 are applicable, invalidity, old-age and survivors' benefits are determined in conformity with the provisions of paragraphs 2 to 4 of this Article.

2. If all the relevant instruments have recourse to the method of apportionment, the institution of each Contracting Party shall apply the provisions of the instruments by which this Party is bound, regard being had to the adding together of periods carried out according to the provisions of Article 4, paragraphs 1 and 2; however, it shall only award the highest amount of the benefits determined under these instruments.

3. If all the relevant instruments have recourse to the method of integration, the institution of the Contracting Party which should award the benefits shall take into account for this purpose the provisions of Article 4.

4. If the relevant instruments have recourse respectively to the method of apportionment and the method of integration, the institution of each Contracting Party shall apply the provisions of the instruments by which this Party is bound, regard being had to the adding together of periods carried out according to the provisions of Article 4; however, only the benefits resulting from the application of the most favourable method shall be awarded to the person concerned.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organisation during its Sixty-ninth Session which was held at Geneva and declared closed the twenty-second day of June 1983.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of June 1983.

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

for the Director-General of the International Labour Office.
pour le Directeur général du Bureau international du Travail:

International Labour Conference
Conférence internationale du Travail

CONVENTION 159

CONVENTION CONCERNING VOCATIONAL REHABILITATION
AND EMPLOYMENT (DISABLED PERSONS),
ADOPTED BY THE CONFERENCE AT ITS SIXTY-NINTH SESSION,
GENEVA, 20 JUNE 1983

CONVENTION 159

CONVENTION CONCERNANT LA RÉADAPTATION PROFESSIONNELLE
ET L'EMPLOI DES PERSONNES HANDICAPÉES,
ADOPTÉE PAR LA CONFÉRENCE À SA SOIXANTE-NEUVIÈME SESSION,
GENÈVE, 20 JUIN 1983

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

CONVENTION CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and the Human Resources Development Recommendation, 1975, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Convention, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983:

PART I. DEFINITION AND SCOPE

Article 1

1. For the purposes of this Convention, the term "disabled person" means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. For the purposes of this Convention, each Member shall consider the purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

3. The provisions of this Convention shall be applied by each Member through measures which are appropriate to national conditions and consistent with national practice.

4. The provisions of this Convention shall apply to all categories of disabled persons.

Part II. Principles of Vocational Rehabilitation and Employment Policies for Disabled Persons

Article 2

Each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons.

Article 3

The said policy shall aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market.

Article 4

The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers.

Article 5

The representative organisations of employers and workers shall be consulted on the implementation of the said policy, including the measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities. The representative organisations of and for disabled persons shall also be consulted.

Part III. Action at the National Level for the Development of Vocational Rehabilitation and Employment Services for Disabled Persons

Article 6

Each Member shall, by laws or regulations or by any other method consistent with national conditions and practice, take such steps as may be necessary to give effect to Articles 2, 3, 4 and 5 of this Convention.

Article 7

The competent authorities shall take measures with a view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations.

Article 8

Measures shall be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.

Article 9

Each Member shall aim at ensuring the training and availability of rehabilitation counsellors and other suitably qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons.

Part IV. Final Provisions

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides–

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Sixty-ninth Session which was held at Geneva and declared closed the twenty-second day of June 1982.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of June 1983.

The text of the Convention as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la convention présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

for the Director-General of the International Labour Office:
pour le Directeur général du Bureau international du Travail:

International Labour Conference
Conférence internationale du Travail

RECOMMENDATION 168

RECOMMENDATION CONCERNING VOCATIONAL REHABILITATION
AND EMPLOYMENT (DISABLED PERSONS),
ADOPTED BY THE CONFERENCE AT ITS SIXTY-NINTH SESSION,
GENEVA, 20 JUNE 1983

RECOMMANDATION 168

RECOMMANDATION CONCERNANT LA RÉADAPTATION PROFESSIONNELLE
ET L'EMPLOI DES PERSONNES HANDICAPÉES,
ADOPTÉE PAR LA CONFÉRENCE À SA SOIXANTE-NEUVIÈME SESSION,
GENÈVE, 20 JUIN 1983

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 168

RECOMMENDATION CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, and the Vocational Rehabilitation (Disabled) Recommendation, 1955,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Recommendation, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983.

I. Definitions and Scope

1. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the term "disabled person" as meaning an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the purpose of vocational rehabilitation, as defined in the latter Recommendation, as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

3. The provisions of this Recommendation should be applied by Members through measures which are appropriate to national conditions and consistent with national practice.

4. Vocational rehabilitation measures should be made available to all categories of disabled persons.

5. In planning and providing services for the vocational rehabilitation and employment of disabled persons, existing vocational guidance, vocational training, placement, employment and related services for workers generally should, wherever possible, be used with any necessary adaptations.

6. Vocational rehabilitation should be started as early as possible. For this purpose, health-care systems and other bodies responsible for medical and social rehabilitation should co-operate regularly with those responsible for vocational rehabilitation.

II. Vocational Rehabilitation and Employment Opportunities

7. Disabled persons should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.

8. In providing vocational rehabilitation and employment assistance to disabled persons, the principle of equality of opportunity and treatment for men and women workers should be respected.

9. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers should not be regarded as discriminating against other workers.

10. Measures should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally.

11. Such measures, in addition to those enumerated in Part VII of the Vocational Rehabilitation (Disabled) Recommendation, 1955, should include:

(a) appropriate measures to create job opportunities on the open labour market, including financial incentives to employers to encourage them to provide training and subsequent employment for disabled persons, as well as to make reasonable adaptations to workplaces, job design, tools, machinery and work organisation to facilitate such training and employment;

(b) appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable;

(c) encouragement of co-operation between sheltered and production workshops on organisation and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions;

(d) appropriate government support to vocational training, vocational guidance, sheltered employment and placement services for disabled persons run by non-governmental organisations;

(e) encouragement of the establishment and development of co-operatives by and for disabled persons and, if appropriate, open to workers generally;

(f) appropriate government support for the establishment and development of small-scale industry, co-operative and other types of production workshops by and for disabled persons (and, if appropriate, open to workers generally), provided such workshops meet defined minimum standards;

(g) elimination, by stages if necessary, of physical, communication and architectural barriers and obstacles affecting transport and access to and free

movement in premises for the training and employment of disabled persons; appropriate standards should be taken into account for new public buildings and facilities;

(h) wherever possible and appropriate, facilitation of adequate means of transport to and from the places of rehabilitation and work according to the needs of disabled persons;

(i) encouragement of the dissemination of information on examples of actual and successful instances of the integration of disabled persons in employment;

(j) exemption from the levy of internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently on specified articles, training materials and equipment required for rehabilitation centres, workshops, employers and disabled persons, and on specified aids and devices required to assist disabled persons in securing and retaining employment;

(k) provision of part-time employment and other job arrangements, in accordance with the capabilities of the individual disabled person for whom full-time employment is not immediately, and may not ever be, practicable;

(l) research and the possible application of its results to various types of disability in order to further the participation of disabled persons in ordinary working life;

(m) appropriate government support to eliminate the potential for exploitation within the framework of vocational training and sheltered employment and to facilitate transition to the open labour market.

12. In devising programmes for the integration or reintegration of disabled persons into working life and society, all forms of training should be taken into consideration; these should include, where necessary and appropriate, vocational preparation and training, modular training, training in activities of daily living, in literacy and in other areas relevant to vocational rehabilitation.

13. To ensure the integration or reintegration of disabled persons into ordinary working life, and thereby into society, the need for special support measures should also be taken into consideration, including the provision of aids, devices and ongoing personal services to enable disabled persons to secure, retain and advance in suitable employment.

14. Vocational rehabilitation measures for disabled persons should be followed up in order to assess the results of these measures.

III. Community Participation

15. Vocational rehabilitation services in both urban and rural areas and in remote communities should be organised and operated with the fullest possible community participation, in particular with that of the representatives of employers', workers' and disabled persons' organisations.

16. Community participation in the organisation of vocational rehabilitation services for disabled persons should be facilitated by carefully planned public information measures with the aims of:

(a) informing disabled persons, and if necessary their families, about their rights and opportunities in the employment field; and

(b) overcoming prejudice, misinformation and attitudes unfavourable to the employment of disabled persons and their integration or reintegration into society.

17. Community leaders and groups, including disabled persons themselves and their organisations, should co-operate with health, social welfare, education, labour and other relevant government authorities in identifying the needs of

disabled persons in the community and in ensuring that, wherever possible, disabled persons are included in activities and services available generally.

18. Vocational rehabilitation and employment services for disabled persons should be integrated into the mainstream of community development and where appropriate receive financial, material and technical support.

19. Official recognition should be given to voluntary organisations which have a particularly good record of providing vocational rehabilitation services and enabling disabled persons to be integrated or reintegrated into the worklife of the community.

IV. Vocational Rehabilitation in Rural Areas

20. Particular efforts should be made to ensure that vocational rehabilitation services are provided for disabled persons in rural areas and in remote communities at the same level and on the same terms as those provided for urban areas. The development of such services should be an integral part of general rural development policies.

21. To this end, measures should be taken, where appropriate, to:

(a) designate existing rural vocational rehabilitation services or, if these do not exist, vocational rehabilitation services in urban areas as focal points to train rehabilitation staff for rural areas;

(b) establish mobile vocational rehabilitation units to serve disabled persons in rural areas and to act as centres for the dissemination of information on rural training and employment opportunities for disabled persons;

(c) train rural development and community development workers in vocational rehabilitation techniques;

(d) provide loans, grants or tools and materials to help disabled persons in rural communities to establish and manage co-operatives or to work on their own account in cottage industry or in agricultural, craft or other activities;

(e) incorporate assistance to disabled persons into existing or planned general rural development activities;

(f) facilitate disabled persons' access to housing within reasonable reach of the workplace.

V. Training of Staff

22. In addition to professionally trained rehabilitation counsellors and specialists, all other persons who are involved in the vocational rehabilitation of disabled persons and the development of employment opportunities should be given training or orientation in rehabilitation issues.

23. Persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate knowledge of disabilities and their limiting effects, as well as a knowledge of the support services available to facilitate a disabled person's integration into active economic and social life. Opportunities should be provided for such persons to update their knowledge and extend their experience in these fields.

24. The training, qualifications and remuneration of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons engaged in general vocational training who have similar duties and

responsibilities; career opportunities should be comparable for both groups of specialists and transfers of staff between vocational rehabilitation and general vocational training should be encouraged.

25. Staff of vocational rehabilitation, sheltered and production workshops should receive, as part of their general training and as appropriate, training in workshop management as well as in production and marketing techniques.

26. Wherever sufficient numbers of fully trained rehabilitation staff are not available, measures should be considered for recruiting and training vocational rehabilitation aides and auxiliaries. The use of such aides and auxiliaries should not be resorted to as a permanent substitute for fully trained staff. Wherever possible, provision should be made for further training of such personnel in order to integrate them fully into the trained staff.

27. Where appropriate, the establishment of regional and subregional vocational rehabilitation staff training centres should be encouraged.

28. Staff engaged in vocational guidance, vocational training, placement and employment support of disabled persons should have appropriate training and experience to recognise the motivational problems and difficulties that disabled persons may experience and, within their competence, deal with the resulting needs.

29. Where appropriate, measures should be taken to encourage disabled persons to undergo training as vocational rehabilitation personnel and to facilitate their entry into employment in the rehabilitation field.

30. Disabled persons and their organisations should be consulted in the development, provision and evaluation of training programmes for vocational rehabilitation staff.

VI. The Contribution of Employers' and Workers' Organisations to the Development of Vocational Rehabilitation Services

31. Employers' and workers' organisations should adopt a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers.

32. Employers' and workers' organisations, together with disabled persons and their organisations, should be able to contribute to the formulation of policies concerning the organisation and development of vocational rehabilitation services, as well as to carry out research and propose legislation in this field.

33. Wherever possible and appropriate, representatives of employers', workers' and disabled persons' organisations should be included in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors.

34. Wherever possible and appropriate, employers and workers' representatives in the undertaking should co-operate with appropriate specialists in considering the possibilities for vocational rehabilitation and job reallocation of disabled persons employed by that undertaking and for giving employment to other disabled persons.

35. Wherever possible and appropriate, undertakings should be encouraged to establish or maintain their own vocational rehabilitation services, including various

types of sheltered employment, in close co-operation with community-based and other rehabilitation services.

36. Wherever possible and appropriate, employers' organisations should take steps to:

(a) advise their members on vocational rehabilitation services which could be made available to disabled workers;

(b) co-operate with bodies and institutions which promote the reintegration of disabled persons into active working life by providing, for instance, information on working conditions and job requirements which disabled persons have to meet;

(c) advise their members on adjustments which could be made for disabled workers to the essential duties or requirements of suitable jobs;

(d) advise their members to consider the impact that reorganising production methods might have, so that disabled persons are not inadvertently displaced.

37. Wherever possible and appropriate, workers' organisations should take steps to:

(a) promote the participation of disabled workers in discussions at the shop-floor level and in works councils or any other body representing the workers;

(b) propose guidelines for the vocational rehabilitation and protection of workers who become disabled through sickness or accident, whether work-related or not, and have such guidelines included in collective agreements, regulations, arbitration awards or other appropriate instruments;

(c) offer advice on shop-floor arrangements affecting disabled workers, including job adaptation, special work organisation, trial training and employment and the fixing of work norms;

(d) raise the problems of vocational rehabilitation and employment of disabled persons at trade union meetings and inform their members, through publications and seminars, of the problems of and possibilities for the vocational rehabilitation and employment of disabled persons.

VII. The Contribution of Disabled Persons and Their Organisations to the Development of Vocational Rehabilitation Services

38. In addition to the participation of disabled persons, their representatives and organisations in rehabilitation activities referred to in Paragraphs 15, 17, 30, 32 and 33 of this Recommendation, measures to involve disabled persons and their organisations in the development of vocational rehabilitation services should include:

(a) encouragement of disabled persons and their organisations to participate in the development of community activities aimed at vocational rehabilitation of disabled persons so as to further their employment and their integration or reintegration into society;

(b) appropriate government support to promote the development of organisations of and for disabled persons and their involvement in vocational rehabilitation and employment services, including support for the provision of training programmes in self-advocacy for disabled persons;

(c) appropriate government support to these organisations to undertake public education programmes which project a positive image of the abilities of disabled persons.

VIII. Vocational Rehabilitation under Social Security Schemes

39. In applying the provisions of this Recommendation, Members should also be guided by the provisions of Article 35 of the Social Security (Minimum Standards) Convention, 1952, of Article 26 of the Employment Injury Benefits Convention, 1964, and of Article 13 of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, in so far as they are not bound by obligations arising out of ratification of these instruments.

40. Wherever possible and appropriate, social security schemes should provide, or contribute to the organisation, development and financing of training, placement and employment (including sheltered employment) programmes and vocational rehabilitation services for disabled persons, including rehabilitation counselling.

41. These schemes should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.

IX. Co-ordination

42. Measures should be taken to ensure, as far as practicable, that policies and programmes concerning vocational rehabilitation are co-ordinated with policies and programmes of social and economic development (including scientific research and advanced technology) affecting labour administration, general employment policy and promotion, vocational training, social integration, social security, co-operatives, rural development, small-scale industry and crafts, safety and health at work, adaptation of methods and organisation of work to the needs of the individual and the improvement of working conditions.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organisation during its Sixty-ninth Session which was held at Geneva and declared closed the twenty-second day of June 1983.

IN FAITH WHEREOF we have appended our signatures this twenty-second day of June 1983.

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présentée ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

for the Director-General of the International Labour Office:
pour le Directeur général du Bureau international du Travail:

CCNO

CONFIDENTIAL

SECRETARY OF STATE FOR NORTHERN IRELAND

Prime Minister

WAGES COUNCILS

I shall unfortunately be unable to attend the meeting of E(A) on July 10 because of engagements in Northern Ireland. I understand, however, that Tom King's paper on Wages Councils is to be taken and I would like to make a few points generally in support of the line Tom suggests. I am convinced that to denouce ILO Convention 26 would be politically inept and open us to the allegation from our opponents that we were sweeping away the little protection which Wages Councils offer the lowest paid. I agree with Tom that it is not feasible to seek to negotiate with the ILO for amendments to be made to Convention 26.

Although the meeting of E(A) is not taking the substantive decision about denunciation I believe that were we to move in the direction of destroying the present system it would result in a considerable growth in trade union activity in the small business sector. I am sceptical about the argument that wages councils help to inflate wage demands throughout the system as many of the wages set by the Councils are so low as to have little effect on better paid sections of the economy. There is, also, I believe a strong case for retaining machinery to ensure that wage rates in particular occupations do not fall shamefully low.

I also have doubts about the general validity of the argument that by abolishing wages councils and, thereby, lowering wage rates in certain sections of the economy, significantly more employment will be generated. It may, however, operate in relation to two groups: young

/...

CONFIDENTIAL

people and married women. With regard to young people I would support Tom's proposal to look again at setting a maximum proportion of the adult wage to which young people's wage levels are allowed to rise under Wage Council regulation. In relation to married women, if Wages Councils were abolished I could foresee a certain degree of growth in part-time work but this might do little to reduce the numbers on the unemployment register, drawing instead more women into the workforce.

I hope that colleagues will give favourable consideration to Tom's proposals for streamlining and simplifying the operation of Wages Councils. I think we need to think carefully, however, about the need to avoid piling all the pressure of negotiation onto the setting of the wage level through being too restrictive about the matters open to regulation by the Councils. I agree that the range of matters currently open to negotiation needs to be narrowed but it is a matter of fine judgement about how restrictive to be.

I am sure that it is right to limit retrospection powers (which is something we have already done in Northern Ireland), and there may well be a case for amending the legislation in such a way as to emphasise that the function of Wages Councils is to set minimum rates not actual earnings.

I am copying this to E(A) colleagues.

DBdell

JP

10 July 1984

(Approved by the Secretary of State and signed in his absence)

JLD

CONFIDENTIAL

PRIME MINISTER 9 July 1984

WAGES COUNCILS, JOBS AND THE LABOUR MARKET

E(A) is having another go tomorrow at tackling the Wages Councils issue. I attach Nicholas Owen's latest note which sets out the case in favour of abolition or substantial modification of these councils.

We are going to come under more pressure on the subject of jobs as the months advance and as the unemployment numbers stay high. The danger is that the momentum of the Jobs Seminar in May will be lost, and only a few announcements will dribble out over the next 6 months.

Why don't we set out a Green Paper on the functioning of the labour market, drawing together all the aspects that were discussed at the May Seminar, and which are now being worked on in the Department of Employment? This Green Paper, a discussion document, could include the work on Wages Councils, but set it in a broader and more sympathetic context.

Unless we have something positive to offer on jobs and the labour market, we stand to lose a great deal of political capital in this important area.

JOHN REDWOOD

CONFIDENTIAL

CONFIDENTIAL

PRIME MINISTER

18 June 1984

WAGES COUNCILS AND INTERNATIONAL LABOUR CONVENTION 26

Your original intention was to abolish Wages Councils because they interfere with labour markets and involve unnecessary bureaucracy and compliance costs. If they push up wages, they price some people, and some firms, out of work; if they have no effect on wage levels, they are without any point at all, even to the employees covered by them.

Two kinds of argument have been advanced against abolition. It is politically damaging to appear to hit the low-paid, to achieve no great benefits. And abolition would stimulate union membership. The available evidence does not support the latter point. A study of the consequences of abolishing the Cutlery Wages Council in 1969, commissioned by the Department of Employment, indicated that union membership in the cutlery industry in 1977 was below the level claimed by the GMWU a year prior to abolition. There was some union recruitment among larger firms, but in firms with under 100 workers, there were no recruitment drives at all.

The only objection which stands up is the political one. Tom King has suggested a way of avoiding some of the undesirable features of the Wages Councils, without running up against this problem. Before there is any agreement to his approach, it has to be clear that what is proposed will work.

Limiting the Scope of Wages Councils

Limiting the scope of the Wages Councils to the minimum wage would reduce the burden of compliance for the employer, and the costs of policing for the Department of Employment. For example, the Retail Trades (non-food) Wages Council Order (enclosed) runs to 23 pages, plus 8 pages of guidance notes. But we ought also to recognise that the Orders have become so complex because both sides of the negotiation have an interest in such things as overtime rates, holiday pay, allowances of various kinds. If these are excluded from the scope of the Act, we can expect that the employees will direct all their efforts to raising the basic rates of pay, since it is only in respect of this element that the Order will be binding. This would push up rates, and distort negotiations.

CONFIDENTIAL

It would close off some options - eg lower rates of basic pay, but longer holidays and better allowances for non-social hours - which both sides may prefer.

Youth Pay

We wonder whether imposing maximum rates for young employees, as a percentage of the adult rate, is within the Convention, or practicable. If a maximum is imposed which is low enough to do any good, eg 35 per cent of the adult rate, do we not come pretty close in practice to excluding young workers from the scope of the ILO Convention? The paper mentions that other signatories to the Convention set a floor for youth rates, but these countries - Netherlands and France - have national minimum wage systems. Could we impose minimum youth wages selectively to the trades covered by Wages Councils under the Convention? We may, in the end, have to denounce the Convention.

We would also face the practical problem of how to set these levels. Different trades would face different labour market conditions. Does Tom King envisage different rates for different trades, and revisions each year? We ought also to consider the point that an upper limit of youth wages may put upward pressure on the adult rate if this becomes the only way open to negotiators to increase minimum rates for young workers.

Recommendation

We recommend abolition. If that option is judged in the end to be too damaging politically, we recommend that Tom King's proposals are considered further as a possible alternative. Tom King should also be invited to report on the employment consequences of retaining the Wages Councils, in whatever form.

Nicholas Owen

NICHOLAS OWEN

CONFIDENTIAL

PRIME MINISTER 18 June 1984

WAGES COUNCILS AND INTERNATIONAL LABOUR CONVENTION 26

Your original intention was to abolish Wages Councils because they interfere with labour markets and involve unnecessary bureaucracy and compliance costs. If they push up wages, they price some people, and some firms, out of work; if they have no effect on wage levels, they are without any point at all, even to the employees covered by them.

Two kinds of argument have been advanced against abolition. It is politically damaging to appear to hit the low-paid, to achieve no great benefits. And abolition would stimulate union membership. The available evidence does not support the latter point. A study of the consequences of abolishing the Cutlery Wages Council in 1969, commissioned by the Department of Employment, indicated that union membership in the cutlery industry in 1977 was below the level claimed by the GMWU a year prior to abolition. There was some union recruitment among larger firms, but in firms with under 100 workers, there were no recruitment drives at all.

The only objection which stands up is the political one. Tom King has suggested a way of avoiding some of the undesirable features of the Wages Councils, without running up against this problem. Before there is any agreement to his approach, it has to be clear that what is proposed will work.

Limiting the Scope of Wages Councils

Limiting the scope of the Wages Councils to the minimum wage would reduce the burden of compliance for the employer, and the costs of policing for the Department of Employment. For example, the Retail Trades (non-food) Wages Council Order (enclosed) runs to 24 pages, plus 8 pages of guidance notes. But we ought also to recognise that the Orders have become so complex because both sides of the negotiation have an interest in such things as overtime rates, holiday pay, allowances of various kinds. If these are excluded from the scope of the Act, we can expect that the employees will direct all their efforts to raising the basic rates of pay, since it is only in respect of this element that the Order will be binding. This would push up rates, and distort negotiations.

CONFIDENTIAL

It would close off some options - eg lower rates of basic pay, but longer holidays and better allowances for non-social hours - which both sides may prefer.

Youth Pay

We wonder whether imposing maximum rates for young employees, as a percentage of the adult rate, is within the Convention, or practicable. If a maximum is imposed which is low enough to do any good, eg 35 per cent of the adult rate, do we not come pretty close in practice to excluding young workers from the scope of the ILO Convention? The paper mentions that other signatories to the Convention set a floor for youth rates, but these countries - Netherlands and France - have national minimum wage systems. Could we impose minimum youth wages selectively to the trades covered by Wages Councils under the Convention? We may, in the end, have to denounce the Convention.

We would also face the practical problem of how to set these levels. Different trades would face different labour market conditions. Does Tom King envisage different rates for different trades, and revisions each year? We ought also to consider the point that an upper limit of youth wages may put upward pressure on the adult rate if this becomes the only way open to negotiators to increase minimum rates for young workers.

Recommendation

We recommend that Tom King's proposals are considered further as a possible alternative to abolition if, next year, that option appears to be not worth the political costs. Tom King should also be invited to report on the employment consequences of retaining the Wages Councils, in whatever form.

NICHOLAS OWEN

CONFIDENTIAL

P.01315

PRIME MINISTER

Wages Councils and International Labour Convention No 26

BACKGROUND

Ministers collectively have discussed the Wages Council system on many previous occasions. It has been generally accepted that the system is inconsistent with the Government's economic philosophy. However, any great changes in it would either be inconsistent with our international obligations under Convention No 26 of the International Labour Organisation (ILO) or require legislation to amend the Wages Councils Act 1979, or both. It has therefore been thought best to wait until we are free to denounce the ILO Convention, as we shall be for a period from June 1985, and then to decide whether to abolish the system or radically change it.

FLAG A

2. In March this year, the Sub-Committee discussed the analogous question of the Agricultural Wages Boards and ILO Convention No 99 (E(A)(84)8th Meeting). In the course of that discussion the Secretary of State for Employment suggested that it might be possible to make greater changes to the Wages Council system than had previously been regarded as compatible with ILO Convention 26. He was accordingly invited to examine and report on the scope for such changes, giving particular attention to measures which might improve the employment prospects of young people, and to advise on the prospects for negotiating modifications to ILO Convention 26 to increase the scope for changes.

FLAG B

3. Mr King's memorandum (E(A)(84)33) responds to this remit. It dismisses the possibility of negotiating changes to ILO Convention 26, but suggests that further work should be done on restricting Wages Councils to prescribing basic

pay rates for adults and proportionate rates for young people; the Councils might be forbidden to set minimum rates for young people above a specified proportion of the adult rate. The memorandum mentions other possibilities, such as defining the remit of Wages Councils more clearly and precluding significant retrospection of operative dates of awards, but does not pursue them.

MAIN ISSUES

4. Presumably Ministers will continue to take the view that no decisions of substance should be taken until they could be given effect, ie in about a year's time when it would be possible to denounce ILO Convention 26. If so, it is a matter of giving guidance for further work. The issues then are as follows.

(i) Is it agreed that there is too little prospect of being able to negotiate changes to Convention 26 for this to be worth pursuing?

(ii) Should the possibility identified in E(A)(84)33 be pursued further? Are there any particular points that Ministers wish to register at this stage?

Amendments to ILO Convention 26

5. The arguments in paragraph 7 of E(A)(84)33 are briefly stated; but they clearly have force. The ILO is a notoriously unwieldy body; and many of its members would either be genuinely unsympathetic to proposals for change, or try to exploit any proposals that the UK might make to our disadvantage. It seems likely that the Sub-Committee will accept Mr King's judgement.

Limitation of scope of Wages Councils to basic rates

6. As E(A)(84)33 points out, there are arguments for and against limiting the scope of the Councils to prescribing basic rates. On the one hand, it would be a considerable simplification; and by allowing employers a free hand to

negotiate quite important components of labour costs it would reduce one of the fundamental economic objections to the Wages Council system. On the other hand, it could lead to greater pressure for increases in basic rates.

7. The Sub-Committee need not, of course, decide the question now. But Ministers may wish to indicate a preference.

Restriction of youth rates

8. The Sub-Committee are likely to welcome in principle the suggestion that the minimum rates for young people, as a percentage of minimum rates for adults, should be restricted: this should help to improve employment prospects for young people. And, in the light of what is said in paragraph 14 of the memorandum about practice in other countries, some such restriction is presumably compatible with ILO Convention 26. However, it does seem a little odd that a prohibition on raising minimum rates for young people above a specified percentage of the minimum rate for adults (the specific proposal put forward by Mr King) should be compatible with a convention designed to give some form of protection to the wages of those covered by it. Mr King rightly points out that such a provision would not prevent the market setting actual rates for young people significantly above the minimum. But he himself appears to regard the matter as open to some doubt. The Sub-Committee will probably wish to invite him to consult the Attorney General carefully about the precise form that any provision relating to the minimum wages of young people should take, so as to minimise the chances of a successful challenge under the ILO Convention.

Other possibilities

9. There is no obvious reason why further work should not be done on the other possibilities mentioned in paragraph 13 of E(A)(84)33. Other members of the Sub-Committee may also have their own suggestions for further work.

HANDLING

10. You will wish to invite the Secretary of State for Employment to open the discussion. The Foreign and Commonwealth Secretary will be able to advise on the prospects for negotiating changes to ILO Convention 26. The Chancellor of the Exchequer is likely to have views on the implications for the labour market. The Secretary of State for Trade and Industry is the sponsoring Minister for several industries particularly affected by Wages Councils, including part of the retail trade; the Minister of Agriculture, Fisheries and Food has a similar interest.

CONCLUSIONS

11. You will wish the Sub-Committee to reach conclusions on the following.

(i) Should it be accepted that the prospects for negotiating satisfactory amendments to ILO Convention 26 are too poor to be worth pursuing?

(ii) Should further work be done on

- restricting the scope of Wages Councils to basic rates;

- limiting the minimum rates that may be prescribed for young people as a proportion of the minimum rates for adults;

- other specific possibilities?

P L GREGSON
Cabinet Office.

18 June, 1984

CONFIDENTIAL

Ref. No: EM(84)3
Date: 13.2.84

NOTES IN CONNECTION WITH

THE DEBATE ON

LOW PAY

House of Commons

Wednesday 15th February 1984

CONTENTS PAGE

Conservative Research Department,
32 Smith Square,
London SW1
Tel. 222 9000 x 2513

Enquiries on this brief to:

GILBERT GORDON

LOW PAY

1. EUROPEAN OBLIGATIONS

'There is, of course, no official definition of low pay, but a number of definitions have been suggested by various pressure groups and academics. Most are based on some ratio to average earnings, usually about two thirds, or by reference to social security payments - and all come out at about £90 per week. In passsing, perhaps I can rebut the suggestion peddled by the Low Pay Unit and echoed by the hon. Member for Stalybridge and Hyde (Mr. Pendry), that the United Kingdom is in breach of its committments under the social charter of the Council of Europe. There is a proposal from one of the council's advisory bodies that there should be a minimum wage of not less than 68 per cent of the average wage. That proposal has never been accepted by the Council of Europe, nor, so far as I am aware, does it have the support of any member Government.

It is quite untrue to suggest that the Uniteed Kingdom Government, or the Government of any other member state, has an obligation to ensure a specific earnings figure. I hope, therefore, that the Low Pay Unit will stop making allegations that the Government are in breach of any obligation which simply does not exist.'
(Mr Michael Alison MP, Minister of State for Employment, Hansard,18th March 2983, Col 504)

2. STATUTORY MINIMUM WAGE

Low Pay was last debated by the House on 18th March 1983. Then, as usual, the Opposition considered the broader issue of low pay to be closely bound up with the question of the introduction, by legislation, of a national minimum wage. It is unclear what is meant by "eradicating" low pay; it is impossible to "eradicate" low pay unless everyone is paid the national average.

The concept of a fully-fledged minimum wage was seriously considered and rejected in Britain by Mrs Barbara Castle in 1969.

The case for the minimum wage rests on four main arguments:

a. The moral case that no-one should be asked to work for less than subsistent wages (arbitrarily defined but widely considered to be around £90 p.w. gross)
b. The economic argument that low wages depress demand in the economy
c. The Welfare argument that low wages result in intolerable family poverty
d. The Productivity argument that low wages encourage inefficiency.

(from The Financial Times, 22nd October 1982)

Clearly all the above arguments, and the assumptions upon which they are based, are seriously open to challenge.

The family poverty claim must be seen in the context of the very small proportion of low paid people who are heads of households and family breadwinners. The majority of low paid are among young people or married women.

The efficiency claim would be more likely to raise labour costs relative to output; if you put up the relative price of labour, employers will have to make their businesses less labour intensive, small businesses such as shops may have to close.

Many small businesses would be vitally affected by a statutory minimum wage, which would be incompatible with the common-sense principle that pay and conditions of employment should in general be determined in the light of the particular circumstances of those businesses. A minimum wage could only help to erode competitiveness and destroy jobs. Some worker's pay will be reduced from current levels to the dole. Even Mr Foot has conceded that wage claims

'can contribute to the level of unemployment' (Hansard, 1 July 1975)

A minimum wage would add to the numbers of those who really are society's lowest paid - those on unemployment benefit:

a. by artificially raising the pay of the lowest earners and
b. by prompting better paid workers to press for the restoration of differentials. The inflationary effect would destroy jobs.

This last point is no alarmist claim. Mr Tom Sawyer, Mr Bickerstaffe's deputy at NUPE, wrote recently in Tribune

'the £90 minimum wouold be a "springboard" for more powerful groups to gain their proper place in the earnings league'.
(The Financial Times, 22nd October 1982)

A statutory minimum wage

'would add to inflationary pressures and destroy jobs in two ways.
First, it would clearly raise the wages of those below the statutory minimum - most of whom would be young people - and the unskilled. This would raise employers' costs, reduce competitiveness, and destroy jobs. In some industries, which face particularly severe competition, and where wages are generally below average, the destructoin of jobs would be simply catastrophic if the threshold were significantly above current pay levels.

'Secondly, all experience in Britain during periods of incomes policies, and abroad in those countries that have minimum wage legislation, shows that differentials are quickly restored after the pay o the lowest paid has been raised. That point was well made by my hon. Friend the Member Harborough (Mr Farr) who spoke about the leap-frogging syndrome. Even if the labour market did not secure that result throught the market's mechanisms, the trade unions can be relied upon to insist upon it.'
(Mr Michael Alison, Ibid, Col. 503)

It has been estimated that even without such knock-on effects, the direct costs of a £90 minimum wage would add 3 per cent to the country's total wages bill, which would have a ripple effect on prices and inflation.

Mr Roy Hattersley, while supporting the concept of a statutory minimum wage accepts that such a thing would be quite incompatible within the general system of free collective wage bargaining. To accommodate a minimum wage he is therefore advocating a wages policy in the form of "economic management" (Guardian, 16th August 1983).

More recently, he returned to the hopeless theme of dependency upon a disciplined agreement with the unions: 'If we are to have growth without an unacceptable level of inflation, the unions and a Labour government must come to a voluntary agreement about the overall level of money wages'. (Times, 9th November 1983)

A stautory minimum wage will not meet with the support of many trade unionists.

As Mr Sam McCluskie (Chairman of the Labour Party, and President of the NUS), said:

'most trade unionists have strong practical objections to the idea of a national statutory minimum wage' (Labour Weekly, 22nd October 1982)

and Mr Terry Duff (President of the AUEW) has said:

'the reason we are against the national minimum wage is because we will not accept any Government interference in wages. We are committed to no Government interference in free collective bargaining'.
(Morning Star, 1 October 1982)

3. PAY AND PRODUCTIVITY

'It is common ground that the United Kingdom is a relatively low-earning economy. The underlying reason that is brought home by some international comaprisons of gross domestic product - broadly, the wealth created in this country - per head. The figures were published recently by the Organisation for Economic Cooperation and Development. The data, which are at 1980 prices and exchange rates, are comprehensive and cover all 25 countries in the OECD. Such comparisons can never be perfect, but the figures paint an interesting picture and are central to what we are discussing today. It may be helpful if I give the more essential figures.

'Whereas the United Kingdom in 1980 had a GDP per head of $9340, we were poorer, or less productive, than almost every other major industrialised country and a few small ones besides. Our neighbours in France and Germany had a GDP per head of more than $12000 and $13000 respectively. The Benelux countries were all around the $12000 mark. The position in Scandinavia was better still, with Denmark at nearly £13000, Norway with more than $14000 and Sweden among the highest in the OECD with $14760; only Switzerland with $15920 was higher. The United States of America, with which we are often compared in many ways, had a GDP per head of $11360. The only countries poorer than us were Yugoslavia, Turkey, Spain, Portugal, Italy, Ireland and New Zealand...

'The extent to which we become a low-output economy is revealed by statistics for the output of each employee in a year in different sectors of the economy. In 1980, the figure for manufactuirng industry in the United Kingdom was $6800 while the comparable figure for America was $16800. These figures are measured in 1973 dollars. It is not only against America that the comparison is unfavourable. The Netherlands, France, Belgium, Germany, Italy and Japan were all considerably ahead of the United Kingdom. The position in most other sectors is not much more encouraging...

'Low pay is a manifestation of a wider truth. We have had low productivity

and low performance right across the economy for a long time. We were conscious of the need to make changes in the operation of the labour market where we wanted to eliminate unnecessary rigidities. It is our belief that improving the operation of the labour market is an important part of our strategy for economic growth, and hence for dealing with the problems of low pay.'
(Mr John Wakeham, Minister of State, Treasury, Hansard, 18th March 1983, Cols 453, 454 & 455)

'One obstinate fact that cannot be gainsaid is that pay levels in this country, as in any other, depend in the end upon what we earn - on what we produce or sell. That is true wht=ether we are talking about individuals, about the work force of a particular firm or industry or about the wholer economy... Real wealth cannot be created by legislation, although technically money can be created by the Government. Bitter experience has taught most us that money created in excess of the output of real goods and services simply melts away like a snowflake in terms of its real value.

'The only way that the general level of wages can be raised - and it must be real wages that are of primary concern to the low paid - is by improving output through increased efficiency, higher productivity, managerial performance and the trade union responsibilities to which the hon. Member for Islington South and Finsbury (Mr Cunningham) fairly drew attention. Any rise in money incomes which is not backed by a real increase in output is an illusion and worse, because it creates inflation and destroys jobs.'
(Mr Michael Alison, Ibid, Col 501)

4. TAX THRESHOLDS

Raising tax thresholds is a far better way of helping the low paid. The 1983 Budget has raised the income tax threshold by 8½ per cent more than the rate of inflation, thus removing income tax burdens from 1¼ milliion low paid people. Even for those above the tax threshold, percentage of income taken in tax has dropped considerably at the lower end of the wage scale.

While the details of the 1984 Budget will not be known for another month, The Times reported last week that there was an agreement in the Cabinet 'that Mr Lawson should concentrate on raising tax thresholds to increase incentives and help workers who moght otherwise be caught in the poverty trap.' (10th February 1984).

5. YOUTH WAGES AND EMPLOYMENT

A major objection to a minimum wage is the effect it would have on job opportunities for young people.

'Unemployment among young people is not high because of their own actions but because they have been priced out of a job by other people's greed. They have never had a chance even to start a job' (Mr Norman Tebbit, Secretary of State for Employment, Hansard, 30th March 1982).

If wages were equal for all age groups, employers would hire skilled and experienced older workers, not young inexperiences and unsilled younger workers. Therefore the efforts of Trade Unions and Wages Councils to push up youth wages relative to adults can only result in the young being priced out of work. In Britain in April 1982 a young man aged between 18 and 20 earned, on average, £90.80 a week, which was nearly

70 per cent of the earnings of male manual workers aged 21 and over (New Earnings Survey 1982)

The Economist estimated that youth wages 'are a higher proportion of adult wages then in any other Western country - probably, say some econometric models, about twice the market-clearing wage for youth' (December 12, 1981).

Denmark has a minimum covering all workers above the age of 18. As a result unemployment among woerks under 18 is only a third of that in the 18-25 group. The Minimum Wage Study Commission in the USA (1981) has estimated that a 10 per cent increase in the minimum wage would destroy between 80,000 and 200,000 teenage jobs. The OECD Secretariat has estimated that a 10 per cent increase in the French Minimum Wage (SMIC) would raise youth unemployment by between 6,000 and 23,000.

The December 12 1981 issue of The Economist compared the wages of first-year trainees as a percentage of the wages of qualified craftsmen in Britain and West Germany, under the heading 'too much too soon'. In Britain trainees were found to have around 50 per cent of the wages of qualified craftsmen, compared with around 25 per cent in Germany.

Youth unemployment in Bri tain is twice that in West Germany.

The solution to youth unemployment is

> 'to make it easier for small businesses to hire young people and school leavers. That means being able to pay them a realistic wage' (Samuel Brittan, The Financial Times, 26th January 1981).

The Government Youth Training Scheme fully recognises the unattractiveness to employers of unskilled inexperienced and relatively expensive young people, and reduces the cost of early training to employers. A statutory minimum wage can only have the same effect on the employment of young people as irresponsible union bargaining and Wage Council claims have had in other areas - the increase in unemployment.

6. CONCLUSION

Even The Low Pay Unit's figures show that the pay of the lowest tenth of workers in relation to the pay of other workers has hardly changed since 1979, any deterioration is limited to a couple of percentage points,

And Yet

since January 1979 average wages have gone up by 72½ per cent, 15½ per cent more than average prices. (DoE Gazette)

Any suggestion that a refusal to adopt a minimum statutory wage is part of a strategy to cut worker's living standards is quite untrue.

It is also hypocritical coming from the Labour Party. Labour are no strangers to cutting living standards. When he was Prime Minister, Mr Callaghan boasted on American television:

> 'Do you know that the standard of life of the British people has been cut by something like 5 per cent this year? I think it's a remarkable achievement'. (PBS TV (USA) 6th May 1977).

'A national minimum wage would not eradicate low pay. It would raise Labour costs relative to other input costs of production. Either competitiveness would suffer or other factors of production would be substituted for labour. That has been going on for a long time. Either way jobs would be lost.

'The most important consideration in my mind and in the minds of hon. Members in all parts of the House, is that nothing should be contemplated that would jeopardise the prospects of economic recovery and, above all, put at risk the creation of jobs for those who need them...

'Those who advocate legislation must ask themselves not only whether they have the right to pursue policies that could destroy jobs, but whether they are justified in intefering with the freedom of those who work in low-paid jobs to choose between some work, however poorly paid, and no job at all. It must be borne firmly in mind that those who would be most severely affected are young people who earn low wages because their youth and inexperience do not qualify them for more highly paid work. Young people would not only be denied the opportunity to earn money but, more importantly, would have fewer opportunities to gain the skills and experienve that bring rewards later in life'. (Mr Michael Alison, Hansard, 18th March 1983, Cols. 502-504).

The best, long term, way of helping the poor and low paid is by beating inflation, which Mr Foot agrees

'is grossly unjust to the lowest paid'. (Weekend World, 3rd October 1982).

'The only lasting solution to the problem of low pay is to create a healthier economy which will have soundly based jobs as a result of soundly based growth. That has been our aim since we took office' (Mr John Wakeham, Hansard, 17th March 1983, Col. 464).

Conservative Research Department
32 Smith Square LONDON SW1P 3HH

GG/PAC
13.2.84

TAXING CREDIBILITY :

The Government's record on taxation --
How to repair the damage.

Liz Bisset & Dominic Byrne

March 1983 Price £1.00

Low Pay Papers

Low Pay Unit 9 Poland Street W1V 3DG 01-437 1780

It is now widely acknowledged by politicians and commentators of all persuasions that the tax burden has increased under the present Government and that the burden has shifted towards those on low incomes. One of the Conservative's main economic pledges in their last manifesto was: *"we shall cut income tax at all levels to reward hard work, responsibility and success; tackle the poverty trap; encourage savings and the wider ownership of property; simplify taxes - like VAT; and reduce tax bureaucracy."* As The Daily Telegraph recently lamented: *"Sir Geoffrey's final Budget cannot do a lot to redeem these pledges, but it can do something."* (The Daily Telegraph, 21 February 1983).

The Government have not honoured their pre-election pledges on taxation. Far from reducing taxes, the present administration has instead increased the burden of direct as well as indirect taxation, especially on the poor.

We begin this report by examining the recent shift which has taken place in the overall burden of taxation. We look in particular at those changes which have affected the bulk of wage earners, focussing on their alarming consequences for the low paid. We put forward those measures which the Chancellor must now implement if this Government is to redress the balance of its taxation policies. These are the minimal short-term reforms we believe necessary to tackle the immediate injustices of the taxation system for the poor.

Examination of the options open to the Chancellor at any one time are frequently constrained by too narrow a perspective. But the shift in the burden of taxation towards the lowest income groups has been a long term trend which cannot now be reversed by immediate palliative measures. The traditional approach to the tax system is to consider its effects on different sections of society, or on different types of income in isolation from each other. The overall distribution of taxation and the implications that this might have for financing any reforms are frequently ignored.

Adopting a broader perspective and examining the overall structure of taxation, we show that it is both inequitable and inefficient in its

present form. Further, although recent Government policy has undoubtedly had a dileterious effect on the tax position of those on lower incomes, the shift in the burden of taxation in this direction has been a long term trend. In our final section we argue that it is time for a change of direction and we recommend a move towards a more comprehensive system of income taxation.

"We shall cut income tax at all levels to reward hard work, responsibility and success..."

In contrast to pre-election declarations that income tax would diminish during the term of this present Government's office, the income tax burden has increased by two-thirds. But it is not only income tax that has increased: total taxation as a percentage of the national income has risen to its highest ever level. In 1978/79 tax revenue represented just over 34 per cent of Gross Domestic Product (GDP); this year it is expected to exceed 40 per cent.

TABLE 1 : Tax Revenue as a Proportion of National Income (GDP at market prices)

	%
1965	32
1967	33
1969	37
1971	35
1973	33
1974	36
1975	37
1978/79*	34.3
1979/80*	35.9
1980/81*	36.7
1981/82*	39.8

Source : Organisation for Economic Cooperation and Development (1965 - 1975)

* Hansard, 14.2.83, vol 39, col 8.

Some of this increase can be explained by the substantial tax gains which only recently began to be realised from North Sea Oil. But although the overall increase in revenue from the North Sea has been very large indeed, escalating from £183 million in 1978/79 to £4330 in 1982/83, this still represents only 14 per cent of the total

revenue acquired through taxation. And despite the bonus provided from North Sea Oil, the Chancellor has found it necessary to raise individual's income tax by 63.9 per cent since 1978/79. VAT has increased by 204.8 per cent. Overall the tax paying British public now find themselves paying almost £22 billion more through these forms of direct and indirect taxation: an increase of 92.8 per cent. In cash terms the amount of tax raised is double that collected in 1978/79. Even in real terms, taking account of inflation (which between September 1978 and September 1982 - the tax year mid point - was 61.3 per cent) income tax and VAT revenue has grown remarkably. In his first budget of June 1979 the Chancellor increased VAT from 8 per cent to 15 per cent. This shift from direct to indirect taxation has therefore effectively enabled a substantial increase in personal taxation to take place without the individual being directly aware of the full extent of the change.

TABLE 2 : Tax revenue from Income Tax, VAT and North Sea Oil 1978-1979 to 1981-82.

	Income Tax (1)		Value Added Tax		Petroleum Revenue tax (2)	
	£ million	% increase on previous year	£ million	% increase on previous year	£ million	% increase
1978/79	18763		4839		183	
1979/80	20610	10	8189	69	1435	684
1980/81	24720	20	11300	38	2410	68
1981/82	28504	15	12300	9	4430	84
1982/83*	30775	8	14750	20	4330	3

(1) includes surtax
(2) includes supplementary petroleum duty
* forecast

Source: Hansard Vol 14, 8 Dec. 1981. col 316. *Financial Statement and Budget Report 1982/83.

Not everybody, however, has faced an increase in the tax burden since Mrs. Thatcher came to power. For some, the Government's promise of tax cuts has been honoured. At a time when the bulk of wage earners have been asked to contribute a growing proportion of their income in tax, the better off have had their share of the tax load substantially reduced. The highest rate of tax payable was cut from 83 per cent in 1979/80 to 60 per cent in Sir Geoffrey Howe's first budget. Similarly dramatic cuts were made in the remaining higher rate bands. But it was

not only through income tax that the Government honoured its pledge to the wealthy. Advantageous changes were also made in capital taxation. As the following table shows, capital taxation had already been declining as a proportion of total taxation. Ten years ago it represented 8.3 per cent of tax revenue but by 1979 this had fallen to 3.8 per cent. Nevertheless, the present Chancellor has introduced changes which have resulted in a further fall in the proportionate contribution made by capital taxation to 3.3 per cent. The annual loss to the exchequer as a result of the reductions in capital taxation since 1979 was about £600 million in 1982/83 alone. (Hansard, 20.4.82., col. 62)

TABLE 3 : Capital Taxation as a Percentage of (A) Government and (B) Tax Revenue, 1970/71 - 1982/83.

	A: Capital Taxation	B: Government Revenue (1)	A as %age of B	C: Tax Revenue (2)	A as %age of C
	£ million	£ million		£ million	
1970/71	591	15,843	3.7	8,180	7.2
1971/72	673	16,932	4.0	9,110	7.4
1972/73	763	17,178	4.4	9,248	8.3
1973/74	941	18,226	5.2	10,634	8.8
1974/75	926	23,570	3.9	14,236	6.5
1975/76	849	29,417	2.9	18,143	4.7
1976/77	865	33,778	2.6	20,711	4.2
1977/78	912	38,773	2.4	21,914	4.2
1978/79	923	43,088	2.1	24,055	3.8
1979/80	1,105	54,331	2.0	28,201	3.9
1980/81	1,227	66,213	1.9	32,983	3.7
1981/82*	1,651	76,288	2.2	40,284	4.1
1982/83**	1,370	82,895	1.7	41,880	3.3

* Estimated Outturn ** Forecast
(1) Source: Hansard 7.4.82 col. 375
(2) Source: Inland Revenue Statistics 1982. Table 1:1

Capital Transfer Tax, together with Estate Duty which it largely replaced in the latest tax year raised a mere 1.2p in every £ that the Inland Revenue collects, less than the already diminutive 2p in every £ accrued through this form of taxation in 1978/79. Capital Gains Tax has similarly fallen from 1.5 per cent to 1.4 per cent of total Inland Revenue Receipts. (Inland Revenue Statistics. Table 1.1) Reviewing the already 'dramatic' decline in capital taxation the Financial Weekly as long ago as 1980 warned against the political consequences of further cuts.

At a moment when the Chancellor is telling the nation that it must carry on with its strict monetorist diet of bread water...he would announce that the wealthiest section of it could not merely carry on eating its cake, but have a dollop of cream on it ... Conservatives are not deeply devoted to equality, but neither - unless they have entirely forgotten the principles of Disraeli - are they deeply devoted to widening social division. And Conservative MPs undoubtedly number more of the low paid and unemployed among their constituents than they do payers of these capital taxes. (Financial Weekly, 28th November 1980.)

The financial press has viewed with dismay the reductions in capital taxes introduced by the Chancellor, realising that the shortfall could only be met through increased income tax. Yet this government have continued to distribute disproportionate gains to a tiny minority of the tax paying population. We turn next to consider how they have met their obligations to the remaining majority of taxpayers.

"We will...take the lowest paid out of income tax altogether."

The Conservatives promised that they would lift the lowest paid out of tax. For many of the low paid this promise has been fulfilled - but only because they have now become unemployed. As the table below shows, the size of the taxpaying population has hardly changed since 1978/79 - even the small drop of 200,000 in the provisional figures over the period may prove to be more a figment of Government optimism than reality.

TABLE 4 : Estimated numbers of tax payers, United Kingdom (000)

1978/79	21,600
1979/80	21,800
1980/81*	21,600
1981/82*	21,800
1982/83*	21,400

* Provisional

Source: Inland Revenue Statistics 1982. Table 1.3

Over this same period the working population has shrunk by 1,700,000 but the proportion of the workforce who pay tax has increased from

86.2% to 91.7%. So of those who have held on to their jobs, many more of the low paid have been brought into tax. The reason, of course, is that the value of the personal allowances - which exempt the poor from tax - has not been maintained.

"We pay the highest rate of tax at the lowest level of income of any country in the EEC. That is the measure of Socialism - the effect on the poorer people of this country." (Mrs. Thatcher, Hansard 29.03.77 vol 929, col 293)

Back in 1977, Mrs. Thatcher was scornful of the then Labour Government's tax policies for their effects on the poor. Unfortunately, this earlier sympathy with the predicament of the poor has not translated itself into effective policies. An even heavier tax burden on the poor appears also to be 'the measure' of Conservatism under Mrs. Thatcher. As the following table shows the starting rate of tax is still higher than in any other EEC country by a wide margin. Moreover, with the exception only of Italy and Greece, Britain has the lowest tax threshold. But in these countries tax becomes payable at a rate of 16 and 7.6p in the £ respectively, compared with Britain's starting rate of 30p in the £. Contrary to her earlier protestations Mrs. Thatcher's Government has both increased the starting rate of tax and reduced the level of income at which people start paying tax.

TABLE 5 : Comparison for EEC countries of tax thresholds and rates of income tax and social security contributions (1981)

Married couple	Threshold in £ sterling	Rate of income tax	Rate of income tax and social security contributions
France	4090	7.2	13.6
Ireland	3790	25*	32.5*
Luxembourg	3785	12.3	22.8
Netherlands	3430	16.3	35.2
Germany	3360	18	35
Denmark	2705	14.4 (41.2)	18.9
Belgium	2560	21.7	29.55
United Kingdom	2445	30	38.75
Italy	2025	16	22.3
Greece	1990	7.6	15.9

*nominal rates
Source: Hansard, 3 March 1983.

In 1979 the low paid became liable to tax at a rate of 25p in the £. This was because a reduced rate band operated on the first slice of taxable income. It was the Chancellor's stated intention *"to reduce the basic rate of income tax to no more than 25%"* for everyone, following a cut from 33p in the £ to 30p in the £ in his first 1979 budget. However, the following year, instead of cutting the basic rate

down to the same level as the reduced rate, the Chancellor abolished the existing 25p tax band thereby increasing the rate by 5p in the £ for some 2½ million low paid workers (cf. Pond and Playford, Carried Across the Threshold Low Pay Unit, 1981.)

At the time it was argued that the low paid could be compensated by an increase in the tax threshold. It is true that in any one year the average rate of tax is reduced more by increasing personal allowancesthan by spending the same amount of revenue on a reduced rate band. However there are serious flaws to this argument. The advantage of a higher threshold to the low paid is transitory. The value of the personal allowances has not been maintained, meaning that those who were previously exempt have once more been drawn into the tax net, but at a higher starting rate. The value of the current tax threshold is now set at a lower level of income in real terms than in 1978/79.

TABLE 6 : Value of married man's tax allowance 1978/79 - 1982/83 (April)

Married couples	Threshold at current prices	Threshold at 1978/79 prices	Threshold as % average gross earnings
1978/79	1735	1735	37.4
1979/80	1815	1649	34.4
1980/81	2145	1601	33.1
1981/82	2145	1429	29.4
1982/83	2445	1488	30.4
2 child family	Tax free income at current prices	Tax free income at 1978/79 prices	Tax free income as % of average incomes.
1978/79	1974	1974	40.5
1979/80	2231	2026	39.2
1980/81	2561	1911	37.2
1981/82	2639	1757	33.8
1982/83	2991	1821	34.9

A married couple now begin paying tax on a gross income nearly £5 a week lower in real terms than before this Government began its term of office Although families with children benefited from improvements in child benefit (implemented by the outgoing government), they too have seen the value of their tax free allowance fall in real terms by about £3 per week.

The reason for this fall in value was the Chancellor's decision to freeze the tax threshold in 1981, ignoring the Rooker-Wise indexation clause which requires that the threshold is uprated each year in line with inflation. In the following 1982/83 budget the allowances were uprated by slightly more than inflation, but as we can see from the table this was not sufficient to compensate for the erosion in value of the previous year.

The combined effects of the decision to abolish the reduced rate band together with the fall in the tax threshold can be seen in the following table.

TABLE 7 : Tax threshold and marginal tax rates 1955-1982, two child family (3)

	Tax threshold as % of average earnings (1)	First rate payable (2)	Basic rate threshold as % aver. earnings	Basic rate
1955	99.5	9	179.3	33
1956	93.4	9	168.2	33
1957	88.4	9	159.2	33
1958	86.8	9	156.2	33
1959	82.2	7	148.0	30
1960	76.0	7	137.8	30
1961	73.8	7	131.8	30
1962	71.4	7	127.5	30
1963	84.5	15	128.7	30
1964	78.1	15	119.0	30
1965	71.9	15	109.8	32
1966	69.4	15	106.0	32
1967	66.0	15	100.7	32
1968	57.4	15	89.6	32
1969	56.1	23	82.0	32
1970	57.6	32	57.6	32
1971	58.6	30	58.6	30
1972	59.9	30	59.9	30
1973	52.4	30	52.4	30
1974	57.1	33	57.1	33
1975	44.5	35	44.5	35
1976	46.3	35	46.3	35
1977	51.0	34	51.0	34
1978	45.4	25	62.4	33
1979	44.7	25	58.3	30
1980	42.4	30	42.4	30
1981	39.4	30	39.4	30
1982*	41.4	30	41.4	30

Notes

(1) *Average earnings are the annual equivalent of the earnings of manual workers in manufacturing in October each year. Average gross earnings in Table 6 are for all male workers.*

(2) *In April of year, including Child Benefit*

(3) *Married couple, 2 children, one aged 11-15, one under 11.*

(4) **Estimated using earnings index, April - October*

As the table shows, the present Chancellor's policies represent an acceleration of the long-term trend. Over the last twenty-five years the starting rate of tax on the low paid has more than trebled whereas the basic or standard rate - which applied throughout the period to those on above-average earnings - has remained virtually unchanged. Moreover, in 1955 a two child family paid no tax at all until their earnings reached the national average. Now that same type of family would be paying tax on less than 2/5ths of average earnings.

National insurance contributions - the Chancellor's 'hidden' income tax.

Income tax is not the only element of direct taxation to have increased under the present Government. National Insurance contribution rates have been increased by 40 per cent since the last election, from 6.5 per cent to 9 per cent. This has both increased the average rate of deductions for the low paid, and at the same time increased their marginal rate on entering the tax system from 31.5 per cent to 39 per cent. It is also notable that whereas the rate of employee contributions has been raised dramatically, employers' contribution rates have remained unchanged. Furthermore, the Chancellor's decision this year to uprate the upper earnings limit by £10 less than he should, had it been fully indexed, is a blatant handout to the better off. The table below shows the recent changes which have taken place.

TABLE 8 : Rates of National Insurance Contributions, lower exemption limit and upper ceiling, 1978-1982. April

	Rates of contribution		Lower Exemption	Upper Ceiling
	Employee	Employer	£pw	£pw
(1)	(2)	(3)	(4)	(5)
1978	6.5	13.5	17.50	120
1979	6.5	13.7	19.50	135
1980	6.75	13.7	23.00	165
1981	7.75	13.7	27.00	200
1982	8.75	13.7	29.60	220
19j3	9.00	11.9	32.50	235

Source : "A Tax on the Poor"Low pay Unit, January 1982.

National Insurance contributions (NIC) have become a major form of direct taxation in 1982/3 they raised nearly ¾as much revenue(74.4) as the income tax itself. (Financial Statement and Budget Report 1982-83, table 19).

This year the proportion is expected to be higher still. But while income tax is supposed to fall more heavily on the better off (an assumption which we will challenge: in a later section) National Insurance contributions are a harshly regressive form of taxation, taking a greater proportion of income from the lower than the higher paid. This is because National Insurance deductions operate over a narrow band of income. A ceiling exists on the level of earnings above which no further NIC are deducted. Those earning over £235 (in 1983/84) will therefore pay a flat rate maximum contribution on their earnings of £21.15, a sum which will of course diminish as a proportion of their total earnings as these rise. So the use of National Insurance contributions as a means of increasing direct taxation represents a further shift in the tax burden towards the low paid.

Indeed, the National Insurance scheme has created a severe 'poverty trap' for the very lowest paid, mainly part-timers and young workers. The application of an exemption limit for NIC, instead of a threshold as in the case of tax allowances, means that once an individual becomes liable to contributions they immediately pay 9 per cent on the whole of their income. For many low paid workers this can mean an increase in their wages from just below to above the exemption limit results in them being worse off. To illustrate (using 1983/84 contribution rates), a person moving from a wage of £32.00 to £32.50, having breached the exemption would find themselves liable to deductions (at 9 per cent) of £2.93, leaving them £2.43 worse off. The employer would at the same time become liable to pay contributions at 11.9 per cent, which on a wage of £32.50 amounts to £3.88. National Insurance creates a part-time trap which acts as a powerful disincentive to raising low wages.

The part-time trap has serious implications. The principle behind contributions is that they are paid as an insurance against want in times of need, providing eligibility to non-means tested benefits. Where low paid workers have fluctuating earnings they may pay substantial amounts into the National Insurance fund but nevertheless find themselves with insufficient contribution records to qualify for National Insurance Benefits. Disqualification from the right to claim certain benefits is not the only right affected by the operation of the part-time trap. Because employers can avoid paying their share of the contributions as long as the worker's earnings are kept below the National Insurance

exemption limit, there is a strong motivation to reduce the number of hours worked by part-timers. Since most employment rights are normally conditional on the worker being employed for a minimum number of hours each week many workers can find themselves disenfranchised from basic employment rights such as redundancy and maternity pay and the right to claim against unfair dismissal.

A bias against the poor

The changes in taxation detailed above represent an overwhelming shift in the burden of direct taxation away from the rich and towards the poor. A two child family on two-thirds average earnings have seen their tax burden increased by 25 per cent, while their counterparts on ten times the average wage (which amounts to earnings of around £1600 a week) have been granted a correspondingly massive decrease of 21 per cent in their personal tax bill. Families with children have fared worse than those without and poorer families with children have suffered the most of all.

TABLE 9 : Tax and National Insurance as a per cent of earnings at different levels in 1982/83 compared to 1978/79 for different families.

	2/3 aver.	aver.	5 x aver.	10 x aver.
Single	+10	+5	-12	-22
Married Couple no children	+16	+8	-12	-21
Married couple 2 children	+25	+12	-11	-21
Married couple 4 children	+45	+19	-9	-21

Source : Jeff Rooker MP, Press Notice 29.11.82)

But this shows the effect only of the increase in direct taxes. Taking into account the increases in indirect taxation such as VAT as well, a married couple with two children on three-quarters of average earnings would need in this coming year over 11p off their basic rate of income tax if they were again to pay the same amount of tax as they did in 1978/79 in money terms. To restore this family to the position where they were paying the same proportion of their income in direct and indirect deductions as before a cut of over 6p would still be necessary.

TABLE 10 : Reduction required in basic rate of tax in the 1983-84 Budget to restore total tax payments (1) a) to the same total sum of money in constaint prices as in 1978-79 b) to the same proportion of gross earnings as in 1978-79.

	¾ average earnings		average earnings	
	(a)	(b)	(a)	(b)
single person	10.7	5.1	9.1	3.4
married couple	9.7	4.1	9.1	3.5
married couple + 2 children.	11.1	6.1	9.4	4.2

(1) total tax payments = income tax, national insurance contributions, indirect taxes, less child benefit where applicable.

Source : Hansard 23.11.82 col 421-422.

"We remain firmly committed, as ever, over the years, to reduce the burden of direct taxation. It is essential to do so: to improve incentives, to remove disincentives; to reduce the poverty trap." (Sir Geoffrey Howe, Budget Statement, Hansard, 9.3.82 Col 756.)

The present government have failed not only in their promise to reduce direct taxation and free 'those on the lowest pay from income tax altogether'. They have also singularly failed to alleviate the problem of the proverty trap. Indeed, the problem actually has been made still worse since 1979 as we shall demonstrate.

A standing principle of the tax system has been that the poor should be exempt from tax, but this has been increasingly breached by successive Chancellors. In the final year of the previous government the amount of tax free income which a two child family would receive represented only 71 per cent of the level of earnings up to which they could claim Family Income Supplement. Under the Conservative Government this proportion has dropped still further and the gap between tax free income and supplementary benefit levels has increased even more dramatically as table 11 shows:

TABLE 11 : Tax free income and the poverty line, November 1978 - November 1982.

	(a) 1 tax free income	(b) 2 supplementary benefit level	(c) FIS eligibility limit.	(a) as a % of (c)
Nov. 79	42.90	50.75	60.50	70.9
Nov. 80	50.75	65.15	74.00	68.6
Nov. 81	51.75	74.10	82.00	63.1
Nov. 82	58.72	84.20	81.50	64.2

(1) Married man's tax allowance plus child benefit.
(2) Ordinary scale rate for a couple plus two children (one under 11 years, one over 11 years) plus DHSS estimate of average housing costs in November each year.

As a result of this development concern has been expressed that many people may find that their income in work is exceeded by what they would receive on Supplementary or Unemployment Benefit - the so-called 'why work?' syndrome. The government have drawn the erroneous conclusion that benefits are too high in relation to wage levels - the correct assessment is that net incomes in work are too low. Not only have wage increases in recent years been insufficient to maintain living standards but, as we have seen, the burden of taxation on the low paid has resulted in the real value of their wages falling still further. Moreover, overwhelming evidence shows that, even where wages are so low that people might be better off out of work, the unemployed want to work. As far as the unemployed are concerned, the relevant question is not 'why work?' but 'what work?'. A satisfactory solution to the problem of the 'why work?' syndrome must include measures to raise the earnings of the low paid to an acceptable level, as well as changes in taxation. A more serious problem created by the increasing burden of taxation on the poor is that of the poverty trap. Because the tax system now extends to the very lowest paid, many workers find that increases in earnings do not produce improvements in their net incomes. In addition to paying extra tax and national insurance contributions a pay rise can mean a reduction in means-tested benefits.

For wage earners in receipt of both FIS and housing benefits marginal 'tax'rates (MTRS) resulting from this extra tax and reduced benefits may exceed 100 per cent.

TABLE 12 : How the poverty trap operates - married couple with 2 children, November 1982.

(Earnings £47 - £91.50 pw)
Gross earnings rise by £1.00

Income tax increases	30p
National Insurance increases	8¾p
FIS eligibility falls	50p
Rent rebates fall	17 - 25p (8½pto 12½pif FIS also claimed)
Rate rebates fall	6 - 8p (3p- 4p if FIS also claimed)
Net change in income =	-5¼p

Recent trends in the structure of taxation have exacerbated the problem of the poverty trap. The failure to maintain, let alone increase the real value of tax thresholds has meant that increasing numbers of families find themselves drawn into the trap. As the table below shows the proportion of FIS recipients who are also paying tax has increased dramatically since the mid 1970s, and especially since 1979.

TABLE 13 : Estimated Numbers in the Poverty Trap, 1974-1981 (FIS figures)

	FIS recipients	Estimated numbers above tax threshold when benefit was claimed in previous year.	Percentage of recipients.
April 1974	75,210	15,000	20
April 1975	56,370	12,300	22
April 1976	59,850	27,740	46
April 1977	83,570	46,400	56
April 1978	95,720	59,470	62
Dec 1979	80,730	63,730	79
April 1981	105,000	84,000	80
April 1982	143,000	121,550	85
August 1982	155,000	131,750*	85*

Source : Hansard, 26 July 1979, col 419
Hansard, 21 December 1981, col 303
Hansard, 16 November 1982, col 127

* LPU estimate.

This unhappy interaction of the tax and income support systems has been made worse, not only by the lowering of the real value of the tax threshold, but also by an increase in the starting rate of tax at which working people pay tax/NI contributions once they have crossed the threshold. We have earlier shown how these starting rates have increased considerably in recent years.

As the Financial Times put it, following last year's budget, the effect has been to 'squeeze the tax payer even further into the poverty trap' (10 March 1982) Thus, as the lowering of the tax thresholds served to increase the numbers of families within the scope of the poverty trap, changes in tax and National Insurance rates have had the effect of increasing the depth of the trap, as measured by marginal tax rates (MTRs). Indeed, even before the 1983 Budget, the Government has announced measures which will further increase that depth after April. Decisions already taken on housing benefit withdrawal rates and NI contributions will add as much as 5.25 per cent to the marginal tax rates faced by low paid workers. This can hardly help to achieve the Government's objective of improving incentives.

Recommendations

The coming budget is likely to be the last opportunity for the present Government to meet the debts it has incurred towards the low paid through their increased tax liability. The reforms outlined below are not extravagant demands. They ask only that the Chancellor returns to the low paid those losses which they have sustained as a result of the fall in the value of the tax threshold and the abolition of the reduced rate band since 1979. Increases in child benefit are necessary to ensure that families with children are protected. The changes we suggest for National Insurance Contributions would do no more than share the cost of unemployment fairly amongst those who remain in paid employment.

Personal Allowances

Sir Geoffrey Howe has already recognised the effects of his failure to maintain the value of the personal allowances in line with inflation. In 1980 he warned:

> *Increases in personal allowances which fall some way short of the rise in prices ... would have a number of undesirable effects. It would lower the starting point of income tax in real terms, compared with a year ago, It would increase the number of taxpayers. It would narrow the gap between the tax thresholds and the main social security benefits, and would impose particularly heavy burdens on those with the smallest incomes. All these effects would be most undesirable".*
> (Hansard 26 March 1980 col 1474)

The justification for increasing personal allowances is clear. At the very least we believe the Chancellor should bring personal allowances up to the level that they would now be, had they been fully indexed

from their level in 1979/80 at each budget, in line with the Rooker-Wise amendment. This requires an increase in the Single Persons Allowance this year of £145 and an increase in the Married Mans Allowance of £220. This is an increase for the single allowance of 9.3 per cent more, and an increase for the married mans allowance of 9.0 per cent. The table below gives the details.

TABLE 14 : Tax Allowances 1979/80 - 1983/84.

	Actual value	Increase over previous year	Value if indexation observed	Increase over previous year.
Married				
1979/80 Lab. Budget	1675	-	1675	-
1979/80 Con. Budget	1815	140	1675	-
1980/81	2145	330	1955	280
1981/82	2145	-	2250	295
1982/83	2445	300	2530	280
1983/84			2665	135
Single				
1979/80 Lab. Budget	1075	-	1075	-
1979/80 Con. Budget	1165	90	1075	-
1980/81	1375	210	1260	185
1981/82	1375		1450	190
1982/83	1565	190	1625	175
1983/84			1710	85

However, this would not restore allowances to the level at which the Chancellor fixed them in his government's first budget in June 1979. To do this Sir Geoffrey would have to raise the single person's allowance by £300 and the married man's by £450 - increases of 18-19 per cent (Hansard, 24 February 1983, col 530) Even this would not on its own restore the total tax burden to its 1979 position. Other changes have combined to shift this tax burden towards the low paid. To ensure that families with children do not lose out, Child Benefit will need to be increased by an equivalent percentage. If the single person's and married man's allowance are uprated by different amounts it is only right that Child Benefit keeps pace with the higher of the increases. There is no justification for either single people or married couples without children gaining a tax advantage over families with children.

There is much speculation as to whether this budget will provide tax cuts in the form of an increase in the personal allowances or a reduction in the standard rate of tax. In our opinion, the revenue available for these options should be used to increase personal allowances rather than to cut the basic rate. This would be of

far greater advantage to the low paid, for whom the personal allowances represent a greater proportion of their total income. The Daily Telegraph, in a recent article, advances the arguments for a budget which benefits the low paid in this way:

> *The most virtuous Budget, if not the most eye catching, would be one in which he (the Chancellor) did not succumb to the temptation to pretend inflation was lower than it is by failing to index the specific duties, and did choose to raise thresholds rather than cut the basic rate.*
>
> *Raising thresholds would tend to benefit the poorer taxpayers most who have tended to gain least from Tory tax changes so far and would also increase a little the incentive to work.*

We expect the Chancellor to at least index personal allowances in line with inflation. Treasury estimates show that (after statutory indexation) a further 13 per cent increase in the personal allowances and a 2p reduction in the basic rate would both cost around £1700 million (Hansard, 21.2.83, cols 5-6). The greater advantage to the low paid of further increases in the threshold is shown in the table below. All single tax payers earning £90 a week or less would gain as would married men earning £140 or below. Moreover raising the tax threshold would have the additional advantage of taking many of the lowest paid out of tax altogether. A 10 per cent increase on top of indexation, for example, would take over three-quarters of a million low paid people (850,000) out of taxation. (Hansard, 21.2.83, col 5).

TABLE 15 : Tax paid on different incomes after indexation plus a) 13 per cent increase in allowances: b) 2p cut in basic rate.

	a)		b)	
£ p w.	single	married	single	married
50.00	4.30	-	5.12	0.11
60.00	7.30	1.30	7.92	2.91
70.00	10.30	4.30	10.72	5.71
80.00	13.30	7.30	13.52	8.51
90.00	16.30	10.30	16.32	11.31
100.00	19.30	13.30	19.12	14.11
110.00	22.30	16.30	21.92	16.91
120.00	25.30	19.30	24.72	19.71
130.00	28.30	22.30	27.52	22.51
140.00	31.30	25.30	30.32	25.31
150.00	34.30	28.30	33.12	28.11

Reintroduction of the reduced rate band.

It was this Government's declared intention to reduce the basic rate of tax to 25 per cent. Whilst we do not believe that the available revenue is best used by providing a tax cut in the basic rate for all taxpayers, we are in favour of the reintroduction of the reduced rate band of 25 per cent. As we showed on page 8 in table 7 whereas the standard rate of tax has remained at a fairly constant level over the last 25 years or so, the starting rate of tax on the low paid has steadily increased. The high marginal tax rate which this imposes on the low paid exacerbates the depth of the poverty trap, and has severe disincentive effects. Both from the point of view of equity and efficiency a reintroduction of the reduced rate band should be regarded favourably. We propose the introduction of a reduced rate band on earned income up to £2000 above the tax threshold. Coupled with an adequate increase in the personal allowances this would mean that a large proportion of the low paid paid tax only at the reduced rate.

Abolition of the National Insurance Ceiling.

Part of the explanation for the need to raise the rate of National Insurance contributions is the growing demands on the National Insurance fund as a consequence of escalating unemployment.

It is apparent that whilst the existing arrangements for financing benefits persist, taxpayers over a narrow range of income will be asked to contribute a growing percentage of their income in NIC. The Government Actuary's department estimate that by 1985 people in work may be paying 15.3 per cent of their wages in national insurance contributions. (National Insurance Fund Long Term Financial Estimates, July 1982) The need for an alternative system of financing benefits in which the tax and National insurance systems are integrated is pressing and forms part of our proposals for long-term reform. In the meantime it remains entirely wrong that those on higher earnings are asked to contribute proportionately less towards the cost of pensions and unemployment. As things stand at the moment those on lower incomes are being asked to foot a greater share of the bill for the failure of the present government's economic policy. As a minimal reform the upper earnings limit beyond which earnings are exempted from liability, for National Insurance contributions should be abolished. This would

additional revenue of £580 a year (Hansard, 11.12.82, c 517), enabling a possible reduction in the overall basic national insurance rate or an improvement in benefits.

Taxation : A long term perspective

These are the immediate reforms in taxation which we believe to be essential to help alleviate part of the increased burden on the poor since 1979. However, we cannot expect in the short term to be able to compensate for the inequalities which have developed over the past quarter of a century. Parliament must now begin consideration of longer term proposals in the structure and coverage of taxation to ensure that it once again observes principles of equity and economic efficiency. Such reforms will be considered in detail in a post-budget analysis by the Unit. Here we indicate the direction which we believe such reform should take.

The British tax system performs very badly both in terms of equity and economic efficiency. Neither the principles of progressiveness and ability to pay, nor the need to minimise distortions and disincentive effects are well served by the present system. In order to ensure that the burden of taxation is fairly sharedthere has long been a principle that marginal tax rates should increase progressively as incomes increase: those who can most afford it contribute most. However, for the great majority of wage-earners the marginal rate of tax (income and National Insurance contributions combined) stands at 38¾ per cent. Because National Insurance contributions have an upper ceiling at earnings of £220 per week the marginal tax rate drops at this level rising again to 40 per cent only when the higher rates of tax are reached at an income of almost £300 per week. Hence the combined marginal tax rate is almost the same for a couple earning £50 a week as for a couple earning at least £337 per week - almost seven times as much. The taxpayers who fall somewhere between these two points on the structure of marginal rates are estimated to represent 97¾ per cent of the total. It follows that the only significant element of progressivity in marginal tax rates applies to the remaining 2¼ per cent of taxpayers who are subject to tax rates above 40 per cent. (Hansard, 14.2.83, vol 36, col 5)

At the same time the generosity of the system of reliefs and allowances means that taxes are levied in a highly discriminatory way. Earnings, self employment incomes, capital gains, and other investment incomes are all taxed in different ways. Capital gains are rarely taxed at all and even then at a maximum rate of only 30 per cent - significantly less than the rate of tax/National Insurance deductions on earned income applicable on entry to the standard tax band. The disincentive effects of taxation on earned income is greater than if the same amount of revenue were raised from unearned income. So the relatively favourable treatment of unearned income increases the disincentive effects. Increasing concern has been expressed about the overall effect of the British taxation system on the economy. As a recent leader article in the Financial Times put it:- *"The present (system) produces gross economic distortions, and is one cause of unemployment"*. (Financial Times, February 1, 1983.)

In our view, the root cause of the inequities and economic distortions in the British tax system is the generous array of tax reliefs, allowances and concessions, which forces up tax rates (to raise any given level of revenue) and discriminates in favour of high income groups. Economists now recognise that such tax expenditures are wholly analagous to direct public spending. An essential starting point for long-term reform of the system, in our view, would be to bring tax reliefs and allowances within the overall system of public expenditure planning and control. At present, accounting conventions result in the cost of 'tax expenditures', being hidden from view. The result is that, while the present government has cut direct welfare expenditure for those most in need, a hidden system of fiscal welfare for higher income groups has developed unchecked.

Tax Expenditure Control and a Comprehensive Income Tax.

The development of a Tax Expenditure Budget would subject this expenditure to democractic control, allowing it to be examined more openly and controlled more effectively. We would argue that many of the reliefs and allowances should be reduced, over time, and subsequently withdrawn. At the same time the present discrimination between different sources of income should be ended through the development of a Comprehensive Income Tax (CIT) which would bring all forms of income fully into tax under the same progressive schedule of rates.

At present more than half of all household incomes, according to Treasury estimates, are not subject to tax. (Hansard, 17 February, 1982, col 150) The revenue gain from a CIT would therefore be substantial and would enable the structural reform of the tax and benefits systems that is required to eliminate the basic components of the poverty trap. Other revenues could be used to encourage certain forms of economic activity, such as in housing, but unlike the present open-ended system of reliefs and allowances such subsidy could be more easily targetted and distortive effects minimised.

Reform of Personal Allowances

As we have seen, the cost of increasing personal allowances so as to benefit low paid workers is high because the effect is to offer a tax cut not just to the poorly paid but to all employees. Long term reform therefore needs to include measures which would reduce the cost of setting and maintaining allowances above poverty line levels. We believe two approaches are worth consideration:

1) System of Vanishing Personal Exemptions: essentially this approach would entail the adoption of the exemption system currently operating for National Insurance contributions, but the exemption would be withdrawn gradually so as not to create a poverty trap along the lines of the present National Insurance trap.

2) Social Dividend/Tax Credit Approach - an alternative approach would be to convert the personal allowances into cash payments or tax credits.

The Married Man's Allowance (MMA)

One of the most inequitable aspects of the present allowance system is the unequal treatment accorded to different taxpayers as a result of the MMA. The MMA discriminates against women and, by providing additional tax free income based on marital status regardless of need, against single people. We believe the introduction of a single personal allowance which would apply to all taxpayers alike to be an urgent item for reform and an essential element of long term reform. Revenue released through the abolition of the MMA should be used to provide an adequate level of child benefit.

National Insurance Contributions

Amongst our short-term reforms we advocated abolition of the present ceiling on National Insurance contributions. Whilst this would ensure that all wage earners made the same proportionate contribution it would take no account of ability-to-pay nor would the problem of the part-time trap be overcome. It is generally accepted that National Insurance is now

a major form of taxation and we believe it is right to fully integrate it into the taxation system. If carried out as part of our other long term reforms National Insurance contributions would become fully progressive and the part-time trap would be sprung.

The above measures represent the shape of reform which we believe is necessary to develop a tax system which performs well in terms of both equity and economic efficiency. The need to widen the scope of reform through such changes was recently advanced by the Financial Times.

> *A substantial increase in child benefits - which could be more substantial if they were also brought into tax - and some lifting of tax bands beyond indexation would strain the £1.5 - £2bn or so at Sir Geoffrey's disposal. To widen this scope a little, and to start on a necessary programme for later years, we would welcome some attention to tax expenditures, starting perhaps with tax reliefs for contractual saving.* (Financial Times, 2.3.83)

The mechanism of the annual budget announcement, influenced so often by short term political considerations, in many ways precludes such a development. For this reason, regrettably, we do not expect the Chancellor to include these measures in his speech on March 15. We hope, however, that he will prepare the ground by adopting our short term recommendations and at least providing a firm indication that the government recognise the necessity of future comprehensive reform and announce plans to establish a Tax Expenditure Budget.

Ind Aff (4)

~~copied~~ to: D/M.
FCO.

INTERNATIONAL LABOUR OFFICE
GENEVA

Prime Minister

29.
3

THE DIRECTOR-GENERAL

22 March 1983

Dear Madam Prime Minister,

I was deeply touched by your congratulatory message, conveyed to me by Ambassador Sir Peter Marshall, on the occasion of my re-election by the Governing Body of the International Labour Office.

Your good wishes are an encouragement to me for the new mandate ahead, during which I hope to further strengthen the co-operation between your Government and the ILO.

Yours sincerely,

Francis Blanchard

The Rt. Hon. Mrs. Margaret Thatcher,
Prime Minister,
10 Downing Street,
LONDON

Ind Rel, wages Council, pt 2

AJC

* See letter at Flag on this.

I have told them to telegraph it.

AR 9/3.

10 DOWNING STREET

You spoke to Di Hodgren (Dept. of Emp.) this morning about sending a message to Mr. Blanchard (Int. Labour Office, Geneva) via our embassy.

Di is now unsure why this latest message is not going personally from the PM as on the previous occasion*; apparently on the insistance of the PM.

She wonders whether you would have a word with her.

Mark
8/3/83

10 DOWNING STREET

From the Private Secretary

7 March 1983

Director General of the
International Labour Office

Thank you for your letter of 3 March. The Prime Minister was glad to hear that M. Blanchard had been re-elected as Director General of the International Labour Office and would be grateful if a congratulatory message, in the terms proposed in your letter, could be passed to him. Would you please arrange for this to be done.

I am copying this letter to Roger Bone (Foreign and Commonwealth Office).

A. J. COLES

Ms. F.M. Everiss,
Department of Employment

10 DOWNING STREET

THE PRIME MINISTER

Please accept my warm personal congratulations on your re-election as Director General of the International Labour Organisation. I wish you well in the tasks ahead of you.

Monsieur Francis Blanchard

ks

①

Prime Minister

Agree attached message to Director-General of I.L.O when you met last August?

A.J.C. 4/3

Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

John Coles Esq
Private Secretary
Prime Minister's Office
10 Downing Street
LONDON SW1

Yes. LS... will do / 3 March 1983

Dear John

M. Blanchard was re-elected as Director General of the International Labour ~~Organisation~~ Office yesterday for a further period of five years from the end of February 1984. As the Prime Minister met M. Blanchard in Geneva last August she may like to offer him her personal congratulations. I attach a draft which might serve this purpose. Mr Michael Alison, Minister of State for Employment, who has also met M. Blanchard has sent the attached message on his own behalf and that of the Secretary of State for Employment.

From the UK's point of view M. Blanchard has had a very good record since 1974, when he became Director General, acting in a responsible way financially and giving priority to human rights issues within the ILO, which have concentrated very largely in recent months on Poland.

I am sending a copy of this letter to Roger Bone (FCO).

Yours Sincerely

Felicity Everiss

MS F M EVERISS
Private Secretary

JO

Ind Pol
cc JV

(2)

Prime Minister

To see Mr Tebbit's letter (attached).

MLS 28/2

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury
Great George Street
LONDON
SW

28 February 1983

Dear Geoffrey.

WAGES COUNCILS

Thank you for your letter of 18 February.

I have now written to the Chairmen of the two Retail Wages Councils and enclose copies for you information.

While, in principle, I would not be adverse to a further discussion of my earlier proposal, I would prefer to wait until the Councils have responded to my letters to them before we take any further steps.

I will write to you again as soon as I have heard from the Chairmen of the Councils.

I am copying this letter to recipients of yours.

Norman.

W Monaghan Esq B Sc(Econ), MSc
The Chairman
The Retail Food and Allied Trades Wages Council
Office of Wages Councils
Steel House
Tothill Street
London SW1

25 February 1983

Dear Mr Monaghan

I understand that your Council will be meeting soon to consider representations about the proposals which have been issued for increases in minimum rates from April 1983.

I have received many letters from small and large businesses alike about these proposals. It is abundantly clear that, if not modifie the proposals will have damaging effects on employment in the retailing industry. I trust you will give the most serious consideration to the representations on this point that you will no doubt receive.

Should the Council ignore the representations and confirm the proposed increases I would be driven to conclude either that the Council does not recognise any links between wages and jobs, or that it does not see it as part of its responsibilities to take this clear connection into account when making proposals about minimum wage rates. In the event I would be glad to know which view the Council takes.

I am asking the Secretary of the Council to circulate this letter to all members.

Norman Tebbit

R S Sim Esq LLB
The Chairman
The Retail Trades (Non-food) Wages Council
Office of Wages Councils
Steel House
Tothill Street
London SW1

25 February 1983

Dear Mr Sim

I understand that your Council will be meeting soon to consider representations about the proposals which have been issued for increases in minimum rates from April 1983.

I have received many letters from small and large businesses alike about these proposals. It is abundantly clear that, if not modified, the proposals will have damaging effects on employment in the retail industry. I trust you will give the most serious consideration to the representations on this point that you will no doubt receive.

Should the Council ignore the representations and confirm the proposed increases I would be driven to conclude either that the Council does not recognise any links between wages and jobs, or that it does not see it as part of its responsibilities to take this clear connection into account when making proposals about minimum wage rates. In that event I would be glad to know which view the Council takes.

I am asking the Secretary of the Council to circulate this letter to all members.

Norman Tebbit

Ind POL: Wages Councils
Pt 2

CONFIDENTIAL

Ind Pol

Prime Minister (3)

MLS 21/2

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

18 February 1983

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Caxton House
Tothill Street
LONDON SW1H 9NF

Dear Norman

WAGES COUNCILS

We have spoken no less than three times this week - most recently at yesterday's Cabinet - about the problems created by the Retail Wages Councils.

Your proposed letter may have an explosive effect! But if not, then I wonder whether we should not look again at the possibility of abolishing individual councils, and in particular the two retail councils. When we discussed this problem at E Committee on 14 July 1982 Michael Jopling was asked to take soundings on the kind of action on wages councils might commend themselves to our supporters in the House. I am not sure what came out of that. But subject to any comments Michael may have, I hope we might return to your earlier proposal to make informal contacts with employers in the retail distribution industry on the possibility of abolishing the two retail councils.

I am copying this letter to the Prime Minister and other members of E Committee, to the Secretary of State for Scotland and the Chief Whip and to Sir Robert Armstrong.

Yours

GEOFFREY HOWE

CONFIDENTIAL

Ind Pol, Council
Wages Dft 2

CONFIDENTIAL

(2) 14 February 1983

Prime Minister ALAN WALTERS

PRIME MINISTER

Possibly!

A reference to this in the Institute of Directors' speech? MCS 14/2

WAGES COUNCILS AND UNEMPLOYMENT

In all the publicity about the water workers, it has escaped notice that the Retail Trades (Non-Food) Wages Council has proposed an 8% increase in the minimum rate for adult shop assistants (from £52.50 to £67.50) and similar 8% increases for young workers. The other Retail Council (Retail Food and Allied Trades) has reached a similar decision.

Both of these increases are remarkable, first because they are above other Wages Councils settlements in this pay round, and secondly because they are well above the 5% in private sector settlements generally.

But more important, they apply to almost two million workers - that is to say 10% of the total labour force and a much larger percentage of private sector employees generally. Of course, not all these two million are paid at the minimum level, but the Wages Council award will undoubtedly point the way for the union's claim and indeed for all other settlements in the industry. The contagion effect on other adjacent industries should also be noted.

This will undoubtedly add to the level of unemployment in the months ahead. Since the retail trade is very flexible in its labour practices, I would expect the unemployment effects to come through quite quickly. I conjecture the effect on unemployment of an 8% award compared with, say, a 4% award, will be of the order of at least 100,000, and this is not allowing for contagion effects.

This award also demonstrates the inefficacy of trying to reform Wages Councils by appointing "suitable" independent members. The Department of Employment managed to get independent members who they regarded as experienced men who knew of the importance of wages on unemployment. Instead, the independent members aided and abetted the 8% increase. In my view the Department, and the Whips Office, were "conned." My letter to Norman Tebbit and his reply are attached.

The lesson is one I have drawn before. It is impossible to reform Wages Councils. By their nature they will create unemployment. The

/only thing to do

only thing to do is abolish them. The unemployed will pay for our timidity in grasping the nettle.

Alas, in view of the recent E decision there is little to be done - except express disappointment about such unemployment creation by the Councils. You may, however, think this is also worth airing in your IoD speech.

14 February 1983

ALAN WALTERS

CONFIDENTIAL

file
Wages Councils

Caxton House Tothill Street London SW1H 9NA
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

RAS

Professor Alan Walters
10 Downing Street
LONDON SW1

8 February 1983

D Alan.

Thank you for your letter of 28 January about the increases in statutory minimum rates proposed by the two retail wages councils.

I fully share your concern about the scale of the proposed increases. Contrary to what your letter suggests, so do the British Multiple Retailers Association who have already written in the strongest terms to Michael Alison on the subject. In fact all the employers representatives - those who speak for large firms as well as those who speak for small - walked out of the negotiations.

I note your criticism of the selection of the four new independent members. In fact, only one of the new independents was suggested directly by BMRA - Tesco, and he is the Consumer Affairs Correspondent of the Financial Times. A second, suggested by the Whips, is an accountant. And I am not sure I follow your argument that the third - the former General Motors Personnel Executive - would naturally favour a high increase: I would have thought that his background in the motor industry would make him more aware than most of the link between pay and jobs.

That said, as you know I very much share your views about the value of this kind of minimum wage fixing machinery. But our freedom to act is of course limited by International Labour Convention 26 which the UK ratified in 1929 and which we cannot denounce until June 1985.

Yours
Norman

PERSONAL AND CONFIDENTIAL

10 DOWNING STREET

The Right Honourable
Norman Tebbit, MP,
Department of Employment,
Caxton House,
Tothill Street,
London, SW1.

28 January 1983

Dear Norman,

I am sure you were appalled by the Retail Trades (Non-Food) Wages Council award of an 8% increase on 7 January. It looks as though also the Retail Food and Allied Trades Council will follow with a similar decision. These cover 1.9 million employees, that is to say about almost 10% of the total employment, of course a much larger fraction of private sector employment.

This 8% is some three percentage points above the going rates of 5% in the private sector. Furthermore the award seems to be above the average increase for other Wages Councils. In view of the enormous level of unemployment, one would have liked to have seen awards which were well below the going average rate in the private sector. But an 8% increase seems quite inexcusable.

It is difficult to conjecture how much this will add to the unemployment register. But it cannot fail to do so.

I was even more concerned when I learned that the Wages Councils have four recently appointed new members, who have been considered by the Minister of State and the Chief Whip's office. It turned out that two of them, that is to say one on each Council, were suggested by the British Multiple Retailers Association, and a Chairman of Tesco. It is fairly clear that the British Multiple Retailers, generally unionised, are quite anxious to keep out low wage competitors. It is not surprising that they voted a large increase. Nor is it surprising that another of the independent members, a retired personnel manager in General Motors, a firm dominated by unions, would vote for the higher wages. There do not seem to be any independent members who have in mind the interests of the consumer, and the small independent retailer.

I take all this as a confirmation of the difficulties of getting any sensible decisions out of the Wages Councils. The sooner we abolish them the better.

Yours

Alan

ALAN WALTERS

MC

CONFIDENTIAL

S/c IV

IND. POLICY

Prime Minister (2)

MLS 5/10

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Rt Hon W John Biffen MP
Lord President of the Council
Privy Council Office
68 Whitehall
LONDON SW1

4 October 1982

Dear Lord President

FAIR WAGES RESOLUTION

Following the agreement of E Committee on 26 January and my minute to the Prime Minister on 21 July, I told the House on 28 July that the Government had decided that after the recess it would invite the House to rescind the Fair Wages Resolution and that the appropriate action would be taken to denounce International Labour Convention 94 which concerns labour clauses in public contracts. This Convention was denounced on 20 September, which means that we shall be free of our international obligations in this matter on 21 September 1983.

To avoid a prolonged period of uncertainty for contractors and of controversy - some of our supporters in the House are being lobbied by those employers organisations which favour retention of the Resolution - I think we should get the matter through the House as early as possible in the new session. To this end I propose tabling a motion in the following form.

"Fair Wages Clauses in Government Contracts

That the Resolution of this House of 14 October 1946 relating to Fair Wages Clauses in Government Contracts be rescinded as from 21 Setember 1983".

When the Resolution was passed in 1946 it was after a five hour wide ranging debate.

We ought to get away with less for rescission but I leave that to your judgement and to discussions through the usual channels.

Apart from the general arguments on timing there is an additional point that the TUC will have an opportunity to voice their opposition to the UK's denunciation of Convention 94 at the meeting of the International Labour Offices Governing Body on 16 November. If by then the House had rescinded the FWR it would take a little wind out of their sails.

CONFIDENTIAL

In all the circumstances I would very much welcome it if you could see your way to arranging for the House to consider the above motion as early as possible in the new session.

I am copying this to members of E Committee, Michael Jopling and Sir Robert Armstrong.

Yours sincerely

Marie Fahey

Approved by Secretary of State
and signed in his absence

File / in C.F.
CC. Emp.
INDUSTRIAL POLICY.
SW

10 DOWNING STREET

THE PRIME MINISTER

30 September 1982

Dear Monsieur Blanchard.

Thank you for all the trouble you have taken in preparing such a helpful memorandum on the ILO Conventions on minimum wage-fixing machinery about which we spoke in Geneva. I am most grateful also for your offer of further help and we will not hesitate to ask for it if the need arises.

May I say how interested I was to hear of the ILO's work in Poland, and I wish you well with that.

Yours sincerely

Margaret Thatcher

Monsieur Francis Blanchard

BAC

Ind. Pol.

CF pps

Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

Michael Scholar Esq
Private Secretary
10 Downing Street
LONDON SW1

Dear Michael

ILO CONVENTION NO 26 AND WAGES COUNCILS

Your letter of 14 September asked me to provide a draft note of thanks for the Prime Minister to send to Mr Blanchard, Director-General of the ILO. This is attached.

I should add that the reference to Poland in the second paragraph was suggested by Mr Long (UKMIS Geneva) because the Prime Minister had a lengthy and apparently valuable discussion with the Director-General on that subject.

Yours sincerely

Marie Fahey

MISS M C FAHEY
Private Secretary

PL type for PM

M Francis Blanchard
Director-General of the
International Labour Office
4 route des Morillons
CH 1211 Geneva 22

draft ✓
bex

Thank you for all the trouble you have taken in preparing such a helpful memorandum on the ILO Conventions on minimum wage-fixing machinery about which we spoke in Geneva. I am most grateful. I am grateful also for your offer of further help and we will not hesitate to ask for it if the need arises.

May I say how interested I was to hear of the ILO's work in Poland, and I wish you well with that.

CONFIDENTIAL

Ind Pol DSG

c. HOD MAFF
FCO
DEmp DEnv.
DEng
HO
HMT CSL
CS-HMT

10 DOWNING STREET

From the Private Secretary

14 September 1982

DES DTrans
NIO DTdeI
MOD DI
LPS

Dear Marie,

ILO CONVENTION NO. 26 AND WAGES COUNCIL

Thank you for your letter of 10 September to me which the Prime Minister has read with interest.

The Prime Minister would herself like to write to Mr. Blanchard to thank him for all the trouble he took in preparing such a helpful memorandum. Could you please therefore let me have a draft reply which the Prime Minister might send to Mr. Blanchard, to reach this office no later than 1630 hours on Monday 27 September?

I am sending copies of this letter, together with a copy of your letter to me and its attachments, to the Private Secretaries to the other members of E Committee and (without attachments) to the Attorney-General's Office and the Foreign and Commonwealth Office.

Yours sincerely,

Michael Scholar

Miss Marie Fahey,
Department of Employment.

CONFIDENTIAL

JO

CONFIDENTIAL

Prime Minister

This is the formal reply from the ILO (you saw a draft, on much the same lines, earlier) with comments from D/Emp. Content to let matters rest, as suggested below?

MCS 13/9

Caxton House Tothill Street London SW1H 9NA F

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Michael Scholar Esq
(Home Affairs)
Private Secretary
Prime Minister's Office
10 Downing Street
LONDON
SW1

10 September 1982

Dear Michael

ILO CONVENTION NO 26 AND WAGES COUNCIL

During her recent visit to Geneva, the Prime Minister met M Francis Blanchard, the Director General of the International Labour Office (ILO) and, in conversation at the dinner table, asked him whether it would be his view that for the UK Government to exclude young people from the scope of wages councils would be held to be in breach of ILO Convention No 26 on minimum wage-fixing machinery. M Blanchard promised to have a brief memorandum prepared setting out what is required by both this Convention and No 99 relating to agricultural workers and this is attached, together with a note by officials commenting on it. The substance of the note has been agreed by DE Solicitors who have consulted legal advisers in the attorney General's office and the FCO.

I have copied this to my opposite numbers in the Attorney General's office and the FCO, both of whom are aware of the matter, but not to my colleagues in the offices of other members of E Committee. If the Prime Minister agrees we could ask our Ambassador to thank Mr Blanchard on his behalf for the trouble he has taken in preparing a helpful memorandum.

Yes. I should also like to write

Yours

Marie Fahey

MISS M C FAHEY
Private Secretary

CONFIDENTIAL

6/OS 162/1982

ILO MEMORANDUM ON CONVENTION NO 26 AND WAGES COUNCILS: NOTE BY DE OFFICIALS

1 The memorandum by the ILO enclosed with M Blanchard's letter of 27 August to our Ambassador in Geneva is of some interest. Its main point is in paragraph 6 where, in relation to excluding altogether young workers from the ambit of minimum wage fixing machinery, it says that:-

(a) this point "has not so far come under the comments of the Committee of Experts on the Application of Conventions and Recommendations"; and

(b) the relevant provisions of Convention No 26 "do not envisage such possibility".

This stops short of saying explicitly that such exclusion would be a breach of the Convention but it is identical with the Attorney General's opinion "I do not consider that the wording is apt to enable complete exclusion, irrespective of the trade or part of a trade, of young persons ...." (see his letter of 24 February 1982 to the Secretary of State for Employmemt, copied to other members of E Committee).

2 In our view, the ILO memorandum casts no doubt on the Attorney General's conclusion that such an exclusion could not be made "without attracting a complaint of breach of the Convention and a likely adverse report".

3 It is of interest that the ILO memorandum appears to take a more restrictive view than the Attorney General of Convention No 99 (which refers to minimum wage fixing in agriculture). Para 8 of the memorandum says that the scope of exclusions permitted under Convention No 99 "would not countenance the total exclusion of young workers", while the Attorney General in order to illustrate his point as to the scope of Convention No 26, implies that it could. The Attorney General, of course, was not giving advice on the provisions of Convention No 99, and was merely drawing attention to the fact that this provision was worded differently from, and more helpfully than, the corresponding one in Convention No 26. We propose to draw the attention of MAFF to the ILO view on this.

4 It is clear from the memorandum that the ILO would like to dissuade us from denouncing Convention No 26 in 1985. This is why they append a list of the 95 countries which have ratified it, and why they mention a number of policy arguments (none of which raise anything new that has not already been discussed in E Committee).

Overseas Branch A
Department of Employment
September 1982

Minimum wage fixing for young persons in the United Kingdom and relevant ILO Conventions

1. The main ILO Conventions on Minimum Wages include: Convention No. 26: Minimum Wage Fixing Machinery, 1928; Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951; and Convention No. 131: Minimum Wage Fixing Convention, 1970.

2. The United Kingdom has ratified the two earlier instruments: Convention No. 26 in 1929 and Convention No. 99 in 1953. Their application in that country has not given rise to any problem drawing comments from the ILO Committee of Experts on the Application of Conventions and Recommendations, except in recent years concerning home workers covered by Convention No. 26, following information supplied in the Government's reports in 1975 on certain difficulties of observance of minimum rates for those workers.

3. A question currently being raised in some circles of the United Kingdom is whether under relevant Conventions, young workers may be excluded from minimum wage coverage; the concern being that rates fixed by wage councils may be curbing their employment opportunities. The question appears to come mainly under Convention No. 26 which deals with minimum wage fixing in industry and commerce.

4. The requirements of Convention No. 26 for the "application of minimum wage fixing machinery" (i.e. the actual fixing of wages for workers) rest on two objective criteria, as stated in its Article 1: (i) inexistence of arrangements for the effective regulation of wages for workers in the trades or parts of trades concerned by collective agreement or otherwise (e.g. by conciliation and arbitration machinery, such as the Statutory Joint Industrial Councils in the United Kingdom); and (ii) exceptionally low wages.

5. On the basis of these two criteria, the Member State is free to decide which trades shall be regulated by minimum wage machinery, after consultation with the organisations, if any, of workers and employers in the trades concerned (article 3 of the Convention).

6. The question of excluding altogether any particular category of workers, such as young workers, employed in the trades regulated by minimum wage fixing machinery, has not so far come under the comments of the Committee of Experts on the Application of Conventions and Recommendations. The relevant provisions of Convention No. 26 as recalled above, do not envisage such possibility. In this connection, article 3, paragraph 3, of the Convention further provides that minimum rates which are fixed may not be subject to abatement by the employers and workers concerned, by

individual agreement, nor, except with authorisation of the competent authority, by collective agreement.

7. The general practice of countries in this respect is to include young workers in the minimum wage system. Most countries, however, including Western European countries having ratified Convention No. 26, such as France, the Netherlands and the United Kingdom, fix lower rates for young workers (persons under 18 years in general, in France and the United Kingdom; under 23 years in the Netherlands), a practice entirely compatible with Convention No. 26 - and also Conventions Nos. 99 and 131.

8. Under the terms of the two latter Conventions, certain categories of persons (article 1 (3) of Convention No. 99) or groups of wage earners (article 1 (3) of Convention No. 131) may be excluded from their application. However, the scope of such exclusions, as specified by the conditions attached thereto by Convention No. 99 (persons whose conditions of employment render provisions of the Convention inapplicable to them, such as members of the farmer's family employed by him) and as implied by the comprehensive scope of Convention No. 131, would not countenance the total exclusion of young workers.

9. Almost all countries in the world now operate minimum wage systems, and none to our knowledge, excludes young workers. The latter are entitled to such protection as any workers, and even more so because they are more vulnerable to possible exploitation due to their inexperience and perhaps because of their very desire to earn a living by finding a first job.

10. Within the purview of relevant ILO Conventions, it is however possible to find ways and means to alleviate problems sometimes ascribed to minimum wage fixing. If minimum rates fixed for young workers by wage councils are considered too high, there is nothing in the Conventions that would prevent lower rates being fixed. The relevant ILO Conventions do not lay down any specific level of minimum wages. Although the more recent Convention No. 131 refers to elements to be taken into consideration in determining this level, these include needs of workers and their families but also economic factors including that of employment. Also abatements for economic reasons (e.g. for undertakings in financial trouble or for depressed areas) have been accepted by the ILO supervisory bodies under relevant ILO Conventions. In a number of countries, the final decision on minimum wages is taken by the government, which may or may not accept recommendations or proposals by the minimum wage machinery. Of course, it is also possible in regard to certain trades, to suspend or abolish wage councils, if wages are considered not to be exceptionally low; such decision being subject to consultation of the workers' and employers' organisations concerned.

11. Irrespective of obligations under ILO Conventions, the exclusion of young workers from the minimum wage system in order to promote employment poses a few questions. It is not at all clear how many new jobs would be created if the wages of young workers were allowed to fall. The research carried out in the United States by the Study Commission on Minimum Wages[1] suggests that this number may not be large. Moreover, even to the extent that employment of young workers may be developed by lifting the obstacle of minimum wage rates, would that be or not at the expense of the adult unemployed ?

Annexes: Lists of ratifications of Conventions Nos. 26, 99 and 131.

---

[1] See Report of the Minimum Wage Study Commission, Washington, GP.O 1981, 7 Vol., 82A545.

CONVENTION NO: 26 ,MINIMUM WAGE-FIXING MACHINERY CONVENTION, 1928
DATE OF ENTRY INTO FORCE: 14/06/30

ANGOLA	04/06/76
ARGENTINA	14/03/50
AUSTRALIA	09/03/31
AUSTRIA	15/03/74
BAHAMAS	25/05/76
BARBADOS	08/05/67
BELGIUM	11/08/37
BENIN	12/12/60
BOLIVIA	19/07/54
BRAZIL	25/04/57
BULGARIA	04/06/35
BURMA	21/05/54
BURUNDI	11/03/63
CAMEROON, UNITED REPUBLIC OF	07/06/60
CANADA	25/04/35
CENTRAL AFRICAN REPUBLIC	27/10/60
CHAD	10/11/60
CHILE	31/05/33
CHINA	05/05/30
COLOMBIA	20/06/33
COMOROS	23/10/78
CONGO	10/11/60
COSTA RICA	16/03/72
CUBA	24/02/36
CZECHOSLOVAKIA	12/06/50
DJIBOUTI	03/08/78
DOMINICAN REPUBLIC	05/12/56
ECUADOR	06/07/54
EGYPT	10/05/60
FIJI	19/04/74
FRANCE	18/09/30
GABON	14/10/60
GERMANY, FEDERAL REPUBLIC OF	30/05/29
GHANA	02/07/59
GRENADA	09/07/79
GUATEMALA	04/05/61
GUINEA	21/01/59
GUINEA-BISSAU	21/02/77
GUYANA	08/06/66
HUNGARY	30/07/32
INDIA	10/01/55
IRAQ	26/11/62
IRELAND	03/06/30
ITALY	09/09/30
IVORY COAST	21/11/60
JAMAICA	08/07/63
JAPAN	29/04/71
KENYA	13/01/64
LEBANON	26/07/62
LESOTHO	31/10/66
LIBYAN ARAB JAMAHIRIYA	27/05/71
LUXEMBOURG	03/03/58
MADAGASCAR	01/11/60
MALAWI	22/03/65
MALI	22/09/60
MALTA	04/01/65

CONVENTION NO: 26 ,MINIMUM WAGE-FIXING MACHINERY CONVENTION, 1928
...(CONTINUED)
DATE OF ENTRY INTO FORCE: 14/06/30

MAURITANIA	20/06/61
MAURITIUS	02/12/69
MEXICO	12/05/34
MOROCCO	14/02/58
NETHERLANDS	10/11/36
NEW ZEALAND	29/03/38
NICARAGUA	12/04/34
NIGER	27/02/61
NIGERIA	16/06/61
NORWAY	07/07/33
PANAMA	19/06/70
PAPUA NEW GUINEA	01/05/76
PARAGUAY	24/06/64
PERU	04/04/62
PORTUGAL	10/11/59
RWANDA	18/09/62
SENEGAL	04/11/60
SEYCHELLES	06/02/78
SIERRA LEONE	15/06/61
SOUTH AFRICA	28/12/32
SPAIN	08/04/30
SRI LANKA	09/06/71
ST. LUCIA	14/05/80
SUDAN	18/06/57
SWAZILAND	26/04/78
SWITZERLAND	07/05/47
SYRIAN ARAB REPUBLIC	10/05/60
TANZANIA	19/11/62
TANZANIA (TANGANYIKA)	19/11/62
TANZANIA (ZANZIBAR)	22/06/64
TOGO	07/06/60
TUNISIA	15/05/57
TURKEY	29/01/75
UGANDA	04/06/63
UNITED KINGDOM	14/06/29
UPPER VOLTA	21/11/60
URUGUAY	06/06/33
VENEZUELA	20/11/44
VIET NAM	14/06/55
ZAIRE	20/09/60
ZAMBIA	02/12/64

APR 15, 1982

CONVENTION NO: 99 ,MINIMUM WAGE FIXING MACHINERY (AGRICULTURE) CONVENTION, 1951
DATE OF ENTRY INTO FORCE: 23/08/53

ALGERIA	19/10/62
AUSTRALIA	19/06/69
AUSTRIA	29/10/53
BELGIUM	17/10/68
BRAZIL	25/04/57
CAMEROON, UNITED REPUBLIC OF	25/05/70
CENTRAL AFRICAN REPUBLIC	09/06/64
COLOMBIA	04/03/69
COMOROS	23/10/78
COSTA RICA	02/06/60
CUBA	13/01/54
CZECHOSLOVAKIA	21/01/64
DJIBOUTI	03/08/78
FRANCE	29/03/54
GABON	13/06/61
GERMANY, FEDERAL REPUBLIC OF	25/02/54
GRENADA	09/07/79
GUATEMALA	04/08/61
GUINEA	12/12/66
HUNGARY	18/06/69
IRELAND	22/06/78
ITALY	05/05/71
IVORY COAST	05/05/61
KENYA	09/02/71
MALAWI	22/03/65
MALTA	28/11/69
MAURITIUS	02/12/69
MEXICO	23/08/52
MOROCCO	14/10/60
NETHERLANDS	11/06/54
NEW ZEALAND	01/07/52
PAPUA NEW GUINEA	01/05/76
PARAGUAY	24/06/64
PERU	01/02/60
PHILIPPINES	29/12/53
POLAND	05/07/77
SENEGAL	22/10/62
SEYCHELLES	06/02/78
SIERRA LEONE	13/06/61
SPAIN	04/06/70
SRI LANKA	05/04/54
SWAZILAND	05/06/81
SYRIAN ARAB REPUBLIC	10/08/65
TUNISIA	12/01/59
TURKEY	23/06/70
UNITED KINGDOM	09/06/53
URUGUAY	18/03/54
ZAMBIA	20/06/72

APR 15, 1982

CONVENTION NO: 131 ,MINIMUM WAGE FIXING CONVENTION, 1970
DATE OF ENTRY INTO FORCE: 29/04/72

AUSTRALIA	15/06/73
BOLIVIA	31/01/77
CAMEROON, UNITED REPUBLIC OF	06/07/73
COSTA RICA	08/06/79
CUBA	05/01/72
ECUADOR	02/12/70
EGYPT	12/05/76
FRANCE	28/12/72
IRAQ	16/05/74
JAPAN	29/04/71
KENYA	09/04/79
LEBANON	01/06/77
LIBYAN ARAB JAMAHIRIYA	27/05/71
MEXICO	18/04/73
NEPAL	19/09/74
NETHERLANDS	10/10/73
NICARAGUA	01/03/76
NIGER	24/04/80
ROMANIA	28/10/75
SPAIN	30/11/71
SRI LANKA	17/03/75
SWAZILAND	05/06/81
SYRIAN ARAB REPUBLIC	18/04/72
UPPER VOLTA	21/05/74
URUGUAY	02/06/77
YEMEN	29/07/76
ZAMBIA	20/06/72

Minimum wage fixing for young persons in the United Kingdom and relevant ILO Conventions

1. The main ILO Conventions on Minimum Wages include: Convention No. 26: Minimum Wage Fixing Machinery, 1928; Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951; and Convention No. 131: Minimum Wage Fixing Convention, 1970.

2. The United Kingdom has ratified the two earlier instruments: Convention No. 26 in 1929 and Convention No. 99 in 1953. Their application in that country has not given rise to any problem drawing comments from the ILO Committee of Experts on the Application of Conventions and Recommendations, except in recent years concerning home workers covered by Convention No. 26, following information supplied in the Government's reports in 1975 on certain difficulties of observance of minimum rates for those workers.

3. A question currently being raised in some circles of the United Kingdom is whether under relevant Conventions, young workers may be excluded from minimum wage coverage; the concern being that rates fixed by wage councils may be curbing their employment opportunities. The question appears to come mainly under Convention No. 26 which deals with minimum wage fixing in industry and commerce.

4. The requirements of Convention No. 26 for the "application of minimum wage fixing machinery" (i.e. the actual fixing of wages for workers) rest on two objective criteria, as stated in its Article 1: (i) inexistence of arrangements for the effective regulation of wages for workers in the trades or parts of trades concerned by collective agreement or otherwise (e.g. by conciliation and arbitration machinery, such as the Statutory Joint Industrial Councils in the United Kingdom); and (ii) exceptionally low wages.

5. On the basis of these two criteria, the Member State is free to decide which trades shall be regulated by minimum wage machinery, after consultation with the organisations, if any, of workers and employers in the trades concerned (article 3 of the Convention).

6. The question of excluding altogether any particular category of workers, such as young workers, employed in the trades regulated by minimum wage fixing machinery, has not so far come under the comments of the Committee of Experts on the Application of Conventions and Recommendations. The relevant provisions of Convention No. 26 as recalled above, do not envisage such possibility. In this connection, article 3, paragraph 3, of the Convention further provides that minimum rates which are fixed may not be subject to abatement by the employers and workers concerned, by

individual agreement, nor, except with authorisation of the competent authority, by collective agreement.

7. The general practice of countries in this respect is to include young workers in the minimum wage system. Most countries, however, including Western European countries having ratified Convention No. 26, such as France, the Netherlands and the United Kingdom, fix lower rates for young workers (persons under 18 years in general, in France and the United Kingdom; under 23 years in the Netherlands), a practice entirely compatible with Convention No. 26 - and also Conventions Nos. 99 and 131.

8. Under the terms of the two latter Conventions, certain categories of persons (article 1 (3) of Convention No. 99) or groups of wage earners (article 1 (3) of Convention No. 131) may be excluded from their application. However, the scope of such exclusions, as specified by the conditions attached thereto by Convention No. 99 (persons whose conditions of employment render provisions of the Convention inapplicable to them, such as members of the farmer's family employed by him) and as implied by the comprehensive scope of Convention No. 131, would not countenance the total exclusion of young workers.

9. Almost all countries in the world now operate minimum wage systems, and none to our knowledge, excludes young workers. The latter are entitled to such protection as any workers, and even more so because they are more vulnerable to possible exploitation due to their inexperience and perhaps because of their very desire to earn a living by finding a first job.

10. Within the purview of relevant ILO Conventions, it is however possible to find ways and means to alleviate problems sometimes ascribed to minimum wage fixing. If minimum rates fixed for young workers by wage councils are considered too high, there is nothing in the Conventions that would prevent lower rates being fixed. The relevant ILO Conventions do not lay down any specific level of minimum wages. Although the more recent Convention No. 131 refers to elements to be taken into consideration in determining this level, these include needs of workers and their families but also economic factors including that of employment. Also, abatements for economic reasons (e.g. for undertakings in financial trouble or for depressed areas) have been accepted by the ILO supervisory bodies under relevant ILO Conventions. In a number of countries, the final decision on minimum wages is taken by the government, which may or may not accept recommendations or proposals by the minimum wage machinery. Of course, it is also possible in regard to certain trades, to suspend or abolish wage councils, if wages are considered not to be exceptionally low; such decision being subject to consultation of the workers' and employers' organisations concerned.

11. Irrespective of obligations under ILO Conventions, the exclusion of young workers from the minimum wage system in order to promote employment poses a few questions. It is not at all clear how many new jobs would be created if the wages of young workers were allowed to fall. The research carried out in the United States by the Study Commission on Minimum Wages[1] suggests that this number may not be large. Moreover, even to the extent that employment of young workers may be developed by lifting the obstacle of minimum wage rates, would that be or not at the expense of the adult unemployed ?

Annexes: Lists of ratifications of Conventions Nos. 26, 99 and 131.

---

1 See Report of the Minimum Wage Study Commission, Washington, GP.O 1981, 7 Vol., 82A545.

Ind Pol

Mr Bates
for action as
discussed.
Pl. draft ack. thro.
cm
31/8

INTERNATIONAL LABOUR OFFICE
GENEVA

THE DIRECTOR-GENERAL

27 August 1982

Dear Mr. Ambassador,

As you will no doubt recall, I had a brief discussion with Prime Minister Margaret Thatcher on the question of ILO Conventions on minimum wage-fixing during the dinner that you hosted in her honour on 11 August.

Mrs. Thatcher mentioned some of the difficulties being encountered in the employment of young persons in view of the minimum wage machinery. It was agreed that I would have a brief memorandum prepared to set out the requirements of the ILO Conventions on Minimum Wages as there was an impression in some circles that they were very restrictive.

I now have pleasure in enclosing the memorandum and hope that it will throw light on the requirements of ILO Conventions No. 26 and No. 99. I should be glad to supply any further information or explanations that the Government might wish.

With kind regards,

Yours sincerely,

Francis Blanchard

H.E. Mr. Peter Marshall, CMG,
Ambassador,
Permanent Mission of the United Kingdom,
37-39, rue de Vermont,
1211 GENEVA 20

Minimum wage fixing for young persons in the United Kingdom and relevant ILO Conventions

1. The main ILO Conventions on Minimum Wages include: Convention No. 26: Minimum Wage Fixing Machinery, 1928; Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951; and Convention No. 131: Minimum Wage Fixing Convention, 1970.

2. The United Kingdom has ratified the two earlier instruments: Convention No. 26 in 1929 and Convention No. 99 in 1953. Their application in that country has not given rise to any problem drawing comments from the ILO Committee of Experts on the Application of Conventions and Recommendations, except in recent years concerning home workers covered by Convention No. 26, following information supplied in the Government's reports in 1975 on certain difficulties of observance of minimum rates for those workers.

3. A question currently being raised in some circles of the United Kingdom is whether under relevant Conventions, young workers may be excluded from minimum wage coverage; the concern being that rates fixed by wage councils may be curbing their employment opportunities. The question appears to come mainly under Convention No. 26 which deals with minimum wage fixing in industry and commerce.

4. The requirements of Convention No. 26 for the "application of minimum wage fixing machinery" (i.e. the actual fixing of wages for workers) rest on two objective criteria, as stated in its Article 1: (i) inexistence of arrangements for the effective regulation of wages for workers in the trades or parts of trades concerned by collective agreement or otherwise (e.g. by conciliation and arbitration machinery, such as the Statutory Joint Industrial Councils in the United Kingdom); and (ii) exceptionally low wages.

5. On the basis of these two criteria, the Member State is free to decide which trades shall be regulated by minimum wage machinery, after consultation with the organisations, if any, of workers and employers in the trades concerned (article 3 of the Convention).

6. The question of excluding altogether any particular category of workers, such as young workers, employed in the trades regulated by minimum wage fixing machinery, has not so far come under the comments of the Committee of Experts on the Application of Conventions and Recommendations. The relevant provisions of Convention No. 26 as recalled above, do not envisage such possibility. In this connection, article 3, paragraph 3, of the Convention further provides that minimum rates which are fixed may not be subject to abatement by the employers and workers concerned, by

individual agreement, nor, except with authorisation of the competent authority, by collective agreement.

7. The general practice of countries in this respect is to include young workers in the minimum wage system. Most countries, however, including Western European countries having ratified Convention No. 26, such as France, the Netherlands and the United Kingdom, fix lower rates for young workers (persons under 18 years in general, in France and the United Kingdom; under 23 years in the Netherlands), a practice entirely compatible with Convention No. 26 - and also Conventions Nos. 99 and 131.

8. Under the terms of the two latter Conventions, certain categories of persons (article 1 (3) of Convention No. 99) or groups of wage earners (article 1 (3) of Convention No. 131) may be excluded from their application. However, the scope of such exclusions, as specified by the conditions attached thereto by Convention No. 99 (persons whose conditions of employment render provisions of the Convention inapplicable to them, such as members of the farmer's family employed by him) and as implied by the comprehensive scope of Convention No. 131, would not countenance the total exclusion of young workers.

9. Almost all countries in the world now operate minimum wage systems, and none to our knowledge, excludes young workers. The latter are entitled to such protection as any workers, and even more so because they are more vulnerable to possible exploitation due to their inexperience and perhaps because of their very desire to earn a living by finding a first job.

10. Within the purview of relevant ILO Conventions, it is however possible to find ways and means to alleviate problems sometimes ascribed to minimum wage fixing. If minimum rates fixed for young workers by wage councils are considered too high, there is nothing in the Conventions that would prevent lower rates being fixed. The relevant ILO Conventions do not lay down any specific level of minimum wages. Although the more recent Convention No. 131 refers to elements to be taken into consideration in determining this level, these include needs of workers and their families but also economic factors including that of employment. Also abatements for economic reasons (e.g. for undertakings in financial trouble or for depressed areas) have been accepted by the ILO supervisory bodies under relevant ILO Conventions. In a number of countries, the final decision on minimum wages is taken by the government, which may or may not accept recommendations or proposals by the minimum wage machinery. Of course, it is also possible in regard to certain trades, to suspend or abolish wage councils, if wages are considered not to be exceptionally low; such decision being subject to consultation of the workers' and employers' organisations concerned.

11. Irrespective of obligations under ILO Conventions, the exclusion of young workers from the minimum wage system in order to promote employment poses a few questions. It is not at all clear how many new jobs would be created if the wages of young workers were allowed to fall. The research carried out in the United States by the Study Commission on Minimum Wages[1] suggests that this number may not be large. Moreover, even to the extent that employment of young workers may be developed by lifting the obstacle of minimum wage rates, would that be or not at the expense of the adult unemployed ?

Annexes: Lists of ratifications of Conventions Nos. 26, 99 and 131.

---

[1] See Report of the Minimum Wage Study Commission, Washington, GP.O 1981, 7 Vol., 82A545.

APR 15, 1982

CONVENTION NO: 26 ,MINIMUM WAGE-FIXING MACHINERY CONVENTION, 1928
DATE OF ENTRY INTO FORCE: 14/06/30

ANGOLA	04/06/76
ARGENTINA	14/03/50
AUSTRALIA	09/03/31
AUSTRIA	15/03/74
BAHAMAS	25/05/76
BARBADOS	08/05/67
BELGIUM	11/08/37
BENIN	12/12/60
BOLIVIA	19/07/54
BRAZIL	25/04/57
BULGARIA	04/06/35
BURMA	21/05/54
BURUNDI	11/03/63
CAMEROON, UNITED REPUBLIC OF	07/06/60
CANADA	25/04/35
CENTRAL AFRICAN REPUBLIC	27/10/60
CHAD	10/11/60
CHILE	31/05/33
CHINA	05/05/30
COLOMBIA	20/06/33
COMOROS	23/10/78
CONGO	10/11/60
COSTA RICA	16/03/72
CUBA	24/02/36
CZECHOSLOVAKIA	12/06/50
DJIBOUTI	03/08/78
DOMINICAN REPUBLIC	05/12/56
ECUADOR	06/07/54
EGYPT	10/05/60
FIJI	19/04/74
FRANCE	18/09/30
GABON	14/10/60
GERMANY, FEDERAL REPUBLIC OF	30/05/29
GHANA	02/07/59
GRENADA	09/07/79
GUATEMALA	04/05/61
GUINEA	21/01/59
GUINEA-BISSAU	21/02/77
GUYANA	08/06/66
HUNGARY	30/07/32
INDIA	10/01/55
IRAQ	26/11/62
IRELAND	03/06/30
ITALY	09/09/30
IVORY COAST	21/11/60
JAMAICA	08/07/63
JAPAN	29/04/71
KENYA	13/01/64
LEBANON	26/07/62
LESOTHO	31/10/66
LIBYAN ARAB JAMAHIRIYA	27/05/71
LUXEMBOURG	03/03/58
MADAGASCAR	01/11/60
MALAWI	22/03/65
MALI	22/09/60
MALTA	04/01/65

CONVENTION NO: 26 ,MINIMUM WAGE-FIXING MACHINERY CONVENTION, 1928
...(CONTINUED)
DATE OF ENTRY INTO FORCE: 14/06/30

MAURITANIA	20/06/61
MAURITIUS	02/12/69
MEXICO	12/05/34
MOROCCO	14/03/58
NETHERLANDS	10/11/36
NEW ZEALAND	29/03/38
NICARAGUA	12/04/34
NIGER	27/02/61
NIGERIA	16/06/61
NORWAY	07/07/33
PANAMA	19/06/70
PAPUA NEW GUINEA	01/05/76
PARAGUAY	24/06/64
PERU	04/04/62
PORTUGAL	10/11/59
RWANDA	18/09/62
SENEGAL	04/11/60
SEYCHELLES	06/02/78
SIERRA LEONE	15/06/61
SOUTH AFRICA	28/12/32
SPAIN	08/04/30
SRI LANKA	09/06/71
ST. LUCIA	14/05/80
SUDAN	18/06/57
SWAZILAND	26/04/78
SWITZERLAND	07/05/47
SYRIAN ARAB REPUBLIC	10/05/60
TANZANIA	19/11/62
TANZANIA (TANGANYIKA)	19/11/62
TANZANIA (ZANZIBAR)	22/06/64
TOGO	07/06/60
TUNISIA	15/05/57
TURKEY	29/01/75
UGANDA	04/06/63
UNITED KINGDOM	14/06/29
UPPER VOLTA	21/11/60
URUGUAY	06/06/33
VENEZUELA	20/11/44
VIET NAM	14/06/55
ZAIRE	20/09/60
ZAMBIA	02/12/64

APR 15, 1982

CONVENTION NO: 99 ,MINIMUM WAGE FIXING MACHINERY (AGRICULTURE) CONVENTION, 1951
DATE OF ENTRY INTO FORCE: 23/08/53

ALGERIA	19/10/62
AUSTRALIA	19/06/69
AUSTRIA	29/10/53
BELGIUM	17/10/68
BRAZIL	25/04/57
CAMEROON, UNITED REPUBLIC OF	25/05/70
CENTRAL AFRICAN REPUBLIC	09/06/64
COLOMBIA	04/03/69
COMOROS	23/10/78
COSTA RICA	02/06/60
CUBA	13/01/54
CZECHOSLOVAKIA	21/01/64
DJIBOUTI	03/08/78
FRANCE	29/03/54
GABON	13/06/61
GERMANY, FEDERAL REPUBLIC OF	25/02/54
GRENADA	09/07/79
GUATEMALA	04/08/61
GUINEA	12/12/66
HUNGARY	18/06/69
IRELAND	22/06/78
ITALY	05/05/71
IVORY COAST	05/05/61
KENYA	09/02/71
MALAWI	22/03/65
MALTA	28/11/69
MAURITIUS	02/12/69
MEXICO	23/08/52
MOROCCO	14/10/60
NETHERLANDS	11/06/54
NEW ZEALAND	01/07/52
PAPUA NEW GUINEA	01/05/76
PARAGUAY	24/06/64
PERU	01/02/60
PHILIPPINES	29/12/53
POLAND	05/07/77
SENEGAL	22/10/62
SEYCHELLES	06/02/78
SIERRA LEONE	13/06/61
SPAIN	04/06/70
SRI LANKA	05/04/54
SWAZILAND	05/06/81
SYRIAN ARAB REPUBLIC	10/08/65
TUNISIA	12/01/59
TURKEY	23/06/70
UNITED KINGDOM	09/06/53
URUGUAY	18/03/54
ZAMBIA	20/06/72

APR 15, 1982

CONVENTION NO: 131 ,MINIMUM WAGE FIXING CONVENTION, 1970
DATE OF ENTRY INTO FORCE: 29/04/72

AUSTRALIA	15/06/73
BOLIVIA	31/01/77
CAMEROON, UNITED REPUBLIC OF	06/07/73
COSTA RICA	08/06/79
CUBA	05/01/72
ECUADOR	02/12/70
EGYPT	12/05/76
FRANCE	28/12/72
IRAQ	16/05/74
JAPAN	29/04/71
KENYA	09/04/79
LEBANON	01/06/77
LIBYAN ARAB JAMAHIRIYA	27/05/71
MEXICO	18/04/73
NEPAL	19/09/74
NETHERLANDS	10/10/73
NICARAGUA	01/03/76
NIGER	24/04/80
ROMANIA	28/10/75
SPAIN	30/11/71
SRI LANKA	17/03/75
SWAZILAND	05/06/81
SYRIAN ARAB REPUBLIC	18/04/72
UPPER VOLTA	21/05/74
URUGUAY	02/06/77
YEMEN	29/07/76
ZAMBIA	20/06/72

CONFIDENTIAL

To Jon Cooper Councils file
Attachment with fm.

United Kingdom Mission
37-39 rue de Vermont 1211 Geneva 20
Telex 22956 Telegrams Prodrome Geneva
Telephone 34 38 00 33 23 85

W F S Rickett Esq
Private Secretary
No 10 Downing Street
London SW1

Your reference

Our reference GUN 211/2

Date 27 August 1982

Dear Rickett,

MINIMUM WAGES FOR YOUNG PEOPLE

1. You telephoned on 26 August to enquire about the note which Francis Blanchard, Director-General of the ILO, promised to prepare for the Prime Minister on the evening of 11 August.

2. I enclose a minute by Nicholas Bates of 27 August, with an advance copy of Blanchard's note, of which we expect to receive the final version in the next few days. Bates has copied his minute and the enclosure to the Department of Employment and the Foreign and Commonwealth Office. When we receive the final version of the Blanchard note I propose to send it to John Garcia in the Department of Employment with a short covering note copied to the FCO, sending blind copies of both to you. I presume it is for the Department of Employment to submit the Blanchard note through you to the Prime Minister.

Yours sincerely
Christopher Long

C W Long

CONFIDENTIAL

Reference .....

H of C letter on 27/8

cc Mrs G Tucker, UND, FCO) with copies
J L B Garcia Esq, International Dept,) of ILO
OLA, FCO) note

CONVENTION 26 AND WAGES COUNCILS

1. You asked me to chase up the ILO over the memorandum which Mr Blanchard promised to prepare for the Prime Minister. I have now been given an unofficial advance copy (attached). The official version will be sent to us on Monday 30 August with a covering letter from the Director General to HE. On past form, I would not expect there to be any changes in the final version of the document, but we cannot be 100 % sure till we see it.

2. I have the following comments:

i. one can fix lower rates for young workers, a practice compatible with Convention 26 (paragraph 7); but

ii. it remains unclear whether one can exclude young people completely from the minimum wage-fixing machinery, the Convention not having envisaged such a possibility (paragraph 6);

iii. ratification of Convention 26 is widespread (95 countries) and the adoption of minimum wage systems almost universal (paragraph 9). I am sure many countries do not apply Conventions as strictly as we do. But I doubt if that could justify our taking a more casual attitude to them;

iv. the last sentence of paragraph 10 lacks precision. What objective measure is there whether wages "are considered not be exceptionally low"?

3. We shall need a detailed analysis from our legal and labour experts as quickly as possible. For that reason I am copying this minute and the advance copy of the paper as indicated. Mrs Tucker may wish to show it to FCO Legal Advisers.

N H Bates

27 August 1982

Ind Pol
Wages Council.

PERSONAL AND CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

25 August 1982

At the extremely good dinner you gave for the Prime Minister, she spent some time talking to Francis Blanchard, Director General of the ILO. She tells me that they discussed the question of our obligations under International Labour Convention 26, and that she said she understood these prevented our excluding from the wages council system such categories as young people, part-time workers, or small firms. Apparently, M. Blanchard said that in his view Convention 26 did not restrict our freedom of manoeuvre in this way, and offered to send her a note giving his reasons.

While the Prime Minister does not want to be seen to be chasing M. Blanchard. this is a subject of political importance, and I know she would welcome his advice before she leaves for the Far East on 16 September.

WR.

His Excellency Mr. P.H.R. Marshall, C.M.G.

PERSONAL AND CONFIDENTIAL

CONFIDENTIAL

File

cc: Ind Pol MFJ
E Gfee
LPO
CO

10 DOWNING STREET

From the Private Secretary

22 July 1982

Dear Barnaby,

Fair Wages Resolution

The Prime Minister was grateful for your Secretary of State's minute of 21 July to which was attached a draft Written Question and Answer on the future of the Fair Wages Resolution.

The Prime Minister is content for your Secretary of State to answer an arranged Question in these terms. I understand that it is now proposed that this should be done on Tuesday 27 July.

I am sending copies of this letter to the Private Secretaries to the other members of E Committee and to David Heyhoe (Lord President's Office) and David Wright (Cabinet Office).

Yours sincerely,

Michael Scholar

Barnaby Shaw Esq
Department of Employment

CONFIDENTIAL

DES

CONFIDENTIAL

cc JV

Prime Minister (1)

Agree to this announcement, by written answer, on Tuesday?

Yes MT MLS 21/1

PRIME MINISTER

FAIR WAGES RESOLUTION

PT 1

As agreed in 'E' Committee on 26 January I have consulted interested parties on the Government's proposal to set aside the Fair Wages Resolution and denounce the related ILO Convention (Number 94).

The consultative exercise drew a response much on the lines we had anticipated. Some large employer organisations most affected by the Resolution, for example the Engineering Employers' Federation and British Shipbuilders, urged abolition - a view shared by amongst others the Institute of Directors and the British Institute of Management. The CBI, however, was divided over this issue. Many of its members favoured repeal, but many also favoured retention of the FWR, perhaps in a modified form. There is nothing surprising about the CBI position which is similar to that they adopted on Schedule 11 of the Employment Protection Act, which we nevertheless repealed for identical reasons. The TUC naturally expressed strong opposition to any move to abolish the FWR and will doubtless carry their opposition into the ILO. I have no doubt that the TUC and the Opposition in Parliament will seek to make the most of the CBI's lack of clear support for what we propose.

It would be possible as a compromise, to seek to modify the Resolution to reduce some of its harmful effects. But we have already agreed that the only sensible options are to abolish it or leave it alone. To retain the Resolution in any form would be inconsistent with our general approach to pay, to unilateral access to arbitration and to allowing people to price themselves into jobs.

I therefore propose to tell the House, before the recess, of our intention to put before them in the Autumn a motion to rescind the Fair Wages Resolution, and to take steps to denounce the related International Labour Convention 94 at the earliest opportunity (ie late September).

You may recall that four acts - namely the Housing Act 1957, the Films Act 1960, the Public Passenger Vehicles Act 1981 and the Independent Broadcasting Act 1973 - refer to the FWR. They do so in a way which means that the effect of the provisions would fall if the House was to rescind the FWR. Nevertheless colleagues responsible for these Acts may wish to consider repealing the relevant provisions when a convenient opportunity arises. In that way we would prevent them being automatically reactivated if a future House of Commons passed a new FWR.

Tuesday Nov 27

I propose announcing our intentions to the House by means of the attached answer to an arranged question on ~~28~~ July. There is no need for us to provide time for debate on the issue until the motion is tabled in the Autumn. By that time we should have notified the ILO of our denunciation of Convention 94 to take effect from September 1983; but the House will still be free to take its decision on the FWR.

MCS

I am copying this to the other members of 'E' Committee, the Leader of the House and Sir Robert Armstrong.

NT

NT

21 July 1982

DRAFT FOR ARRANGED PQ AND ANSWER

Question

To ask the Secretary of State for Employment if he is yet in a position to make a statement on the future of the Fair Wages Resolution.

Suggested reply

Following the consultations of which I told the House on 26 May, the Government has decided that after the recess we shall invite the House to rescind the Fair Wages Resolution. The Government will at the appropriate time notify the International Labour Office of the United Kingdom's intention to denounce International Labour Convention number 94, which concerns labour clauses in public contracts.

CONFIDENTIAL

cc Mr. Mount
Mr. Vereker
Mr. Smith
Mr. Sparrow

MR. SCHOLAR

WAGES COUNCILS

1. John Sparrow's memorandum of 14 July suggests that CPRS might collate and set out the arguments on timing and tactics for the eventual abolition of Wages Councils. He argues that most colleagues accepted the principle of abolition, but there were questions on the timing.

2. I suspect that it will always be found that the timing is not quite right. Everyone will agree that economically they are either bad or otiose. But politically they offer an inviting stage on which a politician can display prominently his social conscience.

3. I believe the only practical thing we can do is to reduce the inspectorate. This can be put forward on good economy grounds; it is certainly consistent with our plans for cutting public expenditure and particularly public expenditure that is inimical to industrial growth.

4. I would suggest therefore that we should not waste the very valuable resources of CPRS on developing a contingency plan for Wages Councils. We should just cut the inspectorate.

15 July 1982

ALAN WALTERS

CONFIDENTIAL

010

CF/PA

No lethal Committee would take such a decision now

c/c SV AW

(1)

Prime Minister

CONFIDENTIAL

Qa 05985

To: PRIME MINISTER

From: JOHN SPARROW

14 July 1982

Wages Councils

1. The discussion at E Committee today was inconclusive, but it seemed to me to offer hope for at least partial progress.

2. The opposition to the principle of abolition, though eloquent, was numerically small. The real division, in the minds of most of those present, was on the question of timing.

3. In these circumstances, I wonder if it might not be possible at an early date to establish that the accepted strategy is to abolish the Wages Councils and, with that point clarified, either to move on immediately to a further discussion of the tactics and timing or to invite further thought purely on the tactical side, with a view to returning to the subject later.

4. If this course appeals to you and you would like further work from the CPRS, we could perhaps attempt to collate and set out the arguments on timing and tactics - although you may feel that some at least of the considerations are political and therefore more for Ministers.

5. I have sent a copy of this minute to Sir Robert Armstrong.

JS.

CONFIDENTIAL

ToW MrSparrow No need to write. MES 23/7

If you could secure another E discussion, a CPRS paper starting from the position that there is agreement on the principle of abolition would provide a good starting-point. Agree to their doing such a paper.

MES 14/7

Ind Pol

CONFIDENTIAL

P.0807

PRIME MINISTER

Wages Councils

E(82)47, 48 and 56

BACKGROUND

FLAG A

At its meeting on 26 January (E(82)2nd Meeting, Item 1) the Ministerial Committee on Economic Strategy asked the Secretary of State for Employment, in consultation with the other Ministers concerned, to investigate the possibility of changing the wages council system by excluding young people or part-timers from the scope of the councils, and to consider the possible implications for the Agricultural Wages Boards of any change.

2. The Attorney General advised that these changes would not be compatible with the United Kingdom's obligations under International Labour Convention 26, which requires the creation or maintenance of machinery

> 'whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades .... in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low'.

The Attorney General considers that the exclusion of particular trades would be consistent with the Convention, so long as the conditions in it were satisfied, but not exclusion of such categories as young people or part-time workers. The same applies to the exclusion of small firms,

FLAG B ——— suggested by the Secretary of State for Industry in a letter of 16 February. It will be possible for the Government to denounce the Convention in the summer of 1985 but not earlier.

3. Abolition or significant modification of the system of wages councils would entail legislation to amend or repeal the Wages Councils Act 1979. That Act would, however, permit individual councils to be abolished if there is adequate alternative machinery for determining the pay of the

workers concerned, and reasonable standards of remuneration are maintained. The Secretary of State for Employment would have to give notice of his intention to abolish a council. If objections are raised, the proposal must be referred to the Advisory, Conciliation and Arbitration Service for investigation.

4. The Agricultural Wages Boards are constituted in much the same way as wages councils and carry out similar functions. They are set up under different legislation, and are the subject of different international obligations. However, decisions on wages councils could have implications for them.

5. In May, the Secretary of State for Employment circulated his memorandum E(82)47, putting forward two courses for consideration.

Option 1: Legislation to impose a statutory obligation on wages councils to take account of employers' capacity to pay and the implications for employment. Such an obligation would probably be unenforceable in the courts, but might have a useful declaratory affect.

Option 2: To move cautiously towards abolition of the two councils dealing with retail distribution, first taking informal soundings of employers.

6. The Central Policy Review Staff also circulated a note (E(82)48) discussing the options and the general strategy which Ministers might adopt towards the wages council system, and suggesting two additional options for consideration.

Option 3: As Option 1, but with the addition of a dispute procedure whereby an independent arbitrator would assess the effects of proposed minimum rates on employment.

Option 4: A declaration of intent to abolish the system when international obligations permitted.

7. Consideration of these papers in E Committee was held over while you discussed the issues bilaterally with the Secretary of State for Employment, taking account of notes by Mr Alan Walters (Mr Scholar's letters of 26 May and 4 June). Following this, the Secretary of State circulated a further memorandum (E(82)56), in which he appears to resile from Option 1, but proposes to extend Option 2 to cover two further Wages Councils.

FLAG C
FLAG D.

8. Other Ministers have also contributed to the correspondence.

FLAG E.
FLAG F

i. The Minister of Agriculture, Fisheries and Food, in letters of 19 April and 24 May, favours Option 1, and suggests a cautious approach to the abolition of the retail distribution councils; but he suggests that companies with satisfactory wage bargaining arrangements might be excluded from their scope.

FLAG G.

ii. The minute of 30 April from the Secretary of State for Northern Ireland suggests that there would be political dangers in appearing to be taking too stern a line on low pay; and

FLAG H.

iii. The letter of 11 May from the Secretary of State for Industry suggests that more people with experience of running small firms should be appointed as independent members of wages councils.

9. You will be aware that the subject has been considered by Ministers collectively on a good many occasions. A list of Ministerial committee meetings, and a brief outline of the main courses of action considered, is annexed to this brief.

MAIN ISSUES

10. The following main issues appear to arise:

(i) What is the Government's strategy towards wages councils: changes in detail; or complete abolition when international

obligations allow? ('changes in detail' might mean either reforming the system - as in Option 1 and 3 - or reducing its scope - as in Option 2).

(ii) Within that strategy, what action, if any, should be taken in the short term?

It may also be necessary to consider:

(iii) What are the implications of any decision on wages councils for the Agricultural Wages Boards?

Strategy

11. Ministers collectively have attached a good deal of weight to the argument outlined in paragraph 6 of E(82)48: either wages councils have an effect on wages (in which case, they are damaging) or they do not (in which case, they are useless). On the other hand, they have been aware of possible political difficulties. First, there may be criticism to the effect that the Government is not concerned about low pay. Secondly, there is the argument advanced by the Secretary of State for Northern Ireland that the Government should not fight on too many fronts at once: the implication is presumably that the Government should at least wait, for example, until the Young Workers Scheme has established itself. This second line of argument, however, would be less relevant to a decision that the Government's aim should be to denounce International Labour Convention 26 in 1985.

12. A decision that the Government's ultimate aim should be abolition of the wages council system would not entail that nothing should be done in the interim to change it. But certain types of change could make eventual abolition more difficult. In particular, if the Government were to legislate in either the 1982-83 or the 1983-84 Session of Parliament (though no provision has been made for such legislation in the 1982-83 legislative programme), it might find it hard to defend the legislation as a mere stop-gap pending abolition after only two or three more years.

Immediate Action

13. You will probably wish to examine the various options that have been suggested:

Option 1 (Obligation to take account of ability to pay and employment effects):

This requires legislation and would probably have little practical effect. But it might be useful in restating the Government's general philosophy on pay matters. Does this make it worth undertaking, either as an interim measure pending abolition or as a more lasting reform?

Option 2 (Abolition of two retail councils and two small ones):

Abolition of particular councils, if it can be justified by the criteria laid down under the existing system, would not obviously prejudice either reform or abolition of the system. It might indeed help pave the way for abolition, since it would reduce the coverage of the councils and allow the Government to argue that the system had outlived its usefulness. But it is not certain that the requirements of the existing legislation can be fulfilled. There is also a risk that the informal discussions with employers envisaged by the Secretary of State for Employment could leak. It might then be difficult for the Government to withdraw, even if the prospects for success looked poor.

Option 3 (As 1, with independent arbitrator):

This would accord well with the Government's views on the labour market. But it would be complicated (the Committee rejected a rather similar proposal on these grounds at its meeting on 26 January); and it would be hard to justify setting up such a system if the ultimate aim were abolition.

Option 4 (Declaration of intent to abolish system in 1985):

This would probably be welcome to the Government's supporters. But your colleagues may be unwilling to commit themselves so far ahead. The effects on the wages councils themselves would also need to be considered. On the one hand, as the CPRS suggests, it could have a useful impact on expectations; on the other, institutions under sentence of death do not always behave responsibly.

Other Options

14. Some members of the Committee may consider that other options should be examined. As the annex to this brief shows, there has already been a

pretty full study, and you may not wish to prolong it. You may, however, wish to explore whether more could be done on appointments to the councils.

Agricultural Wages Boards

15. Depending on the course of the discussion, it may be unnecessary to consider this aspect. But if the Committee is disposed to favour significant modification of the wages council system, you will wish to ensure that the possible implications for the Agricultural Wages Boards are considered. It may be necessary for the Agriculture Ministers to be invited to submit advice to the Committee before final decisions are taken.

HANDLING

16. You will wish to ask the Secretary of State for Employment and Mr Sparrow to introduce their papers. The Minister of Agriculture, Fisheries and Food and the Secretary of State for Trade will have views, as the sponsoring Ministers, on the proposal to move towards abolition of particular councils. The Chancellor of the Exchequer will have views on the wages council system as it affects the labour market. Any questions on the Agricultural Wages Boards would be mainly for the Minister of Agriculture, Fisheries and Food and the Secretary of State for Scotland (who may also have views on the proposal to abolish the Flax and Hemp Council, since its main coverage is in Scotland).

CONCLUSIONS

17. You will wish the Committee to reach conclusions on the following:

(i) Is the Government's strategy towards the wages council system to be reform or abolition (when international obligations and legislative constraints permit)?

(ii) What, if anything, should the Government do in the short-term:

(a) legislate to impose a statutory requirement to take account of employers' ability to pay and effects on employment?

(b) take soundings of employers with a view to moving towards abolition of particular councils?

(c) legislate to couple (a) above with an arbitration procedure taking account of the effects of a prospective wages council award on employment?

(d) a declaration of intent to abolish wages councils when international obligations permit?

(e) any alternative, such as appointing members more likely to be sympathetic to the policy considerations which the Government regards as important?

(iii) If none of these courses finds favour, should Ministers -

(a) agree to let matters rest until the time comes to decide whether or not to denounce International Labour Convention 26?

(b) ask officials to study further options?

(iv) Depending on the answers to (i) to (iii) above, are there any implications for the Agricultural Wages Board system which require either to be decided at the meeting, or to be the subject of further consideration by the Committee?

PLG

P L GREGSON
Cabinet Office.
13 July, 1982

Previous consideration of possible action on Wages Councils.

Ministers have considered possible action to abolish wages councils, to reform them or to reduce their scope, on several occasions in the past. (E(EA)(80)9th and 21st Meetings; E(81)8th and 14th Meeting; and E(82)2nd Meeting). A wide variety of approaches, in addition to those considered in E(82)47 and 48 has been considered and rejected, at least as short-term possibilities. A brief summary of the approaches and the arguments relevant to them which appear to have weighed with Ministers is given below.

Complete Abolition

2. It would be in accordance with the Government's general political philosophy and its wish to reduce rigidities in the labour market to abolish the system of wages councils. On the other hand, it would arouse wide-spread criticism, not only from trade unions and the 'poverty lobby', but also from some employers, who would fear an extension of trade union influence. Perhaps most importantly, abolition of the wages councils without replacing them by some alternative mechanism (such as a statutory national minimum wage) would be contrary to our international obligations. The relevant International Labour Convention cannot be denounced until the summer of 1985.

Remove the power of Wages Councils to make Statutory Orders

3. It has been suggested that the Government should promote legislation to deprive wages councils of their power to make statutory - and therefore legally binding - orders. They would then have power only to make recommendations about wage rates, which employers would be free to accept or ignore. In substance, this is effectively the same as abolition; and much the same arguments apply.

4. A variation of this approach was suggested by the CPRS in E(82)3. Statutory powers would be removed from wages councils; but a body such as the Central Arbitration Committee could be given a power to issue a wage-fixing order against an employer found guilty of exploiting workers by using collusion or monopsony powers. This appears to have been regarded by Ministers as too

complicated. It is also not clear that it would be compatible with international obligations.

Remove one or more of the categories of young people; part-timers; and employees of small firms from the scope of Wages Councils.

5. Ministers have been particularly exercised over the possibility that wages councils, by pushing up the wages of young people as a proportion of adult wages, have worsened the problem of youth unemployment. They have also felt that the wages of part-time employees, employees in small firms and, to a lesser extent, young people are particular unsuitable for determination by industry-wide institutions, which of necessity can take little account of individual circumstances. On the other hand, it has been argued that at least some of the categories considered are especially in need of protection; that the evidence that wages councils affect wage differentials is inconclusive; and that, in the particular case of part-time workers, most of whom are women, the Government might be accused both domestically and in Community institutions of discrimination against women. Again, however, the decisive argument may again be our international obligations: see the relevant passage of the main brief.

Limit increases in the rates payable to young people

FLAG N —

6. The Secretary of State for Employment proposed in E(81)127 that he should take powers enabling him to prevent wages councils from increasing statutory minimum rates for young people if the increase would leave them above a given percentage of the relevant adult rate. The percentage would be specified from time to time by Order. Ministers collectively saw serious practical disadvantages in this course: it would draw the Government into detailed consideration of the appropriate percentage of the relevant market rate; and some wages councils might respond, not by holding down the minimum rates payable to young people, but by increasing the rates payable to adults.

CONFIDENTIAL

JP

bc JW JV

10 DOWNING STREET

From the Private Secretary

5 July 1982

D

WAGES COUNCILS

Thank you for your letter of 28 June, to which you attached a draft paper on Wages Councils for E Committee.

As I told you on the telephone this morning, the Prime Minister is content with this paper. You have agreed to make three changes to the text: the insertion of "comprehensively" before "the wages council" in paragraph 2; of "as a whole" after "system" in line two of paragraph 2; and "which would offset some of the political benefits" after "internationally" in line six of paragraph 2.

Miss Marie Fahey,
Department of Employment.

CONFIDENTIAL

cc Mr. Mount
Mr. Smith
Mr. Vereker

(1)

MR. SHCOLAR

Prime Minister

Agree Mr Tebbit's paper (attached) subject to changes on these lines?

MCS 2/7

WAGES COUNCILS: DRAFT PAPER FOR E COMMITTEE

1. I think the substance of the Secretary of State's draft is consistent with the conclusions of our meeting on 17 June. I am perturbed, however, about the tone. It has the dull ring of defeatism. I would suggest that to make the tone less defeatist we should introduce in para 2 the following amendments (in square brackets):

Try - but I don't think it will work & I'm not sure.

> "I think it is now common ground that we could sweep away [comprehensively] the wages council system [as a whole] before denouncing International Labour Convention 26 only at the price of being held in breach of our treaty obligations. Although there are of course no effective sanctions available against us there would be some political cost here and internaitonally [which would offset some of the political benefits]. The Attorney General has also advised that we cannot cut out across-the-board categories such as young people, part-time workers or small firms. But it will be open to us to denounce the Convention and repeal the Wages Council Act 1979 in 1985/86."

2. In his para 5, the Secretary of State says he will informally sound out leading retailers, to discover their views about tackling the Councils in this way. As I recollect, he thought that it was important to have the leading retailers on our side. I think both the Prime Minister and I thought that if the leading retailers were strongly in favour of retaining Wages Councils, this was a good reason for abolishing them, not retaining them. Indeed, I should have thought that the support of leading retailers might be somewhat embarrassing. If it leaked out, it could be represented as a ganging up of the bosses of big business and the Tory Government against the workers. It is therefore important to keep it very discreet and to make sure the retailers and the Department do not leak.

/3. It is worth

CONFIDENTIAL

3. It is worth noting that under the Secretary of State's interpretation of the Employment Protection Act 1975, ACAS cannot be instructed to report by a specified date. This means that in principle ACAS could string out the enquiry as long as they wish. Then ACAS, not the Secretary of State, would determine which, if any, Wages Councils were to be abolished. This is clearly an absurd situation.

30 June 1982

ALAN WALTERS

CONFIDENTIAL

cc IV
AW

Caxton House Tothill Street London SW1H 9NA F

Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

Michael Scholar Esq
Private Secretary
10 Downing Street
LONDON SW1

28 June 1982

Dear Michael

... Further to your letter of 18 June to Barnaby Shaw, I am enclosing a draft paper on Wages Councils which is provisionally down for discussion at E Committee on 14 July.

Mr Tebbit recalls that the Prime Minister expressly asked to see this before it was circulated. No doubt you will let me know whether she is content.

Yours sincerely
Mary Fahey

MISS M C FAHEY
Private Secretary

DRAFT PAPER FOR E COMMITTEE

WAGES COUNCILS

Memorandum by the Secretary of State for Employment

On 13 May I circulated a memorandum on Wages Councils (E(82)47). I have been asked to circulate this further memorandum in the light of subsequent correspondence and discussions.

2 I think it is now common ground that we could sweep away the wages council system before denouncing International Labour Convention 26 only at the price of being held in breach of our treaty obligations. Although there are of course no effective sanctions available against us there would be some political cost here and internationally. The Attorney General has also advised that we cannot cut out across-the-board categories such as young people, part-time workers or small firms. But it will be open to us to denounce the Convention and repeal the Wages Council Act 1979 in 1985/86.

3 I am forced to the conclusion that interim measures aimed at improving the system in the meantime, such as placing new statutory obligations on councils or providing statutory appeals procedures, would be at best only marginally effective, and disappointing to our supporters.

4 However, what we can do in the interim, within the constraints of the Convention and under the procedures of the Act, is to seek to abolish particular councils on the grounds that they are no longer necessary. As I pointed out in my earlier memorandum, the statutory procedures would entail reference of any objections to ACAS for independent investigation and report on relative earnings levels and bargaining arrangements. This process could be both time-consuming and unpredictable in outcome. But there is no easier option.

5 In E(82)57 I proposed that I should start by informally sounding out the views of some leading retailers about tackling the Retail Food and Retail Non-Food Councils in this way. Together, these two councils cover over a million employees - about 40% of the wages council system; and they give rise to the majority of complaints by individual employers.

6 In addition, I would propose to tackle two of the smallest councils in the same way - the Ostrich Feather and Artificial Flower Council, and the Flex and Hemp Council. Brief factual notes on all four councils are annexed.

7 I am sure that our supporters are looking for some positive action in this field, and I seek colleagues' agreement to my proceeding on these lines.

ANNEX

THE RETAIL WAGES COUNCILS

COVERAGE	Retail Food Council	Retail Non-Food Council
Number of establishments	124,000	107,000
Number of employees	523,000	564,000

AVERAGE WEEKLY EARNINGS

(Source: NES 1981)

	Retail Food	Retail Non-Food	All industries and services
Men (Full-time, aged 21 and over)	£108.67	£111.73	£140.50
Women (Full-time, aged 18 and over)	£ 67.07	£ 73.52	£ 91.40
Statutory minimum rates (adults) at April 1981	£ 57.00	£ 57.70	

LABOUR FORCE	Retail Food	Retail Non-Food
% of total employees covered who are:-		
(a) Women	68%	73%
(b) Part-timers	35%	37%
(c) Under 18	8½%	6¼%

THE FLAX AND HEMP WAGES COUNCIL

Established 1919. Covers about 2,300 workers in 12 establishments engaged in the preparation, spinning and weaving of flax and hemp. Concentrated mainly in the east of Scotland. Current statutory minimum rate £55.97 per week (adults).

THE OSTRICH, FANCY FEATHER AND ARTIFICIAL FLOWER WAGES COUNCIL

Established 1920. Covers about 1,500 workers (predominantly female) in about 40 establishments engaged mainly in making artificial flowers. Current statutory minimum rate £55 per week.

CONFIDENTIAL

File

10 DOWNING STREET

bc. Walters
Vereker

Ind. Pol.

From the Private Secretary

18 June 1982

WAGES COUNCILS

The Prime Minister held a discussion yesterday with your Secretary of State about the possibilities for abolishing wages councils. Mr. Alan Walters was also present.

After discussion it was agreed that your Secretary of State would put proposals to E Committee that he should begin the process of moving to immediate abolition of a number of these councils. These might include several of the most absurd councils, for example that on ostrich feathers, as well as one or more of the more substantial councils, for example the retail food or non-food council. Your Secretary of State said that he would have a word with Mr. Pat Lowry about the likely attitude of ACAS to such a move.

I am sending a copy of this letter to David Wright only.

M. C. SCHOLAR

J.B. Shaw, Esq.,
Department of Employment.

CONFIDENTIAL

Ind Pol & JV

Prime Minister (2) Ind Pol

You will be discussing first with Alan Walters and Norman Tebbit then at E.

MLS 11/6

CONFIDENTIAL

Qa 05947

4 June 1982

To: PRIME MINISTER

From: JOHN SPARROW

Wages Councils

1. We have been considering the scope for introducing regional minimum wages in response to your query, conveyed in the letter of 24 May from your Private Secretary to mine.

2. Under present arrangements, wages councils make only limited use of their ability to set different minimum rates in different parts of the country: some councils, for example, prescribe the equivalent of a London weighting applied to national minimum pay rates. If the aim is to reform the system, rather than abolish it, councils need to be encouraged or obliged to set minimum rates which help to "clear the labour market". This implies that minima should be lower in areas of above-average unemployment.

3. The available options to introduce a measure of regional differentiation are limited and, in practice, the CPRS believes that only two are worth considering.

4. The first is to impose on councils a statutory duty, when setting minimum rates, to take account of geographical variations in the rate of unemployment, which reflect imbalances in the demand for and supply of labour. We would envisage this reform being combined with the option described in the memorandum by the Secretary of State for Employment (E(82)47) - to impose a duty on councils to consider employers' capacity to pay and the implications for employment of minimum pay levels.

5. The pressure that such a duty would put on councils to reduce minima in areas of high unemployment could be increased if the Government itself took steps to influence the climate of pay bargaining by introducing greater regional variation in actual pay levels, notably in the public sector

6. The results nevertheless may be limited. The statutory duty is unenforceable, and there is no guarantee that councils would lay down different regional pay minima in the face of strong pressures for pay comparability across the country. The example of the separate wages council system in Northern Ireland is not encouraging in this respect: in those councils with Great Britain equivalents, unions press for, and appear to secure, minimum rates of pay similar - in some cases identical - to those in Great Britain.

7. There may be advantage in a second option which seeks to reinforce the modest reforms discussed above by combining them with a disputes procedure (described under option 3 in the CPRS paper on wages councils, E(82)48). Cases where members of a council allege that minimum rates prejudice jobs would be referred to an independent arbitrator who would have the power to set new pay minima, regionally-differentiated as required, via the appropriate wages council.

8. To be successful, this option requires that clear guidelines be laid down against which the arbitrator is bound to judge whether lower minimum rates of pay would promote jobs. The guidelines would therefore include consideration of the degree of excess supply of labour in different regions, creating a presumption - which needs to be explicitly stated - that minima should be reduced in areas of high unemployment.

9. In general, the CPRS believes that the economic case for reforms of this sort, as opposed to abolition, is weak; reform is in practice defensible only as a means to avoid the political difficulties associated with abolition, which is the preferable course of action on economic grounds. It is, of course, open to Ministers to consider short term reforms prior to eventual abolition, which will be possible if the ILO Convention is denounced in 1985, but in view of the political problems which would beset even modest temporary changes, this game may not be worth the candle.

10. If the wages council system were abolished, one is still left with the problem of the "benefit wage floor": minimum rates of pay will tend

to emerge as a result of the interaction between unemployment-related benefits and the tax system. This is a complicated topic which the CPRS will be considering in its report on unemployment, to be delivered by the end of August. The aim will be to suggest reforms that will encourage greater pay flexibility, including flexibility across regions, together with safeguards against poverty.

11. I am sending copies of this letter to Members of E Committee and to Sir Robert Armstrong.

GB.

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary 4 June 1982

Dear Barnaby,

WAGES COUNCILS

Further to my recent letter to you with which I enclosed a copy of a note by Alan Walters on the abolition of wages councils, I now enclose an addendum to his note, which considers further the legal aspects of the abolition of wages councils.

I would be grateful if you would add this to the papers to be considered at the Prime Minister's discussion with Mr. Tebbit and Alan Walters on these matters, planned for 1115 on Monday, 21 June.

I am sending a copy of this letter to Alan Walters.

Yours sincerely,

Michael Scholar

B.J. Shaw, Esq.,
Department of Employment.

CONFIDENTIAL

CONFIDENTIAL

ADDENDUM TO NOTE OF 25 MAY 1982 ON WAGES COUNCILS

Legal Aspects of the Abolition of Wages Councils

1. This note amplifies and clarifies paragraph 9 et seq of the above note relating to the legal status of the role of ACAS.

2. Initially there is no need under the provisions of S.4 or S.6 for the Secretary of State to refer his decision to abolish a Wages Council to ACAS. However, where a decision under S.4 is made, Schedule 1 to the Act applies. The consequence of this is if a relevant objection is made, the Secretary of State shall consider it and refer it to ACAS for enquiry and report; he must then consider the findings of ACAS although he is free to enforce the original draft order as it stands.

3. There would therefore appear to be some dichotomy between the conditionality of reference to ACAS under S.4 and S.6 and the practical unconditionality engendered by an objection under Schedule 1.

4. However, if a reference to ACAS does arise under Schedule 1 of the Act this would not change the recommendation of the original note; a bold strategy of eliminating the Wages Councils in the retail trade generally should be proposed and if an objection gives rise to a reference, then an appropriate timescale for ACAS' enquiry and report could be set (as in the Secretary of State's abolishing the Fair Wage Resolution), with a view to enforcing the original draft order.

3 June 1982

ALAN WALTERS

10 Downing Street,
London, SW1.

CONFIDENTIAL

VO

(2) Ind Pol
cc [illegible]
Prime Minister

MIS 26/5

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400 GTN 213
Switchboard 01-213 3000

Michael Scholar Esq
Private Secretary
(Home Affairs)
10 Downing Street
LONDON SW1

MS

26 May 1982

Dear Michael

FAIR WAGES RESOLUTION

E Committee agreed on 26 January that my Secretary of State should proceed with consultations leading to the abolition of the Fair Wages Resolution.

The CBI and TUC will today receive letters from Mr Tebbit inviting them to submit comments on our proposals by the end of June. In the meantime, members of the House will be informed this afternoon by means of the attached written answer.

I am copying this letter and its enclosure to Private Secretaries of members of E Committee, the Secretaries of State for Scotland and Social Services, and Sir Robert Armstrong.

Yours
Marie Fahey

MISS M C FAHEY
Private Secretary

DEPARTMENT OF EMPLOYMENT

WEDNESDAY 26 MAY 1982

WRITTEN REPLY

124 MR RICHARD NEEDHAM (Chippenham): To ask the Secretary of State for Employment, whether the Government has completed the further consideration of the Fair Wages Resolution promised when Schedule 11 to the Employment Protection Act 1975 was repealed.

MR NORMAN TEBBIT:

I have written to interested parties indicating that the Government has it in mind to ask the House to set aside the Fair Wages Resolution, and inviting comments. I am also consulting bodies most representative of employers and workers on the related question of denouncing International Labour Convention No 94 concerning labour clauses in public contracts. I have asked for comments by the end of June 1982 and will then report to the House again.

CONFIDENTIAL

cc. RW TV CS C

10 DOWNING STREET

From the Private Secretary

26 May, 1982.

Wages Councils

As you know, it became regrettably necessary to remove Wages Councils from the agenda for E Committee this afternoon. We hope to include it in an early future agenda.

Alan Walters here has recently put a detailed note to the Prime Minister on this matter. I enclose a copy. The Prime Minister would be grateful if your Secretary of State would join her and Alan Walters at a date to be arranged for a discussion of the ideas in this note.

Caroline Stephens will be in touch with you about this meeting.

M. C. SCHOLAR

Barnaby Shaw, Esq.,
Department of Employment.

DSS

CONFIDENTIAL

25 May 1982

WAGES COUNCILS

Note by Alan Walters

1. We have examined the existing Wages Councils with a view to identifying those which are causing the most damage, shown at Table 1.

2. Wages Councils are likely to be most injurious if:

(a) there are severe limitations on employment prospects, particularly for the young;

(b) the average wage in a trade is high;

(c) the coverage is extensive; and

(d) the size of firm is small.

A Bold Programme

3. With these criteria the prime candidates for abolition are:

Retail Food
Retail Non-Food
Hairdressing
Unlicensed Refreshments
Licensed Non-Residential

4. Most of the establishments which could be affected by Wages Councils are, of course, much smaller than the average size. Many are family businesses and are constrained from employing paid labour.

A Cautious Programme

5. If we wish to proceed more cautiously and do not wish to antagonise the large employers in, for example, the retail trades and licensed non residential trades, you might begin by eliminating the Wages Councils for Hairdressing, Boot and Shoe Repairing, Aerated Waters, and finally, the absurdity of Ostrich Feathers. With the exception of Aerated Waters, the size of the establishments in these trades is very small indeed. The majority simply hire one worker.

Objections to Abolition

6. From past form it is likely that the objections will run along the following lines.

/(a) "Some employers

(a) "Some employers like them and would not wish to see them abolished."

This is, of course, true, particularly with respect to large employers; like any other established employer they wish to inhibit potential competition from small lower-wage firms as much as they possibly can. The state, through its Wages Councils, gives them this protection. It will be noted also that the Wages Councils consist of representatives of existing employers and representatives of trade unions, together with a so-called independent chairman (often the lecturer in industrial relations from a technical college or polytechnic). No-one represents the non-unionised, unemployed or the young who have not yet had the chance of a job. They have no vote, and no representation.

(b) "Wages Councils set only minimum rates and many employers voluntarily pay wages above such rates."

Then, we have heard at earlier discussions, one gets "a better type of lad". This may well be true and is entirely acceptable. The trouble is there are only a limited number of "best lads", and we have to make sure that the mediocre or unpromising youth is not denied an opportunity for employment. "Creaming the labour market" is fine, but regulations should not ensure that the skimmed milk is consigned to the drain of unemployment.

(c) "There is no evidence that the wages would change as a consequence of abolishing Wages Councils."

But if this is the case, then we are pursuing an expensive administrative apparatus costing several millions a year of the taxpayers' money and many more millions of business expense, in order to achieve no results whatsoever. Wages Councils are pure waste.

(d) "The abolition of Wages Councils would be opposed by the trade unions."

Even though Wages Councils have no effect, the trade unions regard them as a fig leaf. This argument may well

/be correct.

be correct. But if the trade unions use their resources to pursue opposition to Wages Councils, it will be at the expense of their opposition to some other labour measures, such as the Tebbit Bill. This diversion and dispersion of their opposition might be no bad thing. In terms of trade union power and popularity, we are in a better position for abolishing Wages Councils now than we have been in the past or, I think, are likely to be in the future.

ILO Convention 26 (1928)

7. It has been suggested that if we abolish Wages Councils we may be in beach of the ILO Convention. It is difficult to see how such a view can be adduced from the Articles of the Convention itself. Article 2 states that "Each Member which ratifies this Convention shall be free to decide, after consultation with the organisations, if any, of workers and employers in the trade or part of trade concerned, in which trades or parts of trades, and in particular in which home working trades or parts of such trades, the minimum wage-fixing machinery referred to in Article 1 shall be applied." Article 2, therefore, gives us the freedom, subject to "consultation", to set up or eliminate the minimum wage-fixing machinery. (A copy of the complete Convention is attached - Annex 1.) We can simply proceed under the provisions of Article 2 to propose, after consultations, to cease to apply Article 1 of the Convention.

8. The Attorney General has already pointed out that there are no effective sanctions which could be invoked if we were found to be in breach of the Convention; but it seems to us that our representatives at the ILO would have no difficulty in defending our abolition of Wages Councils, and we should simply instruct them to do so. That is what most other Member States would do.

The Role of ACAS

9. In his letter of 13 May, the Secretary of State for Employment said that "the statutory procedure would entail reference of the inevitable objections to a proposal for abolition to ACAS for independent investigation and report". So far as the Wages Councils Act 1979 is concerned, there is no statutory undertaking for the Secretary of State to refer the abolition of a Wages Council to ACAS.

/The Act is

The Act is explicit in making any such reference at the discretion of the Secretary of State. Sections 4(1) and 6(1) are the relevant ones. (Annex 2 shows Sections 4, 5 and 6 complete.)

"Section 4(1) The Secretary of State may at any time abolish a wages council by order made

(a) to give effect to an application in that behalf made to him in accordance with Section 5 below, or

(b) without any such application, subject however to the provision of Section 6 below.

Section 6(1) The Secretary of State

(a) shall in any case where an application for the abolition of a wages council has been made to him under Section 5 above and he does not thereupon proceed to the making of an order giving effect to the application,

(b) may in any other case where he is considering whether to exercise his power under Section 4 above to abolish or vary the field of operation of a wages council;

refer to the Service the question whether the council should be abolished or, as the case may be, its field of operation varied."

10. Essentially the Act arranges for the Secretary of State to refer the abolition to ACAS if he is uncertain or for some other reason cannot make up his own mind. The Department may have some "understanding" with the trade unions or employers that ACAS will have some central role to play, but there is no statutory requirement. [ACAS are preparing for a general review of Wages Councils (para 7.10 of the latest ACAS Annual Report).] There have been no ACAS references, however, with respect to abolition under the 1979 Act.

Our Record

11. There were 11 Councils abolished by the Labour Government 1974-1978 compared with one abolished by the present government in 1980 (Table 2).

/Abolition Now

Abolition Now

12. The positive case for abolishing them is, of course, well-known.

(a) Abolition will enable competitive wages to be offered to girls and youths - comparable in a relative sense to those which are offered by our competitors in Germany, Japan, France, etc.

(b) Abolition will expand employment.

(c) If employers are not charged high wages for young employees they will have an incentive to employ and train them, and make them more productive. Thus they will earn higher wages in their subsequent working life. Wages Councils inhibit training.* Similarly, the fact that at present employers are forced to pay high wages, prevents the employer from offering other non-monetary benefits which may well be better both for the employer and employee.

(d) The Wages Councils awards are often inconsistent with Government schemes, such as the Young Workers Scheme, designed to promote employment.

(e) Minimum wage provisions tend to promote rather than alleviate poverty.+

(f) Contrary to casual commentary, minimum wage legislation tends to promote inequality. Those countries which have no such minimum wage rules, such as Taiwan, South Korea, and Japan, have been shown by the World Bank Studies to have had a remarkably large decrease in the extent of inequality and the greatest alleviation of poverty of all countries over the past two decades.++

/Conclusion

*M. Hashimoto Minimum Wages and On-the-job-Training, AEI London 1981.

+D.O. Parsons Poverty and the Minimum Wage, AEI London 1980

++Richard Layard has shown that, in the UK, the poverty families are little affected directly by minimum wage legislation.

Conclusion

13. The economic arguments are overwhelmingly in favour of the bold strategy of eliminating the Wages Councils in the retail trades generally. This would abolish minimum wages for about a million workers directly and would eliminate constraints on employment, particularly of the young, in many other businesses.

25 May 1982

No 10 Downing Street
London, SW1.

TABLE 1

STATISTICAL ESTIMATES FOR SELECTED WAGES COUNCILS

		Number of establishments 1979	Estimated number of employees 1981	Number of employees per establishment	Estimated average male earnings 1981 (£/week)
1.	Retail Food	123,645	523,000	4.3	£108.67
2.	Retail Non-Food	107,279	564,000	5.3	£111.73
3.	Licensed Residential	29,227	624,800	21.4	£ 87.08
4.	Licensed Non-Residential	66,068	165,300	2.0	£ 91.04
5.	Unlicensed Refreshments	18,195			
6.	Hairdressing	33,908	83,500	2.5	£103.30
7.	Ostrich Feathers	38	100*	2.6	£ 92.10
8.	Boot and Shoe Repairing	2,622	5,000	1.9	£114.27
9.	Aerated Waters (2)	660	21,800	33.0	£117.60
	All Industries & Services				£118.40

Sources: DE Gazette, April 1981, Tables 1.4 and 5.4;
DE Industrial Relations Division;
New Earnings Survey, 1981.

*Guess

10 DOWNING STREET

(1)

Prime Minister

May I circulate Alan Walters' paper on Wages Councils?

MCS 24/5

~~Keep please let~~

~~Don't do~~ I would rather discuss it with A.W. first & S of S.

MT

Prime Minister (2)

CONFIDENTIAL

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

mrs 24/5

Ind Pol

cc JV

From the Minister

PRIME MINISTER

24 May 1982

MF

WAGES COUNCILS

1. I regret that the Debate in the House will prevent me from attending E Committee on Wednesday, but I would like to offer the following comments on the memorandum by the Secretary of State for Employment (E(82)47).

2. I have little doubt that a number of important food retailers would support the proposal to abolish the Retail Councils. After the recent wage round, abolition was indeed suggested by the British Multiple Retailers Association and by at least one major multiple chain, while others sought modifications to the system. The question remains, however, whether abolition would be appropriate even if supported by the majority of retailers and even though abolition might contribute marginally to maintaining employment and keeping down prices.

3. Two factors are relevant. First, as the Secretary of State's paper shows, earnings in the retail sector are far below the national average. This is particularly the case in food retailing. Second, the retail trade, with some 230,000 establishments, is by far the most fragmented of the sectors covered by Wages Council and it therefore most fully reflects the type of circumstance for which Wages Councils were primarily intended. The simple abolition of these two Councils would therefore be seen as deliberately removing protection from a low paid sector most in need of it. This would not be easy to justify and would indeed seem incompatible with the spirit, if not the letter, of the ILO Convention.

4. For this reason, I believe the better course would be option 1 in the Secretary of State's paper, imposing a statutory obligation on Councils, when setting minimum rates, to take account of employers' capacity to pay and on implications for employment. Although admittedly lacking teeth, such a statutory requirement should have some influence on the independent members of Councils and could certainly not be interpreted as an attempt to remove a necessary protection from lower paid workers.

/In addition ...

F

CONFIDENTIAL

5. In addition we might seek to remove from the scope of the Retail Wages Councils those companies where satisfactory alternative arrangements existed in the form of voluntary collective bargaining machinery such as the Joint Committee for the Multiple Grocery and Provision Trade. This would encourage the spread of voluntary arrangements and obviate the frustrating duplification and inconsistencies which currently arise where both apply.

I am copying this letter to members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.

PETER WALKER

CONFIDENTIAL file

c/c AW

c. DT MOD
DTrans NIO
HMT - CS DES
CDL FCO
DEny HMT;
DEmp LPS
DEnv HO
MAFF CO

10 DOWNING STREET

From the Private Secretary

24 May 1982

D/I

WAGES COUNCILS

As I mentioned to John Sparrow on the telephone this morning, the Prime Minister read with interest the CPRS paper on wages councils E(82)48.

She has enquired what scope there is for introducing regional minimum wages - i.e. variable minimum wages.

I am sending copies of this letter to the Private Secretaries to Members of E Committee and David Wright (Cabinet Office).

M. C. SCHOLAR

Gerry Spence, Esq.,
Central Policy Review Staff.

CONFIDENTIAL

10 DOWNING STREET

(1)

Prime Minister

Wages Councils

If you agree, I will circulate this note, converted into a paper, to the private secretaries of the members of E, saying that you wish these ideas to be considered when E discusses this issue (planned for Wednesday).

Agree?

MLS 21/5

CONFIDENTIAL

20 May 1982

ALAN WALTERS

PRIME MINISTER

WAGES COUNCILS

1. We have examined the existing Wages Councils with a view to identifying those which are causing the most damage, shown at Table 1.

2. Wages Councils are likely to be most injurious if:

(a) there are severe limitations on employment prospects, particularly for the young;

(b) the average wage in a trade is high;

(c) the coverage is extensive; and

(d) the size of firm is small.

A Bold Programme

3. With these criteria the prime candidates for abolition are:

Retail Food
Retail Non-Food
Hairdressing
Unlicensed Refreshments
Licensed Non-Residential

Boot and Shoe repairing.
Ostrich feathers.

4. Most of the establishments which could be affected by Wages Councils are, of course, much smaller than the average size. Many are family businesses and are constrained from employing paid labour.

A Cautious Programme

5. If you wish to proceed more cautiously and did not wish to antagonise the large employers in, for example, the retail trades and licensed non-residential trades, you might begin by eliminating the Wages Councils for Hairdressing, Boot and Shoe Repairing, Aerated Waters, and finally, the absurdity of Ostrich Feathers. With the exception of Aerated Waters, the size of the establishments in these trades is very small indeed. The majority simply hire one worker.

Objections to Abolition

6. From past form it is likely that the objections will run along the following lines.

/(a) "Some employers

CONFIDENTIAL

(a) "Some employers like them and would not wish to see them abolished."

This is, of course, true, particularly with respect to large employers; like any other established employer they wish to inhibit potential competition from small lower-wage firms as much as they possibly can. The state, through its Wages Councils, gives them this protection. It will be noted also that the Wages Councils consist of representatives of existing employers and representatives of trade unions, together with a so-called independent chairman (often the lecturer in industrial relations from a technical college or polytechnic). No-one represents the non-unionised, unemployed or the young who have not yet had the chance of a job. They have no vote, and no representation.

(b) "Wages Councils set only minimum rates and many employers voluntarily pay wages above such rates."

Then, we have heard at earlier E discussions, one gets "a better type of lad". This may well be true and is entirely acceptable. The trouble is there are only a limited number of "best lads", and we have to make sure that the mediocre or unpromising youth is not denied an opportunity for employment. "Creaming the labour market" is fine, but regulations should not ensure that the skimmed milk is consigned to the drain of unemployment.

(c) "There is no evidence that the wages would change as a consequence of abolishing Wages Councils."

But if this is the case, then we are pursuing an expensive administrative apparatus costing several millions a year of the taxpayers' money and many more millions of business expense, in order to achieve no results whatsoever. Wages Councils are pure waste.

(d) "The abolition of Wages Councils would be opposed by the trade unions."

Even though Wages Councils have no effect, the trade unions regard them as a fig leaf. This argument may well

/be correct.

be correct. But if the trade unions use their resources to pursue opposition to Wages Councils, it will be at the expense of their opposition to some other labour measures, such as the Tebbit Bill. This diversion and dispersion of their opposition might be no bad thing. In terms of trade union power and popularity, we are in a better position for abolishing Wages Councils now than we have been in the past or, I think, are likely to be in the future.

ILO Convention 26 (1928)

7. It has been suggested that if we abolish Wages Councils we may be in breach of the ILO Convention. It is difficult to see how such a view can be adduced from the Articles of the Convention itself. Article 2 states that "Each Member which ratifies this Convention shall be free to decide, after consultation with the organisations, if any, of workers and employers in the trade or part of trade concerned, in which trades or parts of trades, and in particular in which home working trades or parts of such trades, the minimum wage-fixing machinery referred to in Article 1 shall be applied." Article 2, therefore, gives us the freedom, subject to "consultation", to set up or eliminate the minimum wage-fixing machinery. (A copy of the complete Convention is attached - Annex 1.) We can simply proceed under the provisions of Article 2 to propose, after consultations, to cease to apply Article 1 of the Convention.

8. The Attorney General has already pointed out that there are no effective sanctions which could be invoked if we were found to be in breach of the Convention; but it seems to us that our representatives at the ILO would have no difficulty in defending our abolition of Wages Councils, and we should simply instruct them to do so. That is what most other Member States would do.

The Role of ACAS

9. In his letter of 13 May, the Secretary of State for Employment said that "the statutory procedure would entail reference of the inevitable objections to a proposal for abolition to ACAS for independent investigation and report". So far as the Wages Councils Act 1979 is concerned, there is no statutory undertaking for the Secretary of State to refer the abolition of a Wages Council to ACAS.

/The Act is

The Act is explicit in making any such reference at the discretion of the Secretary of State. Sections 4(1) and 6(1) are the relevant ones. (Annex 2 shows Sections 4, 5 and 6 complete.)

"Section 4(1) The Secretary of State may at any time abolish a wages council by order made

(a) to give effect to an application in that behalf made to him in accordance with Section 5 below, or

(b) without any such application, subject however to the provision of Section 6 below.

Section 6(1) The Secretary of State

(a) shall in any case where an application for the abolition of a wages council has been made to him under Section 5 above and he does not thereupon proceed to the making of an order giving effect to the application,

(b) may in any other case where he is considering whether to exercise his power under Section 4 above to abolish or vary the field of operation of a wages council;

refer to the Service the question whether the council should be abolished or, as the case may be, its field of operation varied."

10. Essentially the Act arranges for the Secretary of State to refer the abolition to ACAS if he is uncertain or for some other reason cannot make up his own mind. The Department may have some "understanding" with the trade unions or employers that ACAS will have some central role to play, but there is no statutory requirement. [ACAS are preparing for a general review of Wages Councils (para 7.10 of the latest ACAS Annual Report).] There have been no ACAS references, however, with respect to abolition under the 1979 Act.

Our Record

11. There were 11 Councils abolished by the Labour Government 1974-1978 compared with one abolished by the present government in 1980 (Table 2).

/Abolition Now

Abolition Now

12. The positive case for abolishing them is, of course, well-known.

(a) Abolition will enable competitive wages to be offered to girls and youths - comparable in a relative sense to those which are offered by our competitors in Germany, Japan, France, etc.

(b) Abolition will expand employment.

(c) If employers are not charged high wages for young employees they will have an incentive to employ and train them, and make them more productive. Thus they will earn higher wages in their subsequent working life. Wages Councils inhibit training.* Similarly, the fact that at present employers are forced to pay high wages, prevents the employer from offering other non-monetary benefits which may well be better both for the employer and employee.

(d) The Wages Councils awards are often inconsistent with Government schemes, such as the Young Workers Scheme, designed to promote employment.

(e) Minimum wage provisions tend to promote rather than alleviate poverty.+

(f) Contrary to casual commentary, minimum wage legislation tends to promote inequality. Those countries which have no such minimum wage rules, such as Taiwan, South Korea, and Japan, have been shown by the World Bank Studies to have had a remarkably large decrease in the extent of inequality and the greatest alleviation of poverty of all countries over the past two decades.++

/Conclusion

*M. Hashimoto Minimum Wages and On-the-job-Training, AEI London 1981.

+D.O. Parsons Poverty and the Minimum Wage, AEI London 1980

++Richard Layard has shown that, in the UK, the poverty families are little affected directly by minimum wage legislation.

Conclusion

13. The economic arguments are overwhelmingly in favour of the bold strategy of eliminating the Wages Councils in the retail trades generally. This would abolish minimum wages for about a million workers directly and would eliminate constraints on employment, particularly of the young, in many other businesses.

14. Wages Councils are to be discussed in E on 27 May. If you are generally content with the arguments and conclusions in this note, I would like to send the Chancellor a minute based on it, with a copy to your colleagues on E.

19 May 1982

ALAN WALTERS

TABLE 1

STATISTICAL ESTIMATES FOR SELECTED WAGES COUNCILS

		Number of establishments 1979	Estimated number of employees 1981	Number of employees per establishment	Estimated average male earnings 1981 (£/week)
1.	Retail Food	123,645	523,000	4.3	£108.67
2.	Retail Non-Food	107,279	564,000	5.3	£111.73
3.	Licensed Residential	29,227	624,800	21.4	£ 87.08
4.	Licensed Non-Residential	66,068)	) 165,300	2.0	£ 91.04
5.	Unlicensed Refreshments	18,195)			
6.	Hairdressing	33,908	83,500	2.5	£103.30
7.	Ostrich Feathers	38	100*	2.6	£ 92.10
8.	Boot and Shoe Repairing	2,622	5,000	1.9	£114.27
9.	Aerated Waters (2)	660	21,800	33.0	£117.60
	All Industries & Services				£118.40

Sources: DE Gazette, April 1981, Tables 1.4 and 5.4;
DE Industrial Relations Division;
New Earnings Survey, 1981.

*Guess

TABLE 2

PAST ABOLITION OF WAGES COUNCILS, 1945/1982

	Name of Council	Date of Abolition
1.	Furniture	1947
2.	Tobacco	1953
3.	Rubber reclamation	1955
4.	Chains	1956
5.	Rubber manufacturing	1958
6.	Drift net mending)	
	)	
7.	Fustian cutting)	1960
	)	
8.	Tin box)	
9.	Baking	1971
10.	Boot and floor polish	1974
11.	Brush and broom	1974
12.	Hair, bass and fibre	1974
13.	Stamped metalware	1974
14.	Holloware	1975
15.	Keg and drum	1975
16.	Paper box	1975
17.	Milk - England and Wales	1975
18.	Industrial canteens	1976
19.	Milk - Scotland	1976
20.	Road Haulage	1978
21.	Pin, hook and eye	1980

Sources: DE Gazettes and Industrial Relations Division
F.J. Bayliss: "British Wages Councils", Blackwell 1962.

Convention 26

CONVENTION CONCERNING THE CREATION OF MINIMUM WAGE-FIXING MACHINERY

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eleventh Session on 30 May 1928, and

Having decided upon the adoption of certain proposals with regard to minimum wage-fixing machinery, which is the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this sixteenth day of June of the year one thousand nine hundred and twenty-eight the following Convention, which may be cited as the Minimum Wage-Fixing Machinery Convention, 1928, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation :

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low.

2. For the purpose of this Convention the term " trades " includes manufacture and commerce.

Article 2

Each Member which ratifies this Convention shall be free to decide, after consultation with the organisations, if any, of workers and employers in the trade or part of trade concerned, in which trades or parts of trades, and in particular in which home working trades or parts of such trades, the minimum wage-fixing machinery referred to in Article 1 shall be applied.

Article 3

1. Each Member which ratifies this Convention shall be free to decide the nature and form of the minimum wage-fixing machinery, and the methods to be followed in its operation :

2. Provided that—

(1) before the machinery is applied in a trade or part of trade, representatives of the employers and workers concerned, including representatives of their respective organisations, if any, shall be consulted as well as any other persons, being specially qualified for the purpose by their trade or functions, whom the competent authority deems it expedient to consult ;

(2) the employers and workers concerned shall be associated in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by national laws or regulations ;

(3) minimum rates of wages which have been fixed shall be binding on the employers and workers concerned so as not to be subject to abatement by them by individual agreement, nor, except with general or particular authorisation of the competent authority, by collective agreement.

Article 4

1. Each Member which ratifies this Convention shall take the necessary measures, by way of a system of supervision and sanctions, to ensure that the employers and workers concerned are informed of the minimum rates of wages in force and that wages are not paid at less than these rates in cases where they are applicable.

2. A worker to whom the minimum rates are applicable and who has been paid wages at less than these rates shall be entitled to recover, by judicial or other legalised proceedings, the amount by which he has been underpaid, subject to such limitation of time as may be determined by national laws or regulations.

Article 5

Each Member which ratifies this Convention shall communicate annually to the International Labour Office a general statement giving a list of the trades or parts of trades in which the minimum wage-fixing machinery has been applied, indicating the methods as well as the results of the application of the machinery and, in summary form, the approximate numbers of workers covered, the minimum rates of wages fixed, and the more important of the other conditions, if any, established relevant to the minimum rates.

Article 6

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 8

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 10

At least once in ten years, the Governing Body of the International Labour Office shall present to the General Conference

a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision or modification.

Article 11

The French and English texts of this Convention shall both be authentic.

PART I

(2) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service be separately dealt with—

(*a*) that there exists machinery set up by agreement between organisations representing workers and employers respectively which is, or can be made by improvements which it is practicable to secure, adequate for regulating the remuneration and conditions of employment of those workers ; and

(*b*) that there is no reason to believe that that machinery is likely to cease to exist or be adequate for that purpose,

the Service shall report to the Secretary of State accordingly and may include in its report any suggestions which it may think fit to make as to the improvement of that machinery.

(3) Where any such suggestions are so included, the Secretary of State shall take such steps as appear to him to be expedient and practicable to secure the improvements in question.

(4) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service, be separately dealt with—

(*a*) that machinery for regulating the remuneration and conditions of employment of those workers is not, and cannot be made by any improvements which it is practicable to secure, adequate for that purpose, or does not exist ; or

(*b*) that the existing machinery is likely to cease to exist or be adequate for that purpose,

and that as a result a reasonable standard of remuneration among those workers is not being or will not be maintained, the Service may make a report to the Secretary of State embodying a recommendation for the establishment of a wages council in respect of those workers and their employers.

(5) In considering for the purposes of section 1 above whether any machinery is, or is likely to remain, adequate for regulating the remuneration and conditions of employment of any workers, the Service shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or awards arrived at or given thereunder, and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

Abolition of, or variation of field of operation of, wages councils.

4.—(1) The Secretary of State may at any time abolish a wages council by order made—

(*a*) to give effect to an application in that behalf made to him in accordance with section 5 below, or

(*b*) without any such application, subject however to the provisions of section 6 below.

(2) The Secretary of State may at any time by order vary the field of operation of a wages council.

(3) The power of the Secretary of State to make an order under this section varying the field of operation of a wages council shall include power to vary that field by excluding from it any employers to whom there for the time being applies, as members of an organisation named in the order, an agreement, to which the organisation or any other organisation of which it is a member or on which it is represented, is a party, regulating remuneration or other terms or conditions of employment of their employees.

(4) Any organisation so named shall if it has not already done so furnish the Secretary of State with a list of its members and shall from time to time, and also if so required by the Secretary of State, furnish him with particulars of any changes in their membership which have occurred since the list was furnished or, as the case may be, when particulars were last furnished to him.

(5) An order under this section abolishing or varying the field of operation of one or more wages councils may include provision for the establishment of one or more wages councils operating in relation to all or any of the workers in relation to whom the first mentioned council or councils would have operated but for the order, and such other workers, if any, as may be specified in the order.

(6) Where an order of the Secretary of State under this section directs that any workers shall be excluded from the field of operation of one wages council and brought within the field of operation of another, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned council and may make such further provision as appears to the Secretary of State to be expedient in connection with the transition.

(7) Where an order of the Secretary of State under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by the wages council shall, except as respects things previously done or omitted to be done, cease to have effect or, as the case may be, cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(8) Schedule 1 to this Act shall have effect with respect to the making of orders under this section.

PART I

Applications for abolition of wages councils.

5.—(1) An application such as is mentioned in paragraph (*a*) of subsection (1) of section 4 above may be made to the Secretary of State either—

(*a*) by a joint industrial council, conciliation board or other similar body constituted by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers with respect to whom that wages council operates ; or

(*b*) jointly by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers aforesaid ; or

(*c*) by any organisation of workers which represents a substantial proportion of the workers with respect to whom that wages council operates.

(2) The grounds on which any such application may be made are that the existence of a wages council is no longer necessary for the purpose of maintaining a reasonable standard of remuneration for the workers with respect to whom that wages council operates.

References to the Service as to variation or revocation of wages council orders.

6.—(1) The Secretary of State—

(*a*) shall in any case where an application for the abolition of a wages council has been made to him under section 5 above and he does not thereupon proceed to the making of an order giving effect to the application,

(*b*) may in any other case where he is considering whether to exercise his power under section 4 above to abolish or vary the field of operation of a wages council ;

refer to the Service the question whether the council should be abolished or, as the case may be, its field of operation varied.

(2) On a reference under this section of a question as to the abolition of a wages council the Service, if of the opinion that it is expedient to do so, may make a report to the Secretary of State recommending—

(i) the abolition of the wages council to which the reference relates, or

(ii) the narrowing of the field of operation of the council,

and (in either case), if the Service is of the opinion that it is expedient as aforesaid, also recommending the transfer of workers to the field of operation of another wages council, whether already existing or to be established.

(3) On a reference under this section as to the variation of the field of operation of a wages council the Service may make a report to the Secretary of State recommending any such variation (including the transfer of workers to the field of operation of any other wages council, whether already existing or to be established) which appears to the Service desirable in all the circumstances.

TABLE 1

STATISTICAL ESTIMATES FOR SELECTED WAGES COUNCILS

		Number of establishments 1979	Estimated number of employees 1981	Number of employees per establishment	Estimated average male earnings 1981 (£/week)
1.	Retail Food	123,645	523,000	4.3	£108.67
2.	Retail Non-Food	107,279	564,000	5.3	£111.73
3.	Licensed Residential	29,227	624,800	21.4	£ 87.08
4.	Licensed Non-Residential	66,068)	165,300	2.0	£ 91.04
5.	Unlicensed Refreshments	18,195)			
6.	Hairdressing	33,908	83,500	2.5	£103.30
7.	Ostrich Feathers	38	100*	2.6	£ 92.10
8.	Boot and Shoe Repairing	2,622	5,000	1.9	£114.27
9.	Aerated Waters (2)	660	21,800	33.0	£117.60
	All Industries & Services				£118.40

Sources: DE Gazette, April 1981, Tables 1.4 and 5.4;
DE Industrial Relations Division;
New Earnings Survey, 1981.

*Guess

(*b*) without any such application, subject however to the provisions of section 6 below. PART I

(2) The Secretary of State may at any time by order vary the field of operation of a wages council.

(3) The power of the Secretary of State to make an order under this section varying the field of operation of a wages council shall include power to vary that field by excluding from it any employers to whom there for the time being applies, as members of an organisation named in the order, an agreement, to which the organisation or any other organisation of which it is a member or on which it is represented, is a party, regulating remuneration or other terms or conditions of employment of their employees.

(4) Any organisation so named shall if it has not already done so furnish the Secretary of State with a list of its members and shall from time to time, and also if so required by the Secretary of State, furnish him with particulars of any changes in their membership which have occurred since the list was furnished or, as the case may be, when particulars were last furnished to him.

(5) An order under this section abolishing or varying the field of operation of one or more wages councils may include provision for the establishment of one or more wages councils operating in relation to all or any of the workers in relation to whom the first mentioned council or councils would have operated but for the order, and such other workers, if any, as may be specified in the order.

(6) Where an order of the Secretary of State under this section directs that any workers shall be excluded from the field of operation of one wages council and brought within the field of operation of another, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned council and may make such further provision as appears to the Secretary of State to be expedient in connection with the transition.

(7) Where an order of the Secretary of State under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by the wages council shall, except as respects things previously done or omitted to be done, cease to have effect or, as the case may be, cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(8) Schedule 1 to this Act shall have effect with respect to the making of orders under this section.

INTERNATIONAL LABOUR CONFERENCE

Convention 26

CONVENTION CONCERNING THE CREATION OF MINIMUM WAGE-FIXING MACHINERY

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eleventh Session on 30 May 1928, and

Having decided upon the adoption of certain proposals with regard to minimum wage-fixing machinery, which is the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this sixteenth day of June of the year one thousand nine hundred and twenty-eight the following Convention, which may be cited as the Minimum Wage-Fixing Machinery Convention, 1928, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation :

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low.

2. For the purpose of this Convention the term " trades " includes manufacture and commerce.

Article 2

Each Member which ratifies this Convention shall be free to decide, after consultation with the organisations, if any, of workers and employers in the trade or part of trade concerned, in which trades or parts of trades, and in particular in which home working trades or parts of such trades, the minimum wage-fixing machinery referred to in Article 1 shall be applied.

Article 3

1. Each Member which ratifies this Convention shall be free to decide the nature and form of the minimum wage-fixing machinery, and the methods to be followed in its operation :

2. Provided that—

(1) before the machinery is applied in a trade or part of trade, representatives of the employers and workers concerned, including representatives of their respective organisations, if any, shall be consulted as well as any other persons, being specially qualified for the purpose by their trade or functions, whom the competent authority deems it expedient to consult ;

(2) the employers and workers concerned shall be associated in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by national laws or regulations ;

(3) minimum rates of wages which have been fixed shall be binding on the employers and workers concerned so as not to be subject to abatement by them by individual agreement, nor, except with general or particular authorisation of the competent authority, by collective agreement.

Article 4

1. Each Member which ratifies this Convention shall take the necessary measures, by way of a system of supervision and sanctions, to ensure that the employers and workers concerned are informed of the minimum rates of wages in force and that wages are not paid at less than these rates in cases where they are applicable.

2. A worker to whom the minimum rates are applicable and who has been paid wages at less than these rates shall be entitled to recover, by judicial or other legalised proceedings, the amount by which he has been underpaid, subject to such limitation of time as may be determined by national laws or regulations.

Article 5

Each Member which ratifies this Convention shall communicate annually to the International Labour Office a general statement giving a list of the trades or parts of trades in which the minimum wage-fixing machinery has been applied, indicating the methods as well as the results of the application of the machinery and, in summary form, the approximate numbers of workers covered, the minimum rates of wages fixed, and the more important of the other conditions, if any, established relevant to the minimum rates.

Article 6

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 8

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 10

At least once in ten years, the Governing Body of the International Labour Office shall present to the General Conference

a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision or modification.

Article 11

The French and English texts of this Convention shall both be authentic.

ANNEX 2

PART I

(2) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service be separately dealt with—

(*a*) that there exists machinery set up by agreement between organisations representing workers and employers respectively which is, or can be made by improvements which it is practicable to secure, adequate for regulating the remuneration and conditions of employment of those workers ; and

(*b*) that there is no reason to believe that that machinery is likely to cease to exist or be adequate for that purpose,

the Service shall report to the Secretary of State accordingly and may include in its report any suggestions which it may think fit to make as to the improvement of that machinery.

(3) Where any such suggestions are so included, the Secretary of State shall take such steps as appear to him to be expedient and practicable to secure the improvements in question.

(4) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service, be separately dealt with—

(*a*) that machinery for regulating the remuneration and conditions of employment of those workers is not, and cannot be made by any improvements which it is practicable to secure, adequate for that purpose, or does not exist ; or

(*b*) that the existing machinery is likely to cease to exist or be adequate for that purpose,

and that as a result a reasonable standard of remuneration among those workers is not being or will not be maintained, the Service may make a report to the Secretary of State embodying a recommendation for the establishment of a wages council in respect of those workers and their employers.

(5) In considering for the purposes of section 1 above whether any machinery is, or is likely to remain, adequate for regulating the remuneration and conditions of employment of any workers, the Service shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or awards arrived at or given thereunder, and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

Abolition of, or variation of field of operation of, wages councils.

4.—(1) The Secretary of State may at any time abolish a wages council by order made—

(*a*) to give effect to an application in that behalf made to him in accordance with section 5 below, or

ANNEX 2

PART I

(*b*) without any such application, subject however to the provisions of section 6 below.

(2) The Secretary of State may at any time by order vary the field of operation of a wages council.

(3) The power of the Secretary of State to make an order under this section varying the field of operation of a wages council shall include power to vary that field by excluding from it any employers to whom there for the time being applies, as members of an organisation named in the order, an agreement, to which the organisation or any other organisation of which it is a member or on which it is represented, is a party, regulating remuneration or other terms or conditions of employment of their employees.

(4) Any organisation so named shall if it has not already done so furnish the Secretary of State with a list of its members and shall from time to time, and also if so required by the Secretary of State, furnish him with particulars of any changes in their membership which have occurred since the list was furnished or, as the case may be, when particulars were last furnished to him.

(5) An order under this section abolishing or varying the field of operation of one or more wages councils may include provision for the establishment of one or more wages councils operating in relation to all or any of the workers in relation to whom the first mentioned council or councils would have operated but for the order, and such other workers, if any, as may be specified in the order.

(6) Where an order of the Secretary of State under this section directs that any workers shall be excluded from the field of operation of one wages council and brought within the field of operation of another, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned council and may make such further provision as appears to the Secretary of State to be expedient in connection with the transition.

(7) Where an order of the Secretary of State under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by the wages council shall, except as respects things previously done or omitted to be done, cease to have effect or, as the case may be, cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(8) Schedule 1 to this Act shall have effect with respect to the making of orders under this section.

PART I

Applications for abolition of wages councils.

5.—(1) An application such as is mentioned in paragraph (*a*) of subsection (1) of section 4 above may be made to the Secretary of State either—

(*a*) by a joint industrial council, conciliation board or other similar body constituted by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers with respect to whom that wages council operates ; or

(*b*) jointly by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers aforesaid ; or

(*c*) by any organisation of workers which represents a substantial proportion of the workers with respect to whom that wages council operates.

(2) The grounds on which any such application may be made are that the existence of a wages council is no longer necessary for the purpose of maintaining a reasonable standard of remuneration for the workers with respect to whom that wages council operates.

References to the Service as to variation or revocation of wages council orders.

6.—(1) The Secretary of State—

(*a*) shall in any case where an application for the abolition of a wages council has been made to him under section 5 above and he does not thereupon proceed to the making of an order giving effect to the application,

(*b*) may in any other case where he is considering whether to exercise his power under section 4 above to abolish or vary the field of operation of a wages council ;

refer to the Service the question whether the council should be abolished or, as the case may be, its field of operation varied.

(2) On a reference under this section of a question as to the abolition of a wages council the Service, if of the opinion that it is expedient to do so, may make a report to the Secretary of State recommending—

(i) the abolition of the wages council to which the reference relates, or

(ii) the narrowing of the field of operation of the council,

and (in either case), if the Service is of the opinion that it is expedient as aforesaid, also recommending the transfer of workers to the field of operation of another wages council, whether already existing or to be established.

(3) On a reference under this section as to the variation of the field of operation of a wages council the Service may make a report to the Secretary of State recommending any such variation (including the transfer of workers to the field of operation of any other wages council, whether already existing or to be established) which appears to the Service desirable in all the circumstances.

cc HO DOT
FCO DTI(AW).
NHT WHT
DES CDLO.
MOD DN
HMCE DM
DN LPSO
DOI COD
CPRS SO
CO

CONFIDENTIAL

Ind Pol

cc JV.
AW.

10 DOWNING STREET

From the Private Secretary

13 May 1982

Dear Stephen,

WAGES COUNCILS AND THE ISSUE OF LOW PAY

The Prime Minister has seen your Secretary of State's recent minute, along with the recent correspondence on Wages Councils between the Chancellor of the Exchequer, the Secretary of State for Employment, the Minister of Agriculture, Fisheries and Food and the Attorney General.

The Prime Minister thinks that it would be useful to have discussion at E on these matters. I understand that it may be possible to hold such discussion towards the end of this month.

I am copying this letter to the Private Secretaries to other members of E, the Attorney General, the Secretary of State for Scotland, Sir Robert Armstrong and Mr. Sparrow.

Yours sincerely,

Michael Scholar

Stephen Boys-Smith, Esq.,
Northern Ireland Office.

10 DOWNING STREET

(1)

Prime Minister

Wages Councils

The legal advice was against us – that we would be in breach of ILO 26 if we excluded young people from the scope of the Wages Councils. But there are other issues to discuss – can we oblige the Councils to take into account ability to pay? Should we act in breach

PTO

of our obligations and defend ourselves on the grund that we are safegvarding employment?

These are for discussion at E – perhaps at the end of this month. That will also be the time for discussion of Mr Prior's ideas. So I don't think we need respond substantively to his letter. Agree?

Yes

MLS 12/5

CONFIDENTIAL

JFF630

cc JV

H

DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB
TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

11 May 1982

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
LONDON
SW1H 9NA

Dear Norman,

Part 1

Thank you for sending me a copy of your letter of 29 March to Geoffrey Howe about the Wages Councils system. I have seen the subsequent correspondence.

2. It is a pity that international obligations so inhibit us before 1986. However, that should not preclude us from taking some action now, and I look forward to a collective discussion of the options that are open to us.

3 On the question of abolition of individual Councils I gather that since 1979 ACAS has not had referred to it a single proposal for abolition (as opposed to amalgamation). This is to be compared with the vigorous action taken on training, another area saddled with a tripartite body, where we asked the Manpower Services Commission to review all the Industrial Training Boards, and then after the necessary legislation took our own decisions in the light of the MSC's advice. I find it difficult to believe that the trades and industries covered by Wages Councils when we came into office happen to be those which this Government consider must have a Council under the criteria set out in the relevant ILO Convention - and the Convention does give us some discretion in deciding which trades 'need' minimum wage fixing machinery.

4 However, our enforced decision to retain the system for the moment would be easier to defend if we were seen to be examining seriously whether individual Councils were justified on their own terms - and giving interested parties an opportunity to express their views on the matter -

CONFIDENTIAL

regardless of the eventual outcome of that examination. Hence there is much to be said for selecting some Councils with a view to referring them to ACAS or straightaway publishing a draft Order for abolition. Certainly the two retail councils receive most criticism from employers but there may be others which merit the same scrutiny.

5 Action of this kind would in particular help us in the debate on any legislation which we introduced in the House (and I agree that a declaratory obligation on Councils might be useful). Indeed if we are to introduce legislation there may be a case for including a provision which curtailed the present long winded procedure for abolishing a Council, for example by removing the need to seek the advice of ACAS in certain circumstances or giving us more freedom of action following that advice. Such a provision would give some reassurance to our supporters and might facilitate the abolition of individual Councils. More importantly perhaps it would clear the way for more radical action in 1986.

6 I agree with you that we must continue to do what we can to improve the field of choice for independent members on the Councils who have the casting vote on the size of awards. I hope that in particular you could appoint some people who have had first hand experience of the problems of small firms.

7 Progress so far has been disappointing. The list of independent members set out in Michael Alison's Answer to Richard Alexander's Question of 19 February make depressing reading. The fact that all but three of the 81 posts are filled by barristers, educationalists or ex-officials cannot help to convince our supporters that we are serious in our declared intention of introducing practical men of experience. On the face of it only one independent seems to have any substantial experience of industrial management (in a multi-national oil company!).

As 25 or so appointments expire each year this imbalance is something into which we can quickly make inroads if we are determined to do so. But we will only be successful if we drop the practice of normally reappointing people whose appointments expire. Experience and continuity are all very well, but do we need to take it to the extent of having over half of the present independent members with 10 years

CONFIDENTIAL

experience plus on the Councils, ie are well into at least their second reappointment? Reappointment should not be taken for granted even in normal times let alone when the balance is so wrong.

9 I am sending copies of this letter to the other recipients of yours.

Yours ever

Patrick

CONFIDENTIAL

E.R.

cc Mr. Vereker
Mr. Smith

MR. SCHOLAR

Prime Minister

If you agree, I suggest we do not respond to Mr Prior's minute (attached)? MLS 10/5

We must respond. But I thought the legal advice was against us. MT.

WAGES COUNCILS

1. The memorandum of the Secretary of State for Northern Ireland suggests that further steps on Wages Councils should be brought again to be discussed in E Committee. I doubt very much whether this would be at all useful.

2. During the last meeting of E Committee on Wages Councils the general view was that they should be abolished. The difficulties in the way were thought to be legal constraints in the form of the ILO Convention. Various suggestions were made, such as eliminating the young from the ambit of Wages Councils, in order to avoid the alleged conflict with the Convention.

3. As we suggested long ago, however, the legal constraints were in the minds of officials rather than in the letter of the Convention. This has been confirmed by legal advice. The only constraint now is the Government's degree of resolution.

4. All the issues raised by the Secretary of State for Northern Ireland have been raised before, discussed and resolved. The essence is as follows: if Wage Councils are effective they are harmful, if ineffective otiose.

6 May 1982

ALAN WALTERS

CONFIDENTIAL

CONFIDENTIAL

SECRETARY OF STATE FOR NORTHERN IRELAND

ecsv Ind Pol

Prime Minister (2) G

MLS 5/5

Prime Minister

WAGES COUNCILS AND THE ISSUE OF LOW PAY

I have seen your comments in your Private Secretary's letter of 1 and 8 April, along with the recent correspondence on Wages Councils between the Chancellor, the Secretary of State for Employment, the Minister of Agriculture, Fisheries & Food and the Attorney General. I am sending this minute to you rather than responding directly to Norman as I am concerned about the possible ramifications of our approach on Wages Councils on the wider issue of low pay.

2. On the suggestion that we try to abolish the two retail wages councils, I agree with Peter Walker that while employers would undoubtedly welcome such a move and abolition would make some contribution, however modest, on employment and prices, there would nonetheless be real difficulties for the reasons he sets out.

3. I would also foresee considerable practical difficulties in trying to impose statutory obligations on Wages Councils to take account of capacity to pay and implications for jobs. I am not convinced that the various exclusions ie for small firms and young persons, and qualifications being proposed, all of which require legislation, would meet with sufficient approval in Parliament or the industries concerned, to make them worth pursuing.

4. More generally, I feel that we should bear in mind that the low pay issue is difficult, particularly for a Conservative Government. In recent weeks there have been signs that the "low pay" lobby would be ready to campaign on the Wages Council issue and that the issue of low pay generally is one which can

/...

CONFIDENTIAL

attract close attention from the media. Our statements on Wages Councils, our message on pay generally, and the controversy on the proposed level of the allowance for the New Training Initiative from September 1983 are in danger of becoming confused and consequently, I fear, misconstrued and misrepresented. We also need to bear in mind the criticism we have faced on the proposed level of allowance for young people on the New Training Initiative: even the CBI have been prepared to countenance a higher weekly allowance rather than the sum of £15 which we had considered.

5. I think we also need to consider whether by attacking and seeking to abolish some Wage Councils we shall be providing a fresh impetus to those lobbying for more effective methods for enforcing minimum wage rates.

6. My worry is that we may be in danger of trying to push too far too fast on too many areas in our enthusiasm to enable people, particularly the young, to be "priced back into work". Therefore, before taking any further steps on Wages Councils, both the practical problems involved and also the more general political issues at stake could usefully be discussed in E Committee.

I am copying this minute to other members of E Committee, the Attorney General, the Secretary of State for Scotland and Sir Robert Armstrong.

J P

April 1982

BB


5 MAY 1982

Prime Minister (4) Encl Ref
cc SV

PUS 29/4

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

ATTORNEY GENERAL

01-405 7641 Extn 3201

28 April 1982

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Caxton House
Tothill Street SWI

MS

Dear Norman.

WAGES COUNCILS

Pt 1 attached

You copied to me your letter of 29 March to Geoffrey Howe inviting my comments on the proposal to amend the Wages Councils Act 1979 so as to place a statutory obligation on wages councils, in setting rates, to take account of capacity to pay and of the implications for jobs. I have also seen his reply of 8 April and Peter Walker's comments of 19 April.

In principle, it is possible to legislate along the lines of your proposal. I certainly agree that it should not cause difficulties in relation to our adherence to IL Convention 26. However, there are a number of practical difficulties and we would need to have in mind more clearly what we intended to achieve. An obligation merely to "take account of" or "have regard to" specified factors of the nature you outline would in practice hardly render a wages council's award susceptible to successful challenge in the Courts and to that extent may not lead to any changes in the Councils' practices. I say this because I think it unlikely that the issues would ever be so clear-cut that it would be possible after the event for an affected employer to prove that a wages council had totally ignored employment effects. On the other hand,

/a more

ATTORNEY GENERAL

01-405 7641 Extn

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

a more substantial statutory duty such that no increase is to be awarded unless the Council were satisfied as to certain matters may lead too readily to the possibility of legal challenge. A successful challenge would invalidate the particular Wages Councils Order giving effect to the award, yet in the meantime wages will have been paid at the rate prescribed in the Order. A further consideration is that the factors you have in mind are necessarily in legal terms imprecise; capacity to pay is variable depending upon the circumstances of the many different undertakings subject to an Order and the implications for jobs cannot readily form the subject of a judicial decision in advance of actual demonstrable effect (yet it would be to that time to which the Court's attention would have to be directed).

Accordingly, I suggest that it would be necessary for our officials to work up something more concrete before 'E' can take any decision on whether to proceed with this line of approach. I am copying this letter to the Prime Minister and other recipients of yours.

Yours ever Michael

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

Prime Minister (2)

From the Minister

MLS 20/4

The Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
London SW1N 9NA

19 April 1982

WAGES COUNCILS

Thank you for sending me a copy of your letter of 29 March to Geoffrey Howe.

As sponsor to the food and drink industry, including retail food distribution, I have an interest in your suggestion of approaching leading employers and employers' organisations in retailing to explore the idea of abolishing the Retail Wages Councils. I have no doubt that such a proposal would be welcomed by the employers' organisations. Both the major multiples and the independent grocers were incensed at the large award recently proposed by the Retail Food and Allied Trades Council (which has since been slightly reduced as a result of employers' protestations). There were real fears that this will lead to closures, and hence unemployment, among the smaller grocers and to a smaller increase in employment by the major multiples than would otherwise have occurred. I have little doubt that the abolition of the retail councils would make some contribution, however modest, to maintaining employment and keeping down prices.

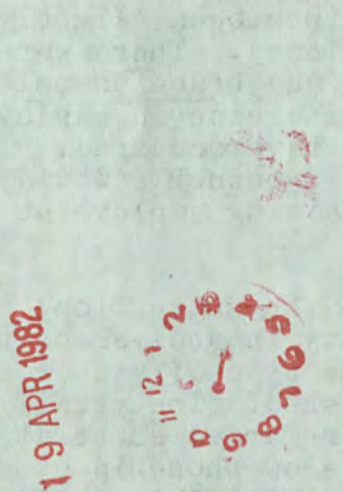
From that point of view I am sympathetic to the suggestion, but I am bound to say that I do see real difficulty in abolishing these Councils. The retail trade is very much the type of sector for which wage councils were originally established. The retail trade, including the food sector, is still widely regarded as relatively low paid and average earnings remain well below those in other sectors. Moreover, in the retail food and allied trades, infringements of wage council orders in 1981 affected 26% of the workforce inspected, a higher level than in any other sector. In the light of these factors it would be difficult to argue convincingly that these councils are not necessary for the maintenance of reasonable standards of pay in retailing or that their abolition would not increase the risk of exploitation.

/I have some ...

I have some sympathy with your alternative suggestion of imposing a statutory obligation on Wages Councils, in setting rates, to take account of capacity to pay and of the implications for jobs, in the hope that this might have some influence on those councils which do not at present take these factors into account. But I fear that the marginal benefit this might bring would be heavily outweighed by the risk of complaints and litigation for non-fulfilment to which it would give rise, as you yourself so rightly point out. Moreover, the criterion of ability to pay seems particularly difficult to apply in the retail sector with some 230,000 widely differing businesses, of which around 200,000 comprise single outlets only.

If you wish to pursue these ideas further, by all means let us discuss them in E Committee. But I would not, in any event, wish to take any action which could impinge directly or indirectly on the independent tradition of the Agricultural Wages Boards, which have been operating very satisfactorily.

I am copying this letter to the Prime Minister and other members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.



PETER WALKER

RESTRICTED

Prime Minister

(2)

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

MLS 8/4

8 April 1982

The Rt. Hon. Norman Tebbit, M.P.,
Secretary of State for Employment

Dear Norman

WAGE COUNCILS

Thank you for your letter of 29 March. I have also seen the Prime Minister's comment in Mr. Scholar's letter of 1 April, and your Private Secretary's reply of 5 April.

I would welcome a further discussion in E Committee of the options on Wages Councils (which I hope would also cover the Agricultural Wages Boards). This would provide a first opportunity to assess the balance of advantage in respect of moving to abolish the two retail wages councils, and we could also reconsider the case for wider and more radical action. We could then begin sounding out employers, as you suggest.

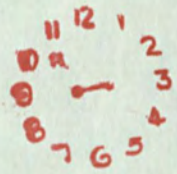
A statutory obligation on wages councils to take account of capacity to pay, and of theimplications of pay awards for jobs, would also be well worth considering. I suggested in my minute of 18 January that we might go further and insittute a right of appeal to the Secretary of State on the grounds that employment would be adversely affected by particular wages council decisions. But, subject to the views of the Attorney General, your proposal would seem likely to offer at least some possibility of legal redress where wages councils ignore employment effects.

I also agree that it would have a useful declaratory effect. The advantages of this might extend beyond the wages council area, and it would be no bad thing if Parliamentary debate on the necessary legislative amendment were to focus on the crucial link between pay restraint and jobs. In this connection I very much endorse what you say about the need for emphasis in our public statements on the need for pay restraint. This is an area in which other colleagues can make a very valuable contribution.

I am copying this letter to the Prime Minister and other members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.

Yours ever

GEOFFREY HOWE



CONFIDENTIAL

Ind PS.
cc. Mr Ilbrecken

10 DOWNING STREET

From the Private Secretary

8 April 1982

Dear Marie,

Thank you for your letter of 5 April with its answers to the Prime Minister's questions about the outcome if the Government proved to be in breach of its obligations under International Labour Convention 26.

I have shown this letter to the Prime Minister. Her conclusion is that the Government will have to try to abolish the two worst Wages Councils, and will justify this on the ground that the decisions of these Councils damage the employment prospects for young people.

I am sending copies of this letter to the Private Secretaries to other members of E Committee, the Attorney General, the Secretary of State for Scotland and Sir Robert Armstrong.

Yours sincerely,

Michael Scholar

Miss Marie Fahey,
Department of Employment.

CONFIDENTIAL

MR. SCHOLAR

c.c. Mr. Hoskyns
Mr. Smith

Wages Councils

I understand that the Prime Minister has not yet responded to the letter of 5 April from Mr. Tebbit's Private Secretary; perhaps I can offer these comments:-

(i) Clearly even at its worst - a major breach of the convention and ultimate condemnation by the ILO governing body - the effect of any action we might take on Wages Councils would be slight in the ILO compared with the benefits we believe it might have in terms of UK employment.

(ii) And the Department of Employment make insufficient allowance for the effectiveness of skilled diplomacy in both spinning the process out and putting up a strong defensive smoke screen.

(iii) And we would regard it as far from certain that the action we would be taking on Wages Councils would necessarily constitute a clear breach of our ILO obligations; certainly it would be our intention to permit the retention of some Wages Councils, which might satisfy the terms of Convention No.26.

I suggest, therefore, that, if the Prime Minister agrees, you might reply to Mr. Tebbit's office to the effect that she has noted the consequences of our breaching the Convention; she does not regard these as necessarily standing in the way of our achieving our objectives concerning Wages Councils for the reasons given above; and that she wishes that fact to be taken explicitly into account by the CPRS in their unemployment study.

7 April, 1982.

CONFIDENTIAL

MB

eh JV

(2)

Prime Minister

Answers to your questions.

MCS 5/4

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

GTN 213

Michael Scholar Esq
10 Downing Street
LONDON SW1

5 April 1982

Dear Michael

WAGES COUNCILS

I am replying to your letter of 1 April on the Prime Minister's request for information on the actual outcome if we proved to be in breach of our obligations under International Labour Convention 26.

If the TUC considered the Government in breach of that Convention, they would probably submit an immediate complaint to the Director General of the International Labour Office for urgent consideration. This is the course the TUC adopted in May last year, when they complained that the Government's handling of the Civil Service pay dispute was in breach of International Labour Convention No. 151. On that occasion the TUC's complaint was, as they requested, referred to the Committee on Freedom of Association (CFA) of the ILO's Governing Body*, and a similar procedure might be adopted with a complaint on Convention No. 26. Alternatively the Governing Body might refer the complaint to a small tripartite committee of inquiry for examination and report. Whichever procedure were adopted, the Government would be invited to give its views and these would be taken into account when the CFA Committe or Committee of Inquiry reported back to the Governing Body with its findings and recommendations.

The TUC's complaint would undoubtedly be raised for discussion by the Workers' Group of the ILO's Governing Body at the first session of the Governing Body following the submission of the complaint. (The Governing Body meets in November, March and at the beginning and end

Then we shall have to try to abolish the two unit wages councils for the interests of their members damage of employment prospects for young people

---

* The Committee on Freedom of Association is a small tripartite committee of members of the Governing Body appointed in their personal capacity to consider complaints of infringements of freedom of association and collective bargaining rights. Although its Chairman is an eminent international lawyer, it is not a judicial body.

of June every year). The TUC has a representative on the Workers' Group who would present the TUC's case, and on an issue of this kind, involving a breach of an important ILO Convention by one of the ten Governments with permanent representation on the ILO Governing Body, he would almost certainly be supported by the leader of the Workers' Group. There would likely to be strong criticism too from representatives of Eastern Bloc Governments, who were thwarted in their strenuous efforts in the March 1982 session of the Governing Body to set aside the report and recommendations of the CFA Committee on the suspension of trade union rights in Poland. Whether there would be any interventions from Western or non-aligned Governments, or from the Employers' Group, is problematic.

The formal outcome of the initial Governing Body debate would depend on whether it had before it a report from the CFA Committee with findings and recommendations, or a proposal for the setting up of a Committee of Inquiry. In the former case, the report of the CFA Committee would no doubt draw attention to the seriousness of breaching an important Convention which the UK had ratified, and invite the Government to report back urgently on what steps it was proposing to take to return to full conformity with its requirements. On past precedent, the CFA Committee's report would be adopted by the Governing Body as a whole, and if at the later sessions the Workers' Group were not satisfied with the Government's response, they would continue to press their complaints. A Committee of Inquiry would no doubt report back to the following session of the Governing Body, probably in much the same sense as the CFA Committee, and subsequent action would be similar.

Ultimately the ILO has no penal sanctions to invoke against member states which its machinery has found to be in breach of Conventions which they have ratified. Such findings are, however, seriously damaging to the political influence of the countries concerned both in the ILO and in other forums, as is shown by the determined efforts made by Governments of the Eastern Bloc to challenge and discredit the operation of the ILO's supervisory machinery. No precedent is recalled for a Western Government included among the ten Governments with permanent seats on the Governing Body being found in breach of the substantive provisions of a Convention.

I am sending copies of this letter to the Private Secretaries mentioned in your letter.

Yours sincerely

Marie Fahey

MISS M C FAHEY
Private Secretary

CONFIDENTIAL

cc: E Comm.
+ AH-Gen.
SO
CO

Ind Pol

bc: MV. Vereker

10 DOWNING STREET

From the Private Secretary

1 April 1982

WAGES COUNCILS

The Prime Minister has seen your Secretary of State's letter of 29 March to the Chancellor of the Exchequer about the possible exclusion of young people and part-time workers from the scope of the Wages Council system.

The Prime Minister has enquired as to what is the actual outcome if we prove to be in breach of our obligations under International Labour Convention 26. She has asked who would challenge us and by what procedure the challenge would be made.

I am sending copies of this letter to the Private Secretaries to the other members of E Committee, to Jim Nursaw (Attorney-General's Office), Muir Russell (Scottish Office) and to David Wright (Cabinet Office).

MS

Barnaby Shaw, Esq.,
Department of Employment.

CONFIDENTIAL

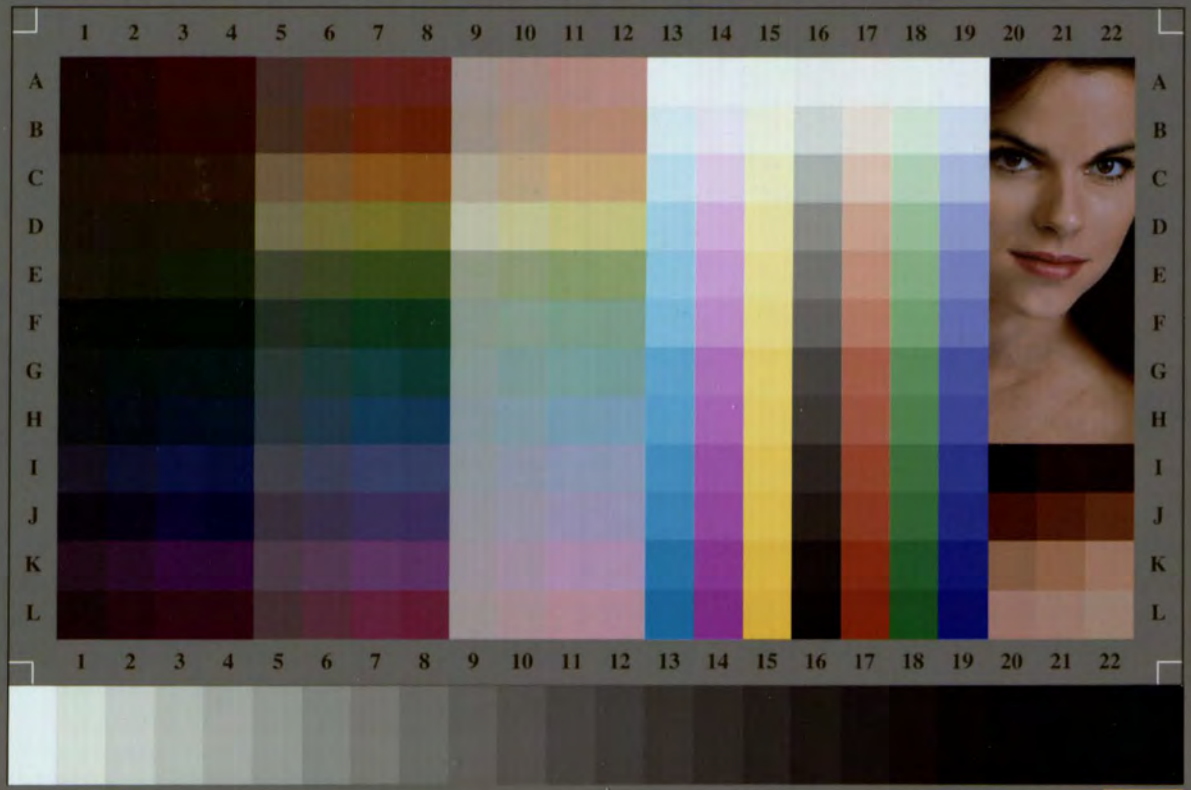
PART 1 ends:-

J.V. to AW 30.3.82

PART 2 begins:-

MCS to Employment 1.4.82

KODAK Q–60 Color Input Target



IT8.7/2–1993
2007:03

FTP://FTP.KODAK.COM/GASTDS/Q60DATA

Q-60R2 Target for
KODAK
Professional Papers