

**REPORT BY**  
**THE GOVERNMENT**  
**OF ARUBA**  
**~2010~**



in accordance with article article 22 of the Constitution of the  
International Labour Organisation

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## Foreword

The Government of Aruba is requested to communicate to the International Labour Office of the International Labour Organisation, a simple report on the application of the following Conventions:

- C008 - Unemployment Indemnity (Shipwreck)
- C009 - Placing of Seamen
- C022 - Seamen's Articles of Agreement
- C023 - Repatriation of Seamen
- C069 - Certification of Ships' Cooks
- C074 - Certification of Able Seamen
- C087 - Freedom of Association and the Protection of the Right to Organise
- C144 - Tripartite Consultation (International Labour Standards)
- C145 - Continuity of Employment (Seafarers)
- C146 - Seafarer's Annual Leave With Pay
- C147 - Merchant Shipping (Minimum Standards)

And a Supplementary report on the application of:

- C122 – Employment Policy

If the Committee of Experts or the Conference Committee requested additional information or made an observation on the measures adopted for the application of the Convention, the Government of Aruba will supply in this report the information asked or indicate the action taken or to be taken by the Government.

# **Unemployment Indemnity (Shipwreck) Convention, 1920 (no. 8)**

(Ratification registered by the Netherlands Antilles on 5 August 1957 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## **Direct Request 2007**

The Government informs the Committee that no changes have occurred in the number of vessels and seafarers registered, as defined in article 1 sub 1 and 2 of the Convention.

The Government informs the Committee that no progress has been made regarding the intention to denounce this Convention. The Government informs the Committee that the discussion regarding denunciation has not yet been discussed in the trilateral committee on international labour affairs.

## **Division I – VI**

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports
- IV. There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V. The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA

## **Placing of Seamen Convention, 1920 (no. 9)**

(Ratification registered by the Netherlands Antilles on 5 August 1957 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

### **Division I-VI**

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V. The Government of Aruba refers the Committee to past reports.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA

# Seamen's Articles of Agreement Convention, 1926 (no. 22)

(Ratification registered by the Netherlands Antilles on 5 August 1957 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## Division I-VI

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V. The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- V1. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba  
The Aruba Hotel and Tourism Association  
The Aruba Trade and Industry Association

AGCA  
AHATA  
ATIA

The worker's organisations:

The Aruba Union of Nurses  
The Federation of Workers of Aruba  
The Union of Public and Private Employees of Aruba

ABV  
FTA  
SEPPA

## **Repatriation of Seamen Convention, 1926 (no. 23)**

(Ratification registered by the Netherlands Antilles on 5 August 1957 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

### **Division I-VI**

- I.** The Government of Aruba refers the Committee to past reports.
- II.** The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III.** The Government of Aruba refers the Committee to past reports.
- IV.** There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V.** The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI.** Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA

## **Certification of Ships' Cooks Convention, 1946 (no. 69)**

(Ratification registered by the Netherlands Antilles on 22 April 1953 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

### **Division I-VI**

- I.** The Government of Aruba refers the Committee to past reports.
- II.** The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III.** The Government of Aruba refers the Committee to past reports.
- IV.** There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V.** The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI.** Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA



# **Certification of Able Seamen Convention, 1926 (no. 74)**

(Ratification registered by the Netherlands Antilles on 7 September 1951 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## **Division I-VI**

- I.** The Government of Aruba refers the Committee to past reports.
- II.** The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III.** The public authorities responsible for the certification of able seamen in Aruba is the Department of Labour & Research, which fell under the Ministry of Labour, Culture and Sport and the Navigation Department, which fell under the Ministry of Tourism and Transportation. Since January 2010, the responsible authorities are the Department of Labour & Research and the Navigation Department, which falls under the Ministry of Tourism, Transportation and Labour.
- IV.** There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V.** The Government informs that there are no elaborate statistics available, nor have there been reports made regarding the application of this Convention.  
Amounts of certifications granted:  
2006: 1  
2007: 2  
2008: 1  
2009: 0  
2010: 5
- VI.** Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba  
The Aruba Hotel and Tourism Association  
The Aruba Trade and Industry Association

AGCA  
AHATA  
ATIA

The worker's organisations:

The Aruba Union of Nurses  
The Federation of Workers of Aruba  
The Union of Public and Private Employees of Aruba

ABV  
FTA  
SEPPA

# Freedom of Association and the Protection of the Right to Organise, 1948 (no. 87)

(Ratification registered by the Netherlands Antilles 25 June 1951 and applicable to the country of Aruba as per 1 January 1986)

This report regards the period 1 June 2008 to 31 May 2010.

## Observation 2008 and Direct Request 2008

The Government kindly refers the Committee to the information provided in the Report by the Government of Aruba 2008, in which the Government addressed the Committee's Observation and Direct Request.

### Division I-VI

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. Please see attached 4 court cases.
  - Annex 1, KG no.2901 the Federation of Workers of Aruba, FTA vs the public entity, the Government Mediator.
  - Annex 2, KG no. 3246 and 3313 of the Team workers Union, The Aruba Hotel Enterprises N.V. vs the public entity, the Government Mediator.
  - Annex 3, KG no. 3255 of OPPA vs Aruba.
  - Annex 4, L.A.R. no 2907 of S.E.P.P.A, the union of Public and Private Employees of ARUBA vs the public entity the Government Mediator.
- V. The Government of Aruba refers the Committee to past reports. Due to the sudden change in the management at the Government Mediator Office, the Government regrets to inform that there is no information on the number of strikes and lockouts in the private sector during the reporting period, at this time.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba  
The Aruba Hotel and Tourism Association  
The Aruba Trade and Industry Association

AGCA  
AHATA  
ATIA

The worker's organisations:

The Aruba Union of Nurses  
The Federation of Workers of Aruba  
The Union of Public and Private Employees of Aruba

ABV  
FTA  
SEPPA

# Employment Policy Convention, 1964 (no. 122)

(Ratification registered by the Netherlands Antilles on 10 June 1955 and applicable to the country of Aruba as per 1 January 1986)

The Government kindly refers the Committee to the information provided in the Report by the Government of Aruba 2009, in which the Government addressed the Committee's Direct Request 2008 and submits a supplementary report to the Government's report of 2009.

## Supplementary Report

The Government wishes to communicate the following developments in employment policy to the Committee.

### Nos Aruba 2025

In an effort to design coherent policies for the future of Aruba, the Government initiated a project known as Nos Aruba 2025 (Our Aruba 2025) which was completed in November 2009. The "main goal of Nos Aruba 2025 [was] to develop a sustainable Aruba for the benefit of all people and stakeholders of Aruba".<sup>1</sup> In this vision, the premise of interlinkage of a variety of factors is explained and put into perspective of the national situation. The final product of the project was delivered in February 2010 in the NISP, or the National Integrated Strategic Plan. Because of the size of the document, the Government will not submit it to the Committee but will refer to those sections pertaining to labour. Should the Committee feel inclined to read the whole document, the Government invites the Committee to view such online at the following internet address:

[http://www.nosaruba2025.aw/index.php?option=com\\_wrapper&view=wrapper&Itemid=53&lang=en](http://www.nosaruba2025.aw/index.php?option=com_wrapper&view=wrapper&Itemid=53&lang=en)

Nos Aruba 2025 sought to include participation from the entire population from its initiation to its completion. The project consisted of four phases: Discovery, Dream, Design and Destiny. The Discovery phase determined Aruba's strengths and weaknesses and what it has to offer. The Dream phase concluded in the desires of the population for what Aruba should be in the year 2025. These desires, or dreams, were then converted into strategic plans for the myriad of areas considered important by the population. And the final phase entails plans for execution.

As it regards labour, the Government refers the Committee to Annex 5, section 2.2.2. Labor market developments of the NISP, with regards to the labour challenges faced by Aruba. Summarised, this section reveals the gender salarial inequalities, favouring male workers, which are consequent the service-oriented economy of Aruba. It has also been concluded that the largest percentage of all workers earn just over the minimum wage (30,41%), of which mostly are women. Despite the limited research available on labour productivity, the NISP reports a relatively low level thereof. Of particular interest is the conclusion that higher wages hardly lead to higher productivity. Improvements are warranted in the physical fitness of the labour force to combat absenteeism and chronic ailments, among others.

In the recommendations, among others are the diversification of the economy to create new labour needs. To do this, education must play a central role and individuals already

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<sup>1</sup> [www.nosaruba2025.aw](http://www.nosaruba2025.aw)

participating in the labour market must receive upgrading training. Participation can also be increased with the introduction of more flexibility in working hours, or rather part-time work, to accommodate women in particular who wish to combine family and career. National campaign to increase labour productivity is also important.

The Government applauds the work that has been completed and submitted in this Nos Aruba 2025 project and will review its conclusions to determine the best course of action.

### Employment Service

In lieu of the low success rates in employment placement for job seekers by the section Job Centre of the Labour Department, the Ministry of Tourism Transportation and Labour recently instituted a quick scan investigation to determine the underlying reason(s) for not attaining better success. The Government will communicate the results of this investigation to the Committee in its next report.

### Women

As it regards the position of women on the labour market, the Government informs the Committee (also briefly mentioned in the Government's 2008 Report on Night Work - Women) that certain sections of the Civil Code and the Accident Insurance Ordinance have been amended to provide an extension of women's rights and extra protection to women as it regards pregnancy and maternity leave which affords them the space for family while maintaining their salary and employment. Women are now also entitled to absence from performing labour in order to breastfeed or pump breastmilk.

In addition, the legislation provides for explicit protection against termination of the labour relation due to reasons associated with this right. A woman may not be given notice during pregnancy or maternity leave (art. 1615h par. 2 Civil Code); any and all contractual stipulations requiring the termination of the labour relation during pregnancy or maternity leave is considered null and void. (art. 1615e par. 3 Civil Code)

As the State Ordinance Sickness Insurance stood, it provided 80% of the monthly wage for those individuals who were deemed incapable of performing labour and were the breadwinner of the household. Non-breadwinners received 70% of their salary. Because women's salaries are usually lower than that of the men, women are predominantly those who received 70%. This inequality has been abolished, now all individuals, regardless of income receive 80% of the monthly wage in case of sickness. Because pregnancy and maternity are considered an incapacity to perform labour, this amendment improves the situation for female workers crossboard and stimulates higher employment participation.

Article 1614aa of the Civil Code additionally requires gender equality of treatment as it regards the employment contract, instructions of employment, promotions, labour conditions, and at the termination of the labour contract.

### Personnel Stop

The Government recently declared a general moratorium in recruiting and hiring in government departments. Exceptions may only be had in extreme cases of understaffing. Current vacancies will not be filled and retired personnel will not be replaced. Although the main goal of this measure is to reduce the number of public servants and thereby reduce the government's payroll, the Government hopes to create the possibility of increased employment participation in the private sector.

### Alleviation of tax burden

Employment participation is relatively low in Aruba and the general goal of the Government is to increase the number of men and women in the workforce. A general increase in labour participation is of essence for the continued growth of the Aruban economy and for the sustenance of government funds. In addition, as the cost of living increased, the Government believed it to be responsible to assist minimum wage earners with tax alleviation. As per 1 January 2007, the Government introduced a business turnover tax, abbreviated BBO, and simultaneously eliminated the income tax for minimum wage earners. This tax alleviation also encourages individuals to enter the workforce who otherwise would prefer to receive government assistance rather than earn a minimum wage because they would end up with more money than had they gone to work.

# **Tripartite Consultation (International Labour Standards), 1976 (no. 144)**

(Ratification registered on 6 August 1986)

This report regards the period 1 June 2008 to 31 May 2010.

## **Direct Request 2009**

The Governments informs the committee that no consultations took place on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference.

Topics of discussion where consultations took place or information were given:

\*Denunciation of Convention C126 and the intention of denunciation of Convention C89;

\*Information on the proposal to be made in connection with the intention to promote application of Convention C182;

\* The Governments reports for the period ending May 2008 and 2009 on ILO conventions in accordance with article 22 of the Constitution of the International Labour Organisation. As well as the first draft of the Governments report 2010;

\* Presentation and communicated information on C94, C155, C183;

\* 97<sup>th</sup>, 98<sup>th</sup> and 99<sup>th</sup> Session of the International Labour Conference in Genève.

## **Division I – VI**

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V. For the period June 2007 through May 2010, the tripartite committee for international affairs (OCIA) held its meetings on: 12 February 2008, 21 January 2010, 06 February 2010 and 16 March 2010.

Despite the fact that meeting dates have been scheduled at four consultations annually reserving the right to call extra meetings when the need arises, meetings have often been cancelled due to lack of quorum. Due to this fact and to encourage regular and continuous consultations, in 2009 written consultation was introduced. Each OCIA member received all necessary documentation and was given 2 or 3 weeks in order to give his or her comments. Despite this measure, no written comments have been received nor has active participation been achieved.

The Government adjusted once again the working method and has convened an urgent meeting. January 21<sup>st</sup> 2010 a meeting was scheduled to discuss which method should be applied to develop effective tripartite consultation. In this meeting, the OCIA members expressed their wishes to hold meetings on a regularly basis and agreed that the meetings should take place on a monthly basis.

**VI.** Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA

The Government did not receive any comments regarding any Convention from these organisations nor did the Government receive any notice that they would wish to send their comments at a future time.

# **Continuity of Employment (Seafarers) Convention, 1976 (no. 145)**

(Ratification registered on 6 August 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## **Direct Request 2006**

The Government informs the Committee that no progress has been made regarding the intention to denounce this Convention. The Committee informs the Committee that the discussion regarding denunciation has not yet been discussed in the trilateral committee on international labour affairs.

## **Division I-VI**

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There are no courts of law or other tribunals that have given decisions involving questions of principle relating to the application of this Convention.
- V. The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA



# Seafarer's Annual Leave With Pay Convention, 1976 (no. 146)

(Ratification registered on 18 February 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## Division I-VI

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There have been no decisions by courts of law or tribunals involving questions of principle relating to the application of this Convention.
- V. The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba	AGCA
The Aruba Hotel and Tourism Association	AHATA
The Aruba Trade and Industry Association	ATIA

The worker's organisations:

The Aruba Union of Nurses	ABV
The Federation of Workers of Aruba	FTA
The Union of Public and Private Employees of Aruba	SEPPA

# Merchant Shipping (Minimum Standards) Convention, 1976 (no. 147)

(Ratification registered on 6 August 1986)

This report regards the period 1 June 2005 to 31 May 2010.

## Division I-VI

- I. The Government of Aruba refers the Committee to past reports.
- II. The Government of Aruba refers the Committee to past reports for the application of the Articles of this Convention.
- III. The Government of Aruba refers the Committee to past reports.
- IV. There have been no decisions by courts of law or tribunals involving questions of principle relating to the application of this Convention.
- V. The Government informs that there are no statistics available, nor have there been reports made regarding the application of this Convention.
- VI. Copies of this report were communicated to the following organisations:

The employer's organisations:

Associated General Contractors of Aruba  
The Aruba Hotel and Tourism Association  
The Aruba Trade and Industry Association

AGCA  
AHATA  
ATIA

The worker's organisations:

The Aruba Union of Nurses  
The Federation of Workers of Aruba  
The Union of Public and Private Employees of Aruba

ABV  
FTA  
SEPPA

## List of Annexes

<b>Annex</b>	<b>Document</b>	<b>Ref.</b>
1	KG no. 2901, FTA vs the Government Mediator	C087
2	KG no. 3246 and no. 3313, the team workers Union vs the Government Mediator	C087
3	KG no. 3255, O.P.P.A vs Aruba	C087
4	L.A.R. no 2907, S.E.P.P.A vs the Government Mediator	C087
5	Seccion 2.2.2 Labor market developments of the NISP	C122

# **ANNEXES**