



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

Distr.: General
4 April 2013
English
Original: Spanish

**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**

**Consideration of reports submitted by States
parties under article 73 of the Convention**

Initial reports of States parties due in 2004

Uruguay*

[30 January 2013]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–10	3
II. Information of a general nature.....	11–111	4
A. Immigration.....	11–28	4
B. Emigration.....	29–36	6
C. Return.....	37–52	7
D. Liaison.....	53–65	9
E. Refugees.....	66–68	11
F. General norms applicable to migrant workers.....	69–111	11
III. Information in relation to each of the articles of the Convention.....	112–483	23
A. General principles.....	112–151	23
B. Part III of the Convention: Human rights of all migrant workers and members of their families.....	152–342	27
C. Part IV of the Convention: Other rights of migrant workers and their families who are documented or in a regular situation.....	343–400	58
D. Part V of the Convention: Provisions applicable to particular categories of migrant workers indicated in articles 57 to 63 of the Convention, if any.....	401–429	68
E. Part VI of the Convention: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families.....	430–483	72

Annexes**

- I. Act No. 18250 on Migration
- II. Decree No. 357/008, Ministry of Foreign Affairs, Directorate-General for Consular Affairs, Return and Welcome Office. Establishment. Status
- III. Decrees Nos. 171787, 172975, 178583 and 194011, Ministry of Foreign Affairs
- IV. Act No. 18065 on Domestic Work

** The annexes may be consulted in the files of the Secretariat.

I. Introduction

1. The initial report of Uruguay to the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families on the measures taken by the State of Uruguay to comply with the obligations it has assumed under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is hereby submitted in accordance with article 73 of the Convention.
2. This national report was prepared and structured in accordance with the Provisional Guidelines regarding the form and content of reports to be submitted by States parties under article 73 of the Convention (HRI/GEN/2/Rev.2/Add.1).
3. The preparation of the report was coordinated by the Human Rights and Humanitarian Law Department of the Ministry of Foreign Affairs of Uruguay. The Department's work involved the interlinking, coordination and systematic ordering of information submitted by various competent national bodies.
4. The report was produced in close collaboration with the Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs of Uruguay.
5. A wide-ranging consultation process was conducted with various State bodies involved in this area, particularly the Human Rights Directorate of the Ministry of Education and Culture, the National Migration Directorate of the Ministry of the Interior, the Ministry of Labour and Social Security, the Ministry of Social Development, the Ministry of Public Health, the judiciary and the legislature, the Social Insurance Bank, the Sectoral Commission on Population of the Planning and Budget Office, and the National Human Rights Institution and Ombudsman's Office.
6. In addition, open consultations were held with NGOs and other civil society stakeholders that are active in the area of human rights protection.
7. Uruguay acknowledges the delay in submitting this national report.
8. A number of factors have prevented Uruguay from adhering to the required deadlines for submission of this information to the Committee.
9. However, Uruguay wishes to emphasize the determination of its Government in general and of the Ministry of Foreign Affairs in particular to update all national reports to the human rights treaty bodies.
10. This aim has been achieved through the recent submission of reports to the Committee on Economic, Social and Political Rights, the Committee on the Elimination of Racial Discrimination, the Committee on Enforced Disappearances, the Committee against Torture, the Committee on the Rights of the Child, the Human Rights Committee, the Committee on the Rights of persons with Disabilities and, in the case of the present report, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

II. Information of a general nature

A. Immigration

11. Migration has been a consistent feature of Uruguayan society since independence. With regard to the historical development of this phenomenon, it may be noted that during the years following the consolidation of the Republic in 1830 or thereabouts, immigration was adopted by the first governments as a core policy aim.

12. Immigration from Europe recorded a marked increase in relation to the population of the country at the time. It was accompanied by immigration from Brazil and Argentina: the Brazilians settled on the north-eastern frontier and the Argentines on the country's western and southern coastline.

13. European immigration accounted for a large proportion of population growth until the 1930s. It came to a halt in the aftermath of the 1929 crisis and during the Second World War, resumed to some extent after the war, including during the 1950s, and then died out completely, as in the case of most American countries.

14. During the 1960s a pronounced change was recorded in the trend of migration in Uruguay. The country ceased to be a recipient of migrants – especially those of European origin – and began instead to record an outflow of population and a negative migration balance. Uruguayan emigrants headed for the most part to countries of the region as well as to Europe and the United States.

15. A major population outflow was recorded during the 1970s, especially in 1974 and 1975, in response to the economic crisis and the repression and violence that followed the establishment in 1973 of the dictatorship which lasted until 1985.

16. In recent years, there have been signs of increased immigration and the accelerated return of Uruguayan emigrants at a time of strong economic growth accompanied by a very low unemployment rate (5.4 per cent in February 2011). This recent trend is reflected in the increasing number of residence permits granted by the National Migration Directorate (DNM): an increase from 1,219 residence permits in 1998 to 3,825 in 2009, a subject that will be addressed later in this report.

17. The same applies to the following data for 2011 and 2012: 1,071 residence permits were granted in 2011, while a total of 2,101 permits were granted in 2012.

18. It is possible to distinguish immigrants who arrived before 2000 from those who arrived between 2000 and 2008 by consulting the 2008 Continuous Household Survey. Immigrants from the region, primarily from the border countries Argentina and Brazil, as well as a group of countries including the “rest of America”, have been predominant in the recent period. Those who arrived before 2000 include a considerable number of Europeans (especially Spaniards and Italians), although they are still outnumbered by Argentines and Brazilians.

19. The present population of Uruguay is 3,286,314. According to data from the 2011 Census concerning geographical location, persons recently resident in Uruguay (2000–2011) who were born abroad account for 2.4 per cent of the population. In the capital city, they account for 3.6 per cent of the total population, a figure that is exceeded only in the border Department of Rivera (3.8 per cent). The following departments are those, in descending order, with the highest percentage of foreign residents: Maldonado (2.7 per cent), Canelones (2.1 per cent) and Colonia (2.0 per cent).

20. The 2011 Census provides the following data regarding their countries or regions of origin: 35 per cent come from Argentina, 17.3 per cent from Brazil, 9 per cent from the United States, 7.7 per cent from Spain, 4.1 per cent from Peru, 2.8 per cent from Paraguay and 2.7 per cent from Chile. A figure of 5.4 per cent was recorded for the remaining South American countries.

21. With regard to departments of residence, persons of Brazilian and Argentine origin are concentrated in the border departments. The proportions are as follows for residents from Brazil: 87.3 per cent in Rivera, followed by 75.5 per cent in Artigas and 73.8 per cent in Cerro Largo.

22. Persons of Argentine nationality are concentrated in three coastal departments: Soriano (66.6 per cent), Colonia (64.5 per cent) and Río Negro (62.4 per cent).

23. According to the Census, the departmental distribution of nationals of the remaining South American countries are as follows: 20.7 per cent in Montevideo, 16.7 per cent in Treinta y Tres, 16.0 per cent in Durazno, 14.9 per cent in Florida, 14.3 per cent in Lavalleja, 14.0 per cent in Flores, 13.2 per cent in Canelones and 10.6 per cent in Maldonado.

24. According to the descriptive data, most Argentines – middle and upper-middle class – live in coastal departments (Colonia, Soriano, Río Negro), in San José and in Maldonado (Punta del Este). The Brazilians live in departments on the border with Brazil. Some are wage-earning rural workers and others are students. There are also seasonal construction workers in the eastern health resorts.

25. The *Perfil Migratorio de Uruguay* (Migration Profile of Uruguay) published by the International Organization for Migration (IOM) in 2011 notes an incipient inflow of Peruvian workers who are employed in the following areas: fishing in the case of men and domestic work in the case of women. The arrival of Peruvians in Uruguay dates from the 1990s.

26. To sum up, according to the Census data, 24,512 persons of foreign origin arrived in Uruguay between 2000 and 2011. The migrant population was composed predominantly of people from the region, especially Argentina and Brazil, and an additional group of nationalities termed “the rest of America”. Argentina and Brazil were the countries of origin of almost 53 per cent of the immigrants.

27. As far as gender distribution is concerned, the following may be noted for the South American countries. In the case of Argentina, the percentage of females is slightly higher (51.2 per cent) than that of males (48.8 per cent). The proportion of females in the case of Brazil (53.8 per cent) is also somewhat higher than that of males (46.2 per cent). In the case of Peru and Paraguay, however, there is a marked preponderance of females. Thus, between 2000 and 2011, 58.4 per cent of the total number of Peruvians were women and 41.6 per cent were men. During the same period, 60.2 per cent of the total number of Paraguayans were women and 39.8 per cent were men.

28. With regard to figures for irregular immigration, it should be noted that there is no conclusive information available on this phenomenon. There have been indications of the existence of rural workers, employed for the most part in forestry, whose situation is irregular, but there is no official information and there have been no studies of the issue. The “Migration Profile of Uruguay” refers to approximately 1,000 migrant persons in an irregular situation. These are persons who live on the border with Brazil and spend their lives in a binational environment.

B. Emigration

29. Uruguayan emigration has also existed since the establishment of the country. For lengthy periods in the past, the population used to leave the territory for border regions. According to the Argentine census for 1914, the Uruguayan population in Argentina was equivalent to more than 7 per cent of that resident in Uruguay. While the Uruguayan presence declined over the following decades, it expanded once again in the 1960s.

30. As has already been noted, a shift in the Uruguayan migration balance from positive to negative was recorded during the 1960s and this situation predominated for the remainder of the twentieth century. The balances can be estimated from the censuses for the period, which show persistent emigration. During the 1960s and 1970s, a substantial outflow of population was recorded (218,000 personas, representing 8 per cent of the Uruguayan population according to the 1963 census, emigrated between 1960 and 1975).

31. The border countries were the destinations of those emigrating during this period (accounting for almost 60 per cent of the total). There were also incipient outflows to the United States and Canada, some European countries and other Latin American countries, predominantly Mexico and Venezuela.

32. The motives for this migration were economic and political. The outflows to various destinations led to the establishment of Uruguayan communities, which gradually built solid roots and created liaison networks between the emigrants and their relatives and friends who were still resident in the country. Thanks to these networks, candidates for migration in later years had access to information and support for their migration plans.

33. In the early years of the present century (basically in 2002), Uruguay suffered a severe economic crisis which had a major impact on emigration: the number of persons lost to emigration in just a few years was estimated at 3.5 per cent of the total population. As a result, a negative population growth rate was recorded for several years.

34. Comparative academic studies have demonstrated that 443,208 Uruguayans were living abroad in 2004 (a figure that does not include their descendants born outside Uruguay), which is equivalent to 13.6 per cent of the population residing in Uruguay (J. Taks. 2006).

35. Some characteristics of this recent emigration differ from those of previous outflows: the emigrants' destinations were mostly developed countries, particularly the United States and Spain (which jointly accounted for 70 per cent of the total); only 11.9 per cent headed to Argentina and 4.7 per cent to Brazil. Furthermore, recent emigration tends to have a younger profile: 55 per cent of emigrants from Uruguay between 2000 and 2006 were between 20 and 30 years of age. As in the case of previous waves of emigration, the number of men exceeded that of women in all of the countries reviewed. Moreover, the prevalence of males among recent emigrants is greater than that recorded during previous periods, although the migration of women has increased in most parts of the world. The persons involved in the current flow of emigrants have a higher level of education than the population residing in Uruguay; this is true of those heading both to developed countries and to Latin American countries, except for Argentina, in respect of which the level is similar to the average for the population residing in the country.

36. As noted in the "Migration Profile of Uruguay", Uruguayan emigration is selective in terms of employment structure and marked differences by country of destination have been recorded during all periods. In the case of Uruguay, emigrant workers may be broadly divided into three groups, although the data are insufficiently detailed to permit the level and volume of each group to be precisely identified. The first comprises skilled professionals, scientists, academics or senior managers. The second group, which is large in terms of volume (70 per cent), comprises workers with intermediate-level training or with

experience in industry, trade or services. These are the people who define the general profile of Uruguayan emigration. The majority of emigrants are employed in occupations of this kind: they possess a heterogeneous range of qualifications, skills and experience. Lastly, a third group, comprising 12 per cent of emigrants, are employed in unskilled occupations; this percentage is somewhat lower than that for the economically active population residing in Uruguay, which is 20 per cent (Pellegrino, 2008).

C. Return

37. At the end of the dictatorship (1985) a slight increase was recorded in the rate of return. The return of exiles and opponents of the dictatorship was supported by the Government and international organizations (IOM and the United Nations Development Programme (UNDP)). Nevertheless, the 1985–1996 intercensal balance remained negative, indicating that emigration did not cease during that period, although a slowdown was recorded.

38. Measures to stimulate return began to be implemented towards the end of the dictatorship through the establishment of the National Repatriation Commission (1985) which was tasked with coordinating action by public bodies and civil society aimed at reintegrating Uruguayans who returned to the country in the aftermath of the dictatorship; the return of some 20,000 nationals was achieved. The National Repatriation Programme was implemented from 1985 to 1990.

39. The return of Uruguayans has become an increasingly significant and extensively studied phenomenon. It should be noted that the lack of studies of the Uruguayan case in previous years was due to the poor quality of Uruguayan migration statistics and the fact that few statistics were available made it difficult to calculate the number of returnees and to identify the nature and characteristics of the trend.

40. From 2005 onward, return became a key component of the Uruguayan political agenda. The Government of Uruguay began to develop and expand its policy concerning relations and liaison with Uruguayan nationals living abroad. A liaison programme for Uruguayans abroad involving bureaucratic and administrative changes was promoted through the Ministry of Foreign Affairs and led to the establishment of the Directorate-General for Consular Affairs and Liaison. This new situation acknowledges the fact that compatriots resident abroad form part of Uruguayan society and that the country is determined that they should remain so.

41. Official indicators of flows and profiles of returnees are now available. In addition, institutional structures have been established to cater for this sector of the population. The creation of specific bodies tasked with facilitating the return of Uruguayan citizens in both the Ministry of Foreign Affairs and the Ministry of Labour and Social Security will be discussed below.

42. It should be noted that the returning immigrants who arrived after 2000 came in virtually equal proportions from Argentina, the United States and Spain, while more than half of the returnees who arrived before 2000 came from Argentina (55 per cent), followed at a great distance by Brazil (10 per cent) and other regional destinations (13 per cent).

43. With a view to the systematic ordering of concrete and accurate data, the Return and Welcome Office attached to the Directorate-General for Consular Affairs and Liaison has been using computer software since 2011 that enables it to record the most prominent characteristics of persons who return and decide, on a voluntary basis, to get in touch with the Office. Records of this kind help to compile more reliable information, which contributes in turn to the formulation of better targeted policies. The webpage of the

Ministry of Foreign Affairs contains four-monthly reports including profiles (www.mrree.gub.uy).

44. Two types of return feature in all reports: voluntary return, where the individual and/or family returns voluntarily; and forced return or so-called repatriation, in which case the State provides assistance to a national and his or her family in situations of poverty and social vulnerability.

45. According to the reports produced by the Office of Return and Welcome, a total of 3,541 personas returned to the country in 2011, of whom 3,456 returned voluntarily and 85 with State assistance (repatriation).

46. Fifty-four per cent of the returnees came from Spain, 23 per cent from the United States and the remaining 23 per cent from various countries within and outside the region. The records show that the number of men exceeded that of women, 62 per cent compared with 38 per cent; however, if the figures are broken down into those who return voluntarily and so-called repatriates (those assisted by the State), the number of men is still greater, but there is a notable increase in the number of women: 56.5 per cent compared with 43.5 per cent.

47. With regard to age, the largest proportion of returnees were in the 20 to 40 age group (42 per cent) and the 40 to 60 age group (31 per cent). It should be noted that, in the case of repatriates, the largest proportion, 41 per cent, were children and young people in the 0 to 20 age group. With regard to levels of education, an extremely high percentage of returnees passing through the Return and Welcome Office had been enrolled in secondary education (63 per cent), although many of them had not completed the final stage. A relatively small proportion of returnees had university education (8 per cent) and 18 per cent had been enrolled in tertiary education. The principal motive for return was the economic crisis (66.5 per cent); 10 per cent attributed their return to identity-related reason; 8.5 per cent returned on account of family or health problems and 15 per cent on account of their irregular situation in the country of residence.

48. With regard to the data recorded for the first two four-monthly periods of 2012, it may be noted that, compared with the corresponding periods of 2011 (when assistance was provided to 1,719 persons), there was a significant increase in the number of compatriots visiting the Office (1,990 persons).

49. With regard to the countries from which Uruguayan nationals returned in 2012, 65 per cent returned from Spain, followed by 21 per cent from the United States. The remaining 14 per cent came from various countries of the region and elsewhere. There was thus an increase in the percentage of compatriots returning from Spain compared with the previous year. The records indicate that the number of men (59.70 per cent) exceeded that of women (40.3 per cent). With regard to age groups, 32 per cent of the returnees were in the 40 to 50 age group, 19 per cent in the 30 to 40 age group, and 16 per cent in the 50 to 60 age group. With respect to levels of education, the records show that 62 per cent had been enrolled in secondary education, although many had not completed the final stage. A relatively small proportion of returnees seeking the Office's assistance had university or tertiary education, namely 6 and 10 per cent respectively of the total number of returnees.

50. Eighty-eight per cent of returnees attributed their return to economic motives, which is a higher percentage than in the previous year. It should also be noted that a greater number of compatriots (194) received State assistance in 2012 compared with the previous year (85). The principal motive for repatriation was economic vulnerability (39 per cent) and the second motive was poverty (37 per cent); many other motives were cited, including domestic violence, health problems and family problems (24 per cent). It should be noted that the regulations applicable to repatriation are being updated. The grounds are being specified clearly and unrestrictedly, in accordance with the international norms in force in

Uruguay, such as gender-based violence, including victims of domestic violence and human trafficking. It should further be noted that this procedure covers, on request, not only the person to be repatriated but also his or her family members – irrespective of whether they are Uruguayan nationals. The updated regulations will also include for the first time procedures for the repatriation of human remains to Uruguay, when the family or relatives of the deceased cannot afford to have the remains transported themselves.

51. With regard to age, the records show that repatriated persons are younger than returnees, with 12 per cent belonging to the 0 to 10 age group.

52. According to estimates and in light of the economic crisis in the countries where a large number of compatriots reside (Spain and the United States), the number of returnees is expected to increase during the current year (2013).

D. Liaison

53. A liaison programme targeted at highly qualified emigrants was established in 2001 with a view to involving emigrants in the development of the country. Moreover, steps were taken from 2005 onward to institutionalize liaison policies, enhancing their effectiveness and giving them greater weight.

54. The Liaison Programme with Highly Qualified Uruguayans Living Abroad was promoted by the University of the Republic, the Ministry of Foreign Affairs, IMO, UNPD and the United Nations Population Fund (UNFPA).

55. The National Commission for Liaison with Uruguayans Living Abroad was established by decree that year (2001) as well as an Advisory Committee to assist the Commission, and a parliamentary committee began to study legislative solutions for emigration.

56. In 2002 the members of the Advisory Committee were appointed and the first meetings were held with migrants, who proposed that the Liaison Programme should not be confined to those who were “highly qualified”.

57. The Liaison Programme was implemented between 2001 and 2004 by means of a website, a database containing 3,000 entries submitted on a voluntary basis, a newsletter and the organization of annual workshops and meetings in Uruguay.

58. In 2003, the Advisory Committee submitted a report containing an assessment and recommendations to the National Commission. It provided for more than 40 actions designed to promote the formulation of a State policy in support of liaison with Uruguayans living abroad.

59. As already mentioned, the Directorate-General for Consular Affairs and Liaison with Uruguayans Abroad was created in 2005 (the Commission having been disbanded) in the Ministry of Foreign Affairs as an institution tasked with coordinating activities relating to Uruguayan migrants abroad throughout the State.

60. The Directorate-General for Consular Affairs and Liaison is responsible for coordinating the national liaison and return policy with Uruguayan emigrants.

61. The Government gives high priority to the forging of links with all compatriots living abroad. Finding ways to involve the migrant population in Uruguayan affairs and events is of vital importance in building the country’s future. Territorial frontiers should not impede initiatives by nationals living abroad aimed at strengthening their links with the country of origin. A liaison policy is therefore being planned, programmed and implemented by the Directorate-General through the Foreign Service of the Republic.

62. Since the establishment of the Directorate-General for Consular Affairs and Liaison, four global meetings with Uruguayans living abroad have been held.

63. As already mentioned, advisory boards were created to promote liaison activities. The boards are organizations representing Uruguayans living abroad and their primary function is to forge links between Uruguayans living abroad and their home country in a wide range of areas. It should be noted that the participation as citizens of all nationals living abroad is recognized as a key factor when it comes to the formulation of new public policies.

64. This type of citizen participation promotes and gives concrete shape to the democratic principles of participation, transparency, pluralism, respect for diversity and inclusiveness of all citizens.

65. The following is a list of activities that are being undertaken to promote interaction / to foster a closer relationship with Uruguayans living abroad:

(a) Accession to the Hague Apostille Convention, which assists persons living outside their home country by streamlining the requirements concerning official documents that must be submitted in either their country of residence or their country of origin;

(b) Implementation of the new electronic passport system in the 15 Consulates-General in the countries where most compatriots reside; it is planned to implement the system in all Consulates-General of the Republic by the end of 2014;

(c) Coordinated work with the *Uruguayos por el Mundo* (Uruguayans Throughout the World) Programme of the Secondary Education Board, which enables people to sit secondary education examinations abroad;

(d) Uruguay has signed and ratified the Ibero-American Social Security Agreement, which enables many compatriots who are living abroad to have their years of employment transferred and recognized both in the country of residence and in the country of origin;

(e) An agreement with the Directorate-General for Civil Status Records and the Departmental Council of Montevideo pursuant to which civil status certificates may be requested free of charge through the Foreign Service of Uruguay;

(f) A project is being developed jointly by the Ministry of the Interior and the Ministry of Foreign Affairs with a view to having identity documents processed abroad;

(g) As culture plays a crucial role in forging stronger links, support has been provided for a variety of cultural events organized by Uruguayans abroad;

(h) As mentioned above, four global meetings of advisory boards have been held, resulting in an ongoing dialogue and a more effective approach to the formulation of public policies;

(i) A Compatriot Assistance Office in the Directorate-General for Consular Affairs and Liaison collaborates on a permanent and coordinated basis with the State's consular offices and institutions in order to address the various problems encountered by compatriots living abroad, such as: provision of humanitarian assistance for the repatriation of persons or human remains; requests from persons wishing to meet their relatives; support for detained compatriots and their relatives in Uruguay; provision of medicinal products; support for our consular offices; action to address situations involving minors abandoned abroad, domestic violence or human trafficking and smuggling; and other situations;

(j) Applications from abroad, through Uruguayan consular offices, to invoke the laws providing for full reparations and pension rights in respect of injuries sustained during the civil-military dictatorship (Acts Nos. 18596 and 18033);

(k) A request for the establishment of a reciprocity arrangement under which Uruguayan driving licences could be exchanged for national licences in Spain and Italy;

(l) In the consular field, the following are some of the functions related to the Hague Convention that consular offices perform on behalf of compatriots: issuance and renewal of passports; issuance of travel documents; issuance of nationality certificates; requests for record certificates; permits for minors; ensuring the welfare of compatriots detained in prisons and maintaining contact with their relatives through the Directorate-General for Consular Affairs and Liaison in Uruguay; commencement of repatriation procedures for persons and human remains; and catering for the interests of minors and other persons without full capacity;

(m) The Ministry of Foreign Affairs and the Banco de la Republic Oriental del Uruguay are taking steps to introduce a “distance account” option so that compatriots living abroad can open a savings account from abroad without needing to return to the country.

E. Refugees

66. With regard to this population group as a component of the inflow of migrants, it should be noted that Uruguay, as a State party to all United Nations treaties concerning the rights of refugees, has implemented a policy and legislation that ensure full respect for and protection of refugees.

67. In adopting Acts Nos. 18076 and 18382, the Uruguayan State fully incorporated the standards and principles set forth in those treaties, which prohibit the expulsion and refoulement of asylum seekers and refugees where their life or freedom would be threatened on account of their race, gender, religion, nationality, membership of a particular social group or political opinion.

68. Act No. 18076 created the Commission for Refugees, a body mandated to study and ascertain refugee status. To date there are 181 recognized refugees in Uruguay and 67 applicants; most of them are of Colombian origin.

F. General norms applicable to migrant workers

1. International instruments ratified by Uruguay

69. In the Uruguayan legal system, international law becomes enforceable when an international instrument is signed by the State and subsequently ratified by the legislature. As soon as a national law endorsing the international instrument has been enacted and promulgated, the instrument enters into force in the domestic legal system.

70. The national Constitution establishes the procedure for validating and incorporating international norms into the domestic legal system. The recognized international norm becomes a norm applicable internally as an integral component of the domestic legal system, acquiring binding and obligatory status for all corporate bodies and individuals in the Uruguayan State.

71. Uruguay is a State party to all international human rights instruments.

72. The following are of special relevance to the subject matter of the present report:

(a) The Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: ratified by Uruguay in 1999 by Act No. 17107.

The instrument entered into force in 2002 when the requisite number of ratifications was achieved. With regard to the Committee, it should be noted that on 23 March 2012 the Minister for Foreign Affairs, Dr. Luis Almagro, addressed a note to the United Nations Secretary-General recognizing the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider communications alleging that the State party has violated the individual rights recognized in the Convention (art. 77 of the Convention).

(c) The United Nations Convention against Transnational Organized Crime (Act No. 17861, 2005);

(d) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2004, ratified in 2005);

(e) The Protocol to Prevent, Suppress and Punish Trafficking in persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2004, ratified in 2005);

(f) The International Labour Organization (ILO) Migration for Employment Convention, 1949 (No. 97) (Act No. 12030, 1954);

(g) The ILO Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security, 1962 (No. 118) (Act No. 15363);

(h) Act No. 16415 (September 1993) endorsing the Cooperation Agreement between the Eastern Republic of Uruguay and IMO, signed in the city of Montevideo on 29 April 1991. By Act No. 18.951 of August 2012, the Eastern Republic of Uruguay endorsed the amendments to the IMO Constitution adopted by the IMO Council on 24 November 1998;

(i) The ILO Convention concerning Decent Work for Domestic Workers, 2011 (No. 189) (Act No. 18899, 2012).

2. Domestic norms

73. Article 1 of the national Constitution states that the Eastern Republic of Uruguay is the “political association of all the inhabitants of its territory”. Article 7 guarantees to all inhabitants of the Republic the right to be “protected in the enjoyment of life, honour, freedom, security, labour and property”.

74. All persons born in Uruguay acquire Uruguayan citizenship at birth. Children of Uruguayans who are born outside the territory of the Republic are also natural citizens (art. 74). The possibility of tabling a bill that would extend nationality to their grandchildren is currently being considered.

Migration Act No. 18250

75. This Act is of enormous importance in terms of the recognition of migrants’ rights. It replaced the 1936 Aliens Act and related provisions that favoured a national security approach and dealt solely with a selective form of immigration. The new Act incorporates relevant international standards enshrined in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

76. The Migration Act entered into force on 6 January 2008 and the applicable regulations were completed on 24 August 2009. It is based on the principle of equality, non-discrimination and recognition of the rights and duties of migrants. It recognizes “as an inalienable right of migrant persons and their families, without prejudice to their migratory situation, the right to migration, the right to family reunification, due process and access to

justice, and equality of rights with nationals, without any distinction on grounds of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, civil status, birth or other status”.

77. It establishes a set of norms applicable to the rights of migrants and their families and specifies the obligations to be met during their stay in the national territory. The Act stipulates that respect for the cultural identity of migrants and their families shall be ensured, that they shall be encouraged to maintain links with their countries of origin, and that they shall have the right to employment and shall be entitled to equal treatment with nationals.

78. It provides for the establishment of the **National Migration Board (JNM)** (art. 24), a new body tasked with advising the executive and coordinating future migration policies. and the **Consultative Advisory Council on Migration** (art. 26).

79. It recognizes the situation of Uruguayans living abroad and grants exemptions to returnees, allowing them to import personal and family possessions (including a motor car) as well as tools, implements or other work-related articles without paying customs duties or other charges.

80. The Act also defines in articles 77 to 81 the offences of human trafficking and smuggling.

81. Regulations: Decree No. 394/009 entitled “Provisions governing foreigners’ entry into, residence in and departure from Uruguayan territory” regulates the implementation of all articles of the Migration Act, with the exception of articles 74 and 76 concerning the import by Uruguayans living abroad of household equipment and motor cars on returning to the country, which had been regulated by previous decrees (Decrees Nos. 330/008 and 559/008 respectively).

82. The Act also covers aspects of the residence, health, education, employment and social security of migrants and refugees that will be addressed later in the present report.

Social security norms relating to migration

83. By Act No. 18.609 of 15 September 2009 Uruguay ratified the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), adopted by the International Labour Conference at its thirty-fifth session held in Geneva in June 1952.

84. Uruguay has signed the following multilateral instruments:

- Ibero-American Social Security Agreement. Act No. 14803. Published in Uruguay in Official Gazette No. 20297 of 24 July 1978. Date of entry into force: 12 July 1978. Applicable through bilateral agreements between the signatory States;
- Multilateral Ibero-American Social Security Agreement (which does not annul previous social security agreements). Implementation Agreement, Act No. 18560 of 21 September 2009. Published in Uruguay in Official Gazette No. 27819 of 21 September 2009. Ratification: 24 May 2011. Deposited with the Ibero-American General Secretariat: 26 July 2011. Entered into force: 1 October 2011:
 - Accumulation of periods of service in different States parties;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes;

- Currently in force in Bolivia, Brazil, Chile, Ecuador, El Salvador, Spain, Paraguay and Uruguay.
 - Multilateral Social Security Agreement of the Common Market of the South (MERCOSUR), Act No. 17207 of 24 September 1999. Published in Uruguay on 4 October 1999. Signed on 14 December 1997. Entered into force: 1 June 2005:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes;
 - Valid for Argentina, Brazil, Paraguay and Uruguay.
85. Uruguay has also concluded agreements with the following countries:
- **Austria:** Act No. 18798 of 19 August 2011. Published in Uruguay in Official Gazette No. 28306 of 13 September 2011. Entered into force: 1 December 2011:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
 - **Belgium:** Act No. 18305 of 18 June 2008. Published in Uruguay in Official Gazette No. 27513 of 26 June 2008. Entered into force: 1 August 2009:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
 - **Bolivia:** Published in Uruguay on 18 October 1996. Entered into force: 1 April 1997 (Regulations concerning implementation are currently being negotiated):
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
 - **Canada:** Act No. 17331 of 9 May 2001. Published in Uruguay in Official Gazette No. 25763 of 16 May 2001. Entered into force: 1 January 2002:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
 - **Chile:** Act No. 17144 of 9 August 1999. Published in Uruguay in Official Gazette No. 25338 of 18 August 1999. Administrative Agreement of 8 June 1999. Entered into force: 1 January 2000:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;

- Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Colombia:** Act No. 17439 of 28 December 2001. Published in Uruguay in Official Gazette No. 25925 of 8 January 2002. Entered into force: 1 October 2005:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Costa Rica:** Adopted by a resolution of the Ministry of Foreign Affairs on 3 December 1993. Published in Uruguay on 15 July 1994 (no communication regarding adoption has been received from Costa Rica):
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Ecuador:** Agreement: 5 November 1990. Entered into force: 1 March 1992 (there are as yet no regulations concerning implementation):
 - Accumulation of periods of service in the two countries;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Spain:** Act No. 17112 of 8 June 1999. Published in Uruguay on 18 June 1999, Official Gazette No. 25295. Entered into force: 1 April 2000:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **United States of America:** Agreement on the Payment of Pensions. Exchange of diplomatic notes between the Governments of the United States and Uruguay on 2 July 1993 adopting agreements on pension payments. Entered into force: 2 July 1993:
 - Payment of retirement benefits and pensions to pensioners based in the two countries without deductions or withholding of taxes.
- **France** An agreement has been signed and is currently awaiting parliamentary approval in the two States:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.

Regulations not in effect

86. This applies to the following countries:

- **Greece:** Act No. 16775 of 1 October 1996. An Administrative Agreement was signed in Athens on 15 April 1994. Entered into force: 1 March 1997:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Netherlands:** Act No. 18269 of 19 April 2008. Entered into force: 1 June 2008:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Israel:** Act No. 17206 of 14 September 1999. Entered into force: 1 November 1999:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Italy:** Act No. 15021 of 5 June 1980. An Administrative Agreement was signed in Rome on 1 October 1985. Entered into force: 1 June 1985:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Peru:** Resolution No. 618/2004. Adopted by the executive branch in Uruguay on 6 July 2004. Published in Uruguay in Official Gazette No. 26543 on 13 July 2004:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes;
 - Not in force (awaiting a communication from Peru).
- **Portugal:** Resolution No. 473/987 of 20 May 1987. Entered into force: 1 December 1987; a new Administrative Agreement is being negotiated:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.

- **Quebec (Canada):** Entered into force: 1 January 2002. Exchange of diplomatic notes with the Province of Quebec:
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes.
- **Switzerland:** Act No. 16140 of 5 October 1990:
 - Reimbursement of social security contributions 12 months after a person's final departure from the country.
- **Venezuela.** Signed on 20 May 1997. Entered into force: 24 September 1997 (there are as yet no regulations governing implementation):
 - Accumulation of periods of service in the two countries;
 - Temporary transfers of workers;
 - Payment of retirement benefits and pensions abroad without deductions or withholding of taxes;
- Steps are currently being taken to commence negotiations with Luxembourg and Switzerland.

MERCOSUR norms adopted by domestic legislation

Concerning mobility of nationals of States parties

Act No. 17927 – Agreement on Residence for nationals of States parties of MERCOSUR
Bolivia, Chile and Venezuela

87. The Agreement on Residence for Nationals of States Parties of MERCOSUR and the Agreement on Residence for Nationals of the States Parties of MERCOSUR Bolivia and Chile, to which the Republic of Peru, the Republic of Ecuador and the Republic of Colombia have recently acceded (their accession was announced in June 2012), clearly reflect the new political scenario and the decision to galvanize the process of integration of MERCOSUR. The Agreement, which was adopted at the Meeting of Ministers of the Interior held from 9 to 11 November 2002 in the city of Salvador in the Federative Republic of Brazil, changed the thrust and evolution of negotiations on all social issues in MERCOSUR, especially socio-occupational issues. It represented the first and most important instrument generated by the intergovernmental consensus on the matter. Freedom of movement was recognized as an objective to be achieved through its endorsement by the Presidents of Argentina, Brazil, Uruguay, Paraguay, Bolivia and Chile in the MERCOSUR Joint Presidential Declaration of December 2002. It forms part of domestic legislation and is therefore binding in the countries concerned. While Ecuador and Peru have acceded to the Agreement, they have not yet enshrined it in domestic legislation.

Movement of children and adolescents between MERCOSUR countries: The Agreement on Procedures for Verifying Minors' Entry and Exit Documentation between the States parties of MERCOSUR and associated States

88. In line with the firm decision to take action to prevent the smuggling of minors between the countries of the region, the Agreement on Procedures for Verifying Minors' Entry and Exit Documentation between the States Parties of MERCOSUR and Associated States" was signed in February 2006.

89. This Agreement was motivated by the need to adopt effective and coordinated regional measures to provide enhanced protection for children and adolescents travelling between the countries of the region. It was considered necessary, with that end in view, to enforce mutually agreed and harmonized regulations aimed at protecting their rights. Furthermore, the Agreement states in explicit terms that the States are determined to develop arrangements for cooperation among migration control authorities in checking documents issued for the exit and entry of minors. The aim is to ensure the proper identification of children and their authorization to travel by requiring the migration control authorities in the country of exit to check the documentation required for the exit of minors. The travel authorization document that has been checked by the migration authority of the country of exit must be shown to the migration control authority of the country of entry. If the migration authority of the minor's country of exit has for some reason failed to check the requisite documents, the child will not be admitted and will be returned to the country of origin. In the event that the child is accompanied by both parents so that there is no need for an explicit travel authorization document, the filial relationship must be authenticated by the relevant authorities of the country of exit and entry.

90. Each country establishes its own requirements for the entry of children into the country notwithstanding the applicability of the Agreement.

MERCOSUR agreements aimed at protecting the rights of children and adolescents in situations of vulnerability

91. In June 2008 the Common Market Council adopted the "Agreement between the States Parties of MERCOSUR and Associated States on Regional Cooperation to Protect the Rights of Children and Adolescents in Situations of Vulnerability" and the "Agreement on the Implementation of Shared Databases on Children and Adolescents in Situations of Vulnerability in MERCOSUR and Associated States". The preambular paragraphs of the former Agreement refer to the need to develop tools and mechanisms specifically designed to protect the rights of children and adolescents in a world in which travel has become increasingly common. Attention is drawn to the need to ensure coordinated use of information stemming from judicial and administrative authorities regarding the location or whereabouts of children and adolescents and the exit restrictions applicable to them in order to ensure that their location may be effectively identified.

92. The signing of these agreements reflects a basic commitment on the part of the States of the region to adopt measures to prevent situations conducive to the violation of the rights of migrant children and adolescents. However, this original determination to promote regional policies has not been accompanied by action to implement the agreements. Uruguay therefore recognizes the need to ensure that the commitments are carried into effect through the creation of bodies responsible for their implementation and for oversight of compliance:

- Act No. 17207, MERCOSUR Multilateral Social Security Agreement;
- Act No. 17574, Agreement supplementary to the cooperation and jurisdictional assistance protocol on civil, commercial, occupational and administrative matters between the States parties;
- Act No. 17941, Agreement on internal migratory Regularization of citizens of MERCOSUR, Bolivia and Chile;
- Act No. 18110, Agreement on the creation of the "MERCOSUR Visa";
- Act No. 18134, Agreement on exemption from translation of administrative documents for immigration between the States parties of MERCOSUR;

- Act No. 18224, Agreement on exemption from translation of administrative documents for immigration between MERCOSUR member States, Bolivia and Chile;
- Act No. 18296, Asunción Protocol on commitment to the promotion and protection of human rights in MERCOSUR;
- Act No. 18311, Agreement on free visas for students and teachers from the States parties of MERCOSUR;
- Act No. 18883, Agreement on the transfer of convicted persons. MERCOSUR, Bolivia and Chile.

On investments:

- Act No. 17531, Protocol on the promotion and protection of investments from States that are not Parties to MERCOSUR.

On educational matters:

- Act No. 16731, Protocol on educational integration and recognition of non-technical primary and intermediate-level certificates, qualifications and studies between countries for integration purposes;
- Act No. 16890, Protocol on educational integration and validation of intermediate-level technical diplomas, certificates, qualifications and study credits;
- Act No. 16963, Protocol on educational integration for the training of human resources at the postgraduate level;
- Act No. 17041, Protocol on the acceptance of university diplomas and degrees for the exercise of academic activities;
- Act No. 17116, Protocol on educational integration for the pursuit of postgraduate studies at universities in MERCOSUR member countries;
- Act No. 18085, Mechanisms for the temporary practice of professions;
- Act No. 18506, Agreement on the acceptance of qualifications, certificates and diplomas for employment as teachers of Spanish and Portuguese as foreign languages in the States parties of MERCOSUR.

On security issues:

- Act No. 18321, Framework Agreement on cooperation in the area of regional security and its annex on police cooperation in preventing and taking effective action against crime;
- Act No. 18349, Agreement on action against the illegal smuggling of migrants between the States Parties of MERCOSUR.

National planning instruments

93. The **National Migration Board**, which was mentioned above, is tasked with formulating and promoting the country's migration policy. The three ministries of which it is composed are the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Labour and Social Security. They take turns in coordinating its activities and can invite other public bodies to participate.

94. It should be noted that the National Migration Board proposed that the Ministry of Social Development should be accorded permanent guest status to ensure better coordination of actions and benefits on behalf of the most vulnerable immigrants.

95. Article 63 of the Regulations governing the Migration Act sets out its terms of reference:

- (a) To propose migration policies to the executive branch;
- (b) To propose regulatory procedures in respect of migration norms;
- (c) To implement intergovernmental coordination procedures in applying migration policies;
- (d) To offer advice on migration matters falling within the competence of individual State bodies;
- (e) To analyse and propose amendments to regulations governing migration;
- (f) To further multilateral relations with respect to migration;
- (g) To promote the adoption of decisions that support the process of regional integration with respect to migration within and outside the zone;
- (h) To promote the adoption of all necessary measures to achieve effective implementation of the provisions concerning migration;
- (i) To serve as a body that galvanizes migration policies;
- (j) To propose the implementation of the following programmes: selective migration in the case of immigration of foreign persons; return of Uruguayans; liaison with compatriots abroad and population groups with a high migration propensity;
- (k) To conduct training and awareness-raising courses for human resources engaged in work related to migration with a view to familiarizing them with the principles underlying the present Act;
- (l) To promote the collection of statistical data concerning the phenomenon of migration;
- (m) To take steps to promote the human rights of migrant persons, particularly measures to support the fight against racism, racial discrimination, xenophobia and other forms of intolerance.

96. The National Migration Board is currently engaged in the following activities:

97. The National Migration Board was created to ensure that the public policies pursued by the State's public entities are better linked and coordinated and to promote the participation of civil-society organizations, trade unions and professional associations working in support of the rights of migrants. It is composed of the Ministries of Foreign Affairs, Labour and Social Security, and the Interior. It is tasked with advising the executive branch and coordinating its migration policies. The National Migration Board is also empowered to convene meetings for advice and consultations with other public or private institutions, international bodies and experts.

98. This new inter-agency management and coordination initiative gathered strength as successive meetings were convened between its members. In 2011 the Ministry of Foreign Affairs assumed the presidency and developed a work plan designed to consolidate the new institution. The Ministry of the Interior chaired the National Migration Board in 2012.

99. A number of activities conducted during these two years led to an improvement in the management of the Board. The following activities may be singled out:

- (a) A survey of migration norms with IOM support;
- (b) Implementation of the MERCOSUR residence agreements (Acts Nos. 17927 and 18134 simplifying legalization procedures for nationals of States parties and exempting Brazilians citizens from translation requirements);
- (c) A standardization of the requirements for residence procedures was proposed; thus, the cost of the health card for migrants was recognized as equivalent to that of the work permit, which resulted in a very substantial reduction in the costs incurred by migrants;
- (d) The launching of the Consultative Advisory Council was formalized and consolidated; the Council currently holds regular meetings with the members of the National Migration Board.

100. The National Migration Board received proposals in 2011 from all delegates of advisory boards of Uruguayans living abroad in the context of the Fourth Global Meeting.

101. In view of the fact that Uruguay became an immigrant-receiving country within a short period of time and that this led to delays in the granting of residence permits by the National Migration Directorate, the Ministry of the Interior, at the request of the National Migration Board, introduced a major change aimed at ensuring that all immigrants wishing to live in Uruguay could immediately be issued with an identity document: the “Rapid Response Plan”. Moreover, as a result of this decision, many immigrants were given access to the social and health benefits accorded by the Uruguayan State, thereby acquiring equal status with nationals.

102. The National Migration Board pursues a varied agenda, holding meetings with key bodies such as the Banco de Previsión Social (Social Insurance Bank), the Ministry of Public Health, departmental administrations, the Sectoral Commission on Population, the Ministry of Education and Culture, the Directorate-General for Civil Status Records and the National Civil Identification Directorate.

103. Information and awareness-raising courses on migration issues have been organized with IOM support for officials of the National Migration Directorate.

104. The work of the **Consultative Advisory Council on Migration** should also be highlighted. It is tasked with advising the National Migration Board on matters relating to immigration and emigration, on the formulation of migration policies and on oversight of compliance with the applicable norms. The Council will be composed of social, trade-union and professional organizations that deal with issues related to migration.

105. The new regulatory framework provides for the creation of advisory boards as institutional mechanisms serving as conduits for relations with the diaspora. The boards were created by Decree No. 559/2008, which was recently amended by Decree No. 369/2011 of 21 October 2011, to promote the participation of compatriots living abroad.

106. In addition, the Sectoral Commission on Population was created in August 2009 (by resolution 180/2010) in the Planning and Budget Office. This entity is responsible for developing a medium- and long-term population policy on behalf of the executive branch and for devising a strategy to ensure its implementation, coordinating the action of various stakeholders, while bearing in mind national priorities and the country’s development plans, and promoting equity and respect for human rights.

107. The Commission is composed of an Executive Committee and a Plenary. The Executive Committee is chaired by the Planning and Budget Office. It currently comprises representatives of the ministries that constitute the Social Cabinet: Foreign Affairs; Economy and Finance; Public Health; Social Development; Education and Culture; Housing, Land Management and the Environment; Labour and Social Security; Tourism and Sport. The Plenary is composed of delegates of the Executive Committee, a representative of the National Migration Board, a representative of the Network of Public Corporations, a representative of the National Statistics Institute, a representative of each parliamentary committee with specific responsibility for population issues, a representative of the academic branch and a representative of the Congress of Governors.

108. The terms of reference of the Sectoral Commission on Population in the area of migration are as follows: (a) to promote the coordination of population policies with the Uruguayan population living abroad and the return of nationals under the National Development Plan; (b) to analyse the desirability of a policy to promote immigration and the main features of such a policy; to propose policies conducive to a more appropriate territorial distribution of the population and of internal migratory movements, including temporary cross-border migration, in keeping with environmental systems.

109. In 2011 a Coordination Unit for Uruguayans returning to the country was created in the Ministry of Labour and Social Security by Act No. 18834. Article 219 reads as follows: "There is hereby established under Subsection 13 'Ministry of Labour and Social Security', executive unit 001 'Directorate-General of the Secretariat', a Coordination Unit for Uruguayans returning to the country, which shall be composed of representatives of the Ministry of Labour and Social Security and the Employment and Vocational Training Institute (INEFOP) and shall have the following mandate:

(a) To plan, implement and assess the measures taken to facilitate the employment and social integration of Uruguayans who return to the country;

(b) To request through INEFOP the involvement of various public and private training entities in providing training courses for the population in question;

(c) To coordinate with the Public Employment Centres and the different executive units of the Ministry of Labour and Social Security that deal with matters relating to migration, social security and vocational training;

(d) To interact with the Ministry of Foreign Affairs, the National Migration Board and the Sectoral Commission on Population, international organizations and organizations representing the worker and employer sectors and civil society in this area, with a view to sharing information that can be used in developing plans conducive to the social integration and employment of the population in question."

110. Lastly, with regard to planning tools, mention should be made of the existence since 2008 of an Inter-Agency Bureau on human trafficking and smuggling. This initiative, backed by the National Women's Institute at the Ministry of Social Development with the support of the Ministry of Foreign Affairs, set itself the goal of promoting inter-agency dialogue with a view to formulating a public policy to address these issues.

111. Furthermore, in connection with the implementation of the First National Plan on Equality of Opportunity and Rights, Public Policies regarding Women 2007–2011 (Act No. 18.104), on 23 July 2012 the National Women's Institute, in collaboration with the Inter-Agency Bureau on Trafficking in Women for sexual exploitation and with the support of the Ministry of Foreign Affairs, the Spanish Agency for International Development Cooperation (AECID) and the European Union, organized an event entitled "Trafficking in women, children and adolescents for commercial sexual exploitation: Procedure for addressing the issue in embassies and consular offices".

III. Information in relation to each of the articles of the Convention

A. General principles

Articles 1 and 7

Non-discrimination

112. The Constitution of the Eastern Republic of Uruguay establishes the principle of the equality of all persons (art. 8), but it contains no specific reference to non-discrimination on racial grounds or on grounds of gender.

113. Article 7 of Act No. 18250 stipulates that “foreign persons who enter and stay in the national territory in accordance with the procedures and conditions laid down in the present Act shall be guaranteed by the Uruguayan State the right to equal treatment with nationals as subjects of rights and obligations”.

114. The country is committed to the principle of non-discrimination and to action against discrimination on racial or ethnic grounds and all other forms of intolerance. This is reflected in its ratification of instruments concerning discrimination as part of a democratic national tradition of ratification of human rights treaties. The provisions of international human rights treaties are applicable without any explicit stipulation to that effect and the rights enshrined in the treaties have constitutional status (arts. 72 and 332). Since the end of the dictatorship in 1985, Uruguay has ratified virtually all instruments concerning the protection and promotion of human rights adopted by the United Nations and the regional human rights protection system.

115. With a view to outlawing discrimination and promoting the full exercise of human rights for all persons without distinction of any kind, Act No. 17817 of 2004 declared that the fight against racism, xenophobia and all other forms of discrimination was of national importance, and included among the grounds of discrimination race, skin colour, religion, national or ethnic origin, disability, physical appearance, gender, and sexual orientation and identity.

116. The Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination was created under the Act. The Commission’s mandate consists in proposing national policies and concrete measures to prevent and combat racism, xenophobia and discrimination, including affirmative action precepts. The Regulations governing the Act were adopted by Decree No. 152/006.

117. According to information provided by the Commission, only two complaints involving migrant workers have been received to date and both were dismissed on completion of the proceedings at which they were considered.

118. In addition, in its national report to the United Nations Human Rights Council for the universal periodic review (A/HRC/WG.6/5/URY/1), Uruguay voluntarily undertook to draw up a National Plan to combat discrimination. This process was organized in two stages, on the one hand a planning process in consultation with civil society involving meetings in Montevideo and elsewhere in the country. The reports on this stage, which was completed in August 2011, have been published on the webpage of the National Human Rights Directorate. The second stage, which involves the drafting of proposals, is currently under way.

119. A particularly important development was the promulgation by the executive branch on 24 December 2008 of Act No. 18.446, article 1 of which provides for the establishment of the National Human Rights Institution. Articles 1, 36, 75 and 76 of the Act were

subsequently amended by Act No. 18806 of 14 September 2011 (see the annex to this report). The Act stipulates that the National Human Rights Institution and Ombudsman's Office shall be chaired by a five-member collegiate body to be known as the Board of Directors which shall be responsible for managing and representing the Institution (art. 36).

120. With regard to the election of the members of the Board of Directors, the Act provides that the General Assembly shall appoint a special commission with members from all the political parties represented in Parliament, which shall receive candidates' applications and draw up a list of qualified candidates; this list shall be communicated to the Presidency of the General Assembly for the purposes of the election process (art. 40).

121. On 8 May 2012, Soc. Mariana González Guyer (Chair), Dr. Juan Faroppa, Dr. Ariela Peralta, Dr. Juan Raúl Ferreira and Dr. Mirtha Guianze were elected as members; they took office on 22 June 2012.

122. In response to a query, the Board of Directors reported that the Institution began to receive complaints as from the date on which its members took office (22 June 2012).

123. The following aspects of its work should be highlighted in this connection:

Complaint of a general nature: the case of Bolivian migrants

124. On 27 July 2012, the women's NGO Cotidiano Mujer submitted a complaint (Application No. 29/2012) concerning alleged smuggling of Bolivian women for employment as domestic workers in violation of all legal and regulatory norms protecting the rights of such workers. The complaint did not refer to a particular individual but to an unspecified group of persons.

125. With a view to investigating the facts set forth in the complaint, the Institution held talks with the Inspectorate-General of Labour and Social Security, laying the basis for regular exchanges of information and coordinated action.

126. At this stage in the proceedings, a formal complaint has been filed with the judiciary through the National Police Directorate on Organized Crime and also through the above-mentioned NGO Cotidiano Mujer. The Institution's competence is thereby automatically suspended, in accordance with article 31 of Act No. 18446.

127. Without prejudice to the foregoing and in line with the functions assigned to it under article 19 of the aforementioned Act, the Institution filed an application with the Supreme Court of Justice requesting that it be kept informed of the progress of the proceedings and of any decisions adopted.

Complaints concerning specific cases

128. The Institution has also received the following complaints concerning violations of the rights of migrants residing in the country:

(a) A complaint submitted by an Ecuadorian citizen on 29 June 2012 alleging that she had been denied access to the justice system to assert her rights;

(b) A complaint submitted by a Peruvian citizen on 28 August 2012 on the same ground;

(c) A complaint submitted by an Argentine citizen on 17 October 2012 alleging that she had been denied access to documentation. In response to a request for information on the subject, the Ministry of Social Development referred to the existence of 21 similar cases;

(d) A complaint submitted by an Argentine citizen on 29 November 2012 concerning the loss of documentation in a prison and her inability to receive social welfare benefits.

129. It should further be mentioned that the first thematic report prepared by the Institution focused on these issues.

130. It is also possible to request assistance in cases of discrimination from the free legal aid bureaux of the Law Students Centre of the University of the Republic and from those of other private-sector universities.

Article 83

Right to an effective remedy

131. All migrant persons living in the Uruguayan State have the right to an effective remedy.

132. Article 30 of the Uruguayan Constitution stipulates that “all inhabitants shall have the right of petition to each and every authority of the Republic”.

133. In addition, Act No. 18250 recognizes “as an inalienable right of migrant persons and their families, without prejudice to their migratory status, the right to migration, family reunification, due process and **access to justice** (...)”.

134. Any worker (including migrant workers) may seek an effective remedy for breaches of an employment contract through the institution of legal proceedings at the request of the person concerned. Any migrant or other category of worker who considers that his or her rights have been violated should apply to the Labour Office of the Ministry of Labour and Social Security. Labour proceedings will subsequently be initiated.

135. The judicial decision will determine the type and scale of compensation and other labour-related measures, depending on the case.

136. With regard to the existence of complaints by foreigners in an irregular situation, the records indicate that it is generally workers’ organizations that file complaints concerning irregular employment of foreigners in their respective branches of activity.

137. During the period from 2007 until June 2011, a total of 32 complaints were recorded. Most of them concerned Brazilian workers employed in departments adjacent to the border with Brazil. The main activities and employment periods involved are related to the sugarcane and rice harvest seasons. Some of them also concerned employment in quarries in Artigas Department.

Article 84

Duty to implement the provisions of the Convention

138. The Eastern Republic of Uruguay adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 31 May 1999 by Act No. 17107.

139. With a view to implementing the provisions of the Convention, the State has organized a number of workshops/training courses to promote greater knowledge and awareness not only of the Convention itself but also of its monitoring body, the Committee.

140. The following additional information may be provided regarding training and awareness-raising workshops:

141. The Migrant Support Network organized by civil society, which receives support from the National Social Policy Directorate of the Ministry of Social Development in

planning its workshop-based activities, has held a number of workshops on civic responsibility and support for migrant workers.

142. The goal of the “Workshops on Civic Responsibility and Support for Migrant persons” was to improve the quality of life of migrant persons, especially immigrants, as well as that of Uruguayan returnees, and repatriated and deported Uruguayans, by helping them to integrate more effectively into Uruguayan society through the building of civic responsibility.

143. A total of six workshops were held. The first, a pilot workshop, was held in December 2010. Five workshop-meetings were held between March and November 2011. A total of almost 200 persons (196 according to the records) attended the five workshop-meetings, or an average of 39 per workshop. They included immigrants of 10 Latin American nationalities, primarily nationals of Chile, Paraguay, Peru and Uruguay; the workshops were also attended by returnees and by Uruguayans interested in or involved in some way with migration issues, including internal migrants (Uruguayans).

144. According to a report dated 28 November 2011 produced by consultants on completion of the various workshops and addressed to members of the Migrant Support Network and the National Social Policy Directorate of the Ministry of Social Development, the following objectives and outcomes were achieved:

- Migrants were provided with tools to assist them in integrating into Uruguayan society by familiarizing them with the rights and duties set forth in the national and international legislation currently in force;
- Some improvements in migrants’ quality of life were achieved by encouraging them to take steps to obtain the documentation required for access to basic rights in the areas of education, health and employment;
- Furthermore, a better insight was gained into the problems faced by migrant persons, especially the most vulnerable migrants, adopting a gender-based approach.

145. In addition, the civil society Migrant Support Network held two migration and civic responsibility meetings in 2011 and 2012. It received support from the Ministry of Foreign Affairs both for the use of facilities and for the dissemination of information regarding the events in question.

146. It should also be noted that a training workshop was held in May this year at the Training Centre for Regional Integration (CEFIR) in Montevideo in connection with the preparation of the initial report of Uruguay to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. The workshop was organized jointly by the Human Rights and Humanitarian Law Directorate of the Ministry of Foreign Affairs and the Directorate-General for Consular Affairs and Liaison. It was supported by the Office of the United Nations High Commissioner for Human Rights (Regional Office for South America) and the International Organization for Migration. Participants in the workshop were provided with in-depth information regarding the Convention and the Committee’s work involving the consideration of national reports, individual communications and general comments.

147. It should be noted that the Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs, in the context of action undertaken with the support of the International Organization for Migration to promote public policies in the area of migration, has been organizing “workshops for awareness-raising and the promotion of migration and development policies” in the various departments of Uruguay.

148. In view of the fact that Uruguay is now a migrant-receiving country and that compatriots are returning from abroad, the authorities are taking measures to ensure that

local and national public actors identify areas of strength and weakness and propose actions designed to implement specific State policies on behalf of the resulting inflows of population.

149. It is also of vital importance to provide training for all public actors and to raise awareness of the need for personalized services on behalf of migrants and returnees, for the sharing of experience, and for the establishment of links and operating procedures designed to enhance the well-being of the population in question, thereby furthering their socio-economic integration, both for their own benefit and for that of the host society.

150. It must be acknowledged, however, that, notwithstanding all the action taken, there is a persistent lack of awareness of the issues involved both among State actors and in Uruguayan society in general.

151. It should further be noted that the Ministry of Foreign Affairs requested the IOM office in Uruguay to prepare a document containing guidelines for the formulation of a national migration policy. The first working session was held on 18 December 2012 and was attended by representatives of the International Organization for Migration, the Ministries constituting the National Migration Board (the Ministry of Foreign Affairs, the Ministry of Labour and Social Security and the Ministry of the Interior), the Ministry of Social Development, the Consultative Advisory Council on Migration, the Sectoral Commission on Population of the Planning and Budget Office, and the National Human Rights Institution and Ombudsman's Office.

B. Part III of the Convention

Human rights of all migrant workers and member of their families

Article 8

The right to leave any State, including one's State of origin, and to return

152. Article 37 of the national Constitution stipulates that: "All persons shall be free to enter the territory of the Republic, to stay there and to leave with their property, provided that they comply with the law and do not cause harm to third parties."

153. Act No. 18250 (art. 1) recognizes "as an inalienable right of migrant persons and their families, without prejudice to their migratory status, the **right to migration** (...)".

154. Thus, for the Uruguayan State the right to migrate is a human right, which means that migration has a positive connotation.

155. The "right to migrate" reflects the independence in conceptual terms of a foreigner's migratory status and his or her status as a human being, which is vastly superior to any other status: it means that the dignity of the human person, upheld by the indisputably guaranteed freedom to exercise his or her basic rights, should not and cannot be impeded by the irregularity of the person's entry into or stay in Uruguayan territory.

156. This criterion is extensively applied in the existing legal order, in keeping with the international instruments that have been ratified.

157. The entry into and departure from Uruguayan territory of migrant persons is regulated by the aforementioned Act No. 18250 and the corresponding regulatory decree.

158. Under the applicable regulations, the Ministry of the Interior is empowered to determine the places through which persons should enter or leave the country; to grant and annul permanent residence permits for foreign persons in the cases indicated in Act No. 18250; and to expel foreign persons on the grounds specified in the Act.

Articles 9 and 10**Right to life; prohibition of torture; prohibition of cruel, inhuman or degrading treatment or punishment**

159. The right to life is recognized as a fundamental right, in accordance with article 7 of the national Constitution: “The inhabitants of the Republic shall be entitled to protection of their right to life, honour, freedom, security, work and property. Nobody may be deprived of these rights save in conformity with laws that are enacted in the general interest.”

160. The Criminal Code also safeguards life as a legally protected right in Section XII “Concerning offences against the physical and moral integrity of the human person”.

161. In addition, the American Convention on Human Rights (Pact of San José, Costa Rica) and the International Covenant on Civil and Political Rights, which form part of the national legal system, protect the right to life of all persons in States parties that have ratified those instruments. Uruguay has also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

162. Furthermore, article 26 of the Constitution of the Republic stipulates that nobody shall be subjected to the death penalty; Uruguay was the first country in the world to abolish this type of penalty.

163. With regard to the definition of torture as a separate offence, it should be noted that the offence of torture was defined in Act No. 18026, which represented a major step forward in legislative terms.

164. Thus, article 22 of the Act provides that:

“22.1. Any State official or anyone acting with the authorization, support or acquiescence of one or more State officials who inflicts any form of torture on a person deprived of liberty or under his or her custody or control, or on a person who appears as a witness, expert or comparable party before the authorities, in any manner and for any motive, shall be punished with imprisonment for a term of between 20 months and 8 years.

22.2. ‘Torture’ means:

- (a) Any act by which severe pain or suffering, whether physical, mental or moral, is inflicted;
- (b) Subjection to cruel, inhuman or degrading punishment or treatment;
- (c) Any act aimed at dehumanizing or diminishing the physical or mental capacity of the victim, even if it does not cause pain or physical distress, or any act referred to in article 291 of the Criminal Code, where it is carried out for the purpose of investigation, punishment or intimidation.

22.3. Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

165. The principal functions of the Parliamentary Commissioner for the Prison System, an office established in 2003 pursuant to Act No. 17684, are to advise the legislature on monitoring compliance with domestic legislation and international treaties ratified by the State concerning the situation of persons deprived of their liberty by the courts, and to supervise the work of the bodies responsible for prison administration and the reintegration of prisoners and former prisoners into society.

166. In order to perform his or her functions, the Commissioner may request information, pay unannounced visits to places of detention, receive complaints from persons deprived of

their liberty, irrespective of their nationality, and make recommendations to the prison authorities.

167. Persons appointed to the office of Parliamentary Commissioner are not subject to a binding mandate, receive no instructions from any authority, and perform their functions on a completely independent basis, acting as they see fit and on their own responsibility.

168. The Commissioner conducts around 500 visits per year and submits a report on each one to Parliament. He or she also receives reports and complaints of ill-treatment and, where there are sufficient grounds, files criminal complaints with the judicial system.

169. According to the information provided by the Parliamentary Commissioner, most foreigners who are deprived of their liberty are held at the Departmental Prison of Canelones, Rivera (“Cerro Carancho”), the Metropolitan Female Rehabilitation Centre, COMCAR and Libertad. Foreigners in the national prison system account for between 2 and 3 per cent of the total prison population, i.e. currently 9,530 persons.

170. Citizens of Brazil frequently submit requests to be transferred to the north of the country in order to be closer to their relatives. These applications are not classified as complaints, since they are merely petitions.

171. In April 2012 a complaint was received from a foreigner who had been injured (fracture of a lower limb) by a police officer on Friday, 20 April, in the Libertad prison facility a few moments after a police officer was fatally wounded.

172. On completion of the preliminary investigation, the Parliamentary Commissioner concluded that the use of force had been completely unwarranted, and filed a corresponding criminal complaint with the Libertad Court of First Instance. The case is currently in the preliminary stages.

173. The Commissioner monitored the complainant’s medical condition over the next few months and in August recommended to the Ministry of the Interior that the foreigner should be transferred on medical grounds to a different facility. The Ministry acted on the recommendation.

174. Until his recent placement under house arrest at the home of a person who volunteered to serve as a personal guarantor, the prisoner remained in Unit 9 of the Santiago Vázquez Complex.

175. It should be noted that the Brazilian Consulate closely monitored the case at every stage and that no other significant complaints have been received from foreigners.

176. It should further be noted that, in accordance with article 83 of Act No. 18446, the National Human Rights Institution and Ombudsman’s Office will be responsible for performing the functions of the National Mechanism for the Prevention of Torture.

177. The article reads as follows: “The National Human Rights Institution, in coordination with the Ministry of Foreign Affairs, shall perform the functions of the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, an international treaty to which the Republic is a party. To that end, the National Human Rights Institution shall comply with the requirements for the national mechanism set out in the Optional Protocol, within its fields of competence and in accordance with its terms of reference.”

178. The Uruguayan Ministry of Foreign Affairs and the National Human Rights Institution are already analysing possible approaches to the implementation of the National Mechanism for the Prevention of Torture.

Table 1
Number of inmates in the country's prisons by country of origin

Number of inmates in the country's prisons by country of origin
 (September 2012)

Departmental Prisons	Arg.		Braz.		Par.		Bolivia		Lat. Amer.		N. Amer.		Spain		Europe		Rest world		No info.	Total
	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W	House arrest	
01. Artigas			3												1					4
03. Cerro Largo			2			2														4
04. Colonia																				0
05. Durazno																				0
06. Flores																				0
07. Florida																			3	3
08. Lavalleja		1																	1	2
09. Maldonado																				0
10. Montevideo (central prison)																				0
11. Paysandu																			1	1
12. Rio Negro																				0
13. Rivera	1		36	1																38
14. Rocha																				0
15. Salto																				0
16. Soriano	5																			5
17. Tacuarembó																				0
18. Treinta y Tres	1		1												1					3
Subtotal I	7	1	42	1	0	2	0	0	0	0	0	0	0	0	2	0	0	0	5	60
20. Comcar	25		9		2				6		1		2		2		1			48
21. E.R. Libertad	49		8		24		3		16						3		1			104
22. E.R. la Tablada			1										2							3
23. U.I.F. el Molino																				0
24. C.R. No. 2																				0
25. E.P. No. 8																				0
26. U.I. Masculino (Cabildo)																				0
27. U.I. Juan Soler (S. José)	1		1										1		1					4
19. U.I. Femenino		5			1		1		2							2				11
28. U.I. Pta de Rieles	8		1																	9
02. U.I. Canelones																				0
Subtotal II	83	5	20	0	26	1	3	1	22	2	1	0	5	0	6	2	2	0	0	179
Total	90	6	62	1	26	3	3	1	22	2	1	0	5	0	8	2	2	0	5	239

Source: Censuses and Statistics of the National Institute of Criminology

Article 11

Prohibition of slavery and servitude

179. Article 54 of the Constitution of the Republic stipulates that: “The law shall guarantee moral and civic freedom of conscience to all persons engaged in a working or service-based relationship as a worker or employee; fair remuneration; limits on the duration of the working day; a weekly rest period; and physical and mental occupational health. The employment of women and of minors under 18 years of age shall be subject to special regulations and restrictions.”

180. In addition, section XI of the Criminal Code entitled “Offences against freedom” provides that: “Anyone who reduces a person to slavery or to a condition akin to slavery, who obtains or transfers slaves and who engages in smuggling of slaves shall be punishable with a prison term of between two and six years” (art. 280).

181. Mention should also be made at the domestic level of Act No. 18065. This Act was adopted in 2006 and regulates domestic work in Uruguay. Article 1 of the Act stipulates that: “Domestic work is work undertaken by a person, in a subordinate relationship, on behalf of one or more individuals, or one or more families, with a view to providing them with care or performing domestic tasks in the household, where such tasks do not yield any direct economic gain for the employer.” The Act also guarantees rights for persons performing such activities, for example: limitation of the working day (art. 2), a midday break (art. 3), a weekly rest period (art. 4), night rest (art. 5), wages and occupational status (art. 6), compensation for dismissal (art. 7), unemployment benefits (art. 9), general health-care coverage (art. 10), employment documentation (art. 12), etc.

182. The “Migration Profile for Uruguay 2011” deals with the subject of migrant women engaged in domestic work.

183. It is important to bear in mind the characteristics of this category of work in Uruguay at the present time. According to the *Report on Domestic Work* (2011) prepared by the Labour Market Observatory (Ministry of Labour and Social Security), data for 2009 show that 4.2 per cent of domestic workers resided previously in another country. The number of domestic workers in 2009 totalled 118,000. The fact that 99 per cent of jobs in the domestic sector are occupied by women workers cannot be overlooked. While considerable progress has been made in terms of labour rights in the sector, the same source reports that 10 per cent of workers in the sector had no health-care coverage in 2009; almost 54 per cent were covered by the Ministry of Public Health and the health branch of the Banco de Previsión Social (Social Insurance Bank) and almost 30 per cent by the Collective Health-Care Institutions (IAMC). While 68 per cent of employed workers paid social security contributions in 2009, only about 36 per cent of those engaged in domestic work did so during the same period.

184. Lastly, on 14 June 2012 Uruguay became the first country to ratify the International Labour Organization Convention concerning Decent Work for Domestic Workers, 2011 (No. 189).

185. With regard to what are termed “contemporary forms of slavery”, some of the measures taken by the country to counter the crime of trafficking in persons are described below.

186. As already mentioned above, the National Women’s Institute has been tackling this issue since 2008 by coordinating an Inter-Agency Bureau on Trafficking in Women for commercial sexual exploitation. The Bureau is composed of representatives of public bodies, civil-society organizations and the IOM, and its main task consists in promoting dialogue and formulating an intervention and response strategy to address trafficking in women.

187. The public bodies represented in the Bureau are the Ministry of Foreign Affairs, the Ministry of Education and Culture (Human Rights Directorate and the Public Prosecution Service (*Ministerio Público y Fiscal*)), the Ministry of the Interior, the Ministry of Public Health and the judiciary. Non-governmental organizations with expertise in the subject are also represented.

188. With a view to contributing to the development by the National Women's Institute of the Ministry of Social Development of an intervention and response strategy targeting the issue of trafficking in women for commercial sexual exploitation, actions have been undertaken at the local, national and regional (MERCOSUR) level.

189. In 2009 institutional resources to address the issue were earmarked by the State bodies that have competence in the area and are represented in the Bureau. A number of one-day awareness-raising and training sessions on trafficking in women for commercial sexual exploitation, adopting a gender and rights-based approach, were held in the departments of Río Negro, Colonia, Soriano and Paysandú. The events targeted public officials involved in the departmental inter-agency bureaux run by the Ministry of Social Development. Representatives of various ministries participate in these bureaux, including Education and Culture, Public Health, Labour and Social Security, Housing, Land Management and the Environment, etc.

190. Social workers capable of detecting situations involving trafficking in women for commercial sexual exploitation were also invited to the sessions.

191. Awareness-raising courses were also provided for officials joining the Artigas Foreign Service Institute (IASE) of the Ministry of Foreign Affairs in 2009. The officials concerned will serve in Uruguayan consulates and embassies abroad, and they are frequently approached by victims of trafficking. Similar action was taken on behalf of officials employed in the Compatriot Assistance Office of the same Ministry, and a Protocol for embassies and consular offices was prepared on action to deal with cases of trafficking in women, children and adolescents for commercial sexual exploitation.

192. In addition, two binational seminars dealing with the "Institutional Approach to Assistance for Victims of Human Trafficking" were organized with a view to sharing experience with State social and institutional officials in Argentina and Uruguay; one was held in the city of Colonia and the other in the city of Montevideo.

193. A one-day working session was held with judges who deal with cases of organized crime and with professional public prosecutors and defence lawyers. These specialized courts and public prosecution and defence services were established under Acts Nos. 18362 and 18390 of 2008.

194. In 2010, at the local level, priority was given to work with the gender focal points of the National Women's Institute (its representatives in the departments) and with government officials and social workers in departments adjacent to land borders or frequented by tourists, since it is in these areas that women are at the greatest risk of being recruited. Awareness-raising activities were carried out and a work process was launched with a view to considering and agreeing on a series of measures at the local level. Work was carried out in the departments of Montevideo, Rivera, Rocha and Maldonado.

195. Since 2009 a total of 150 public officials have been trained each year.

196. The National Women's Institute is also running the national project entitled "Application of measures for developing public policy on the trafficking and smuggling of women, children and adolescents for commercial sexual exploitation". The partner institutions in the project are the Ministry of Foreign Affairs and the NGO Foro Juvenil (Youth Forum), while the NGOs Casa Abierta (Open House) and Enjambra are

collaborating institutions. Funding is provided by the European Union. The project's specific objectives are:

- To draw attention to the situation of women, children and adolescents who are victims of trafficking for commercial sexual exploitation in Uruguay and the rest of the region;
- To enhance institutional capacity for dealing with the problem of trafficking in the country;
- To ensure that victims have access to comprehensive and expert assistance.

197. Various activities are being carried out as part of this project. They involve, in general terms: training of stakeholders in Montevideo and throughout the country in the prevention, early detection and tackling of situations of trafficking in persons for commercial sexual exploitation; the drafting of a Protocol on Inter-agency Coordination of action aimed at prevention, support and the restoration of rights; and the launching of two pilot support services for victims of international and domestic trafficking for commercial sexual exploitation, both with interdisciplinary teams, one aimed at adult women and the other at children and adolescents.

198. The characteristics of the situations addressed by the "Pilot support service for women victims of trafficking for commercial sexual exploitation" between August 2010 and April 2012 are described below.

199. The average age of the women involved was between 18 and 30, which means that trafficking in Uruguay shares the general characteristics of the phenomenon at the international and regional levels. The total number of women receiving support during the aforementioned period was 23; of these, 13 were aged between 18 and 30.

200. Four of the above cases were referred to the support service for children and adolescents because of their particular characteristics; in three cases, the referral was due to the age of the persons involved.

201. Each situation was evaluated by means of an analysis of indicators, and meetings were held to assess the relevance of the support provided by the service; where appropriate, relevant guidance was given or a referral was made. This happened in a total of five cases.

202. Of the total number of cases, 14 persons are currently receiving assistance, 10 of whom are victims of international trafficking and four of domestic trafficking. In general, the traditional destinations of victims of international trafficking are Spain, Italy and Argentina. The majority of women who are victims of domestic trafficking are taken to departments adjacent to the border.

203. Only two of these women are foreign, one a Colombian national and the other Brazilian. Of the Uruguayan women, nine are originally from outside the capital, namely the Departments of Paysandú, Canelones, Treinta y Tres, Artigas and Maldonado, and four are from Montevideo.

204. With regard to the women's level of education, in general they have completed primary education but not secondary education.

205. Most of the women have dependent children, who are left in the care of a relative during the period of exploitation.

206. The institutions that have served as the priority gatekeepers for such situations and that have requested the assistance of the support service are: the Ministry of Social Development, the Ministry of Foreign Affairs through its consular offices, NGOs and other public institutions. In addition, we have been approached directly by relatives faced with possible cases of trafficking.

207. Furthermore, in 2010 a book entitled “Trafficking in women for commercial sexual exploitation in Uruguay: towards the development of public policy”, a product of joint work by the National Women’s Institute and IOM with the support of AECID, was published and distributed. A print run of 2,000 copies was made and distributed throughout the country. A leaflet entitled “If you have travel plans, make sure you can return” was also produced and distributed, with a print run of 5,000 copies. As part of the International Day against Human Trafficking on 23 September, a press release was issued with a view to raising public awareness of the issue.

208. Each year, coordination meetings have been held with the high-level authorities of the Ministry of the Interior and with judges and prosecutors from the Specialized Court against Organized Crime.

209. Meetings of the National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents (CONAPESE), chaired by the Institute for Uruguayan Children and Adolescents (INAU), are attended on a regular basis.

210. Presentations, training and master classes were carried out with the pilot support services, involving in some cases international experts on the provision of support to women, children and adolescents who are victims of trafficking for commercial sexual exploitation.

211. A number of awareness-raising and training events were held outside the capital for social workers and the focal points of the inter-agency departmental committees of Paysandú, Artigas, Rivera and Rocha.

212. As part of the International Day against Human Trafficking on 23 September, the documentary *Nina* was shown and discussed at a round table. Posters were specially produced for the Day and distributed as part of the campaign entitled “You can be tricked into slavery”.

213. An awareness-raising and training session was held for officials from the Ministry of Transport and Public Works on 8 March, International Women’s Day, in accordance with the commitments entered into by the Ministry.

214. Moreover, as already mentioned, under the First National Plan on Equality of Opportunity and Rights, Public Policies regarding Women 2007–2011 (Act No. 18104), on 23 July 2012 the National Women’s Institute, in collaboration with the Inter-Agency Bureau on Trafficking in Women for sexual exploitation and with the support of the Ministry of Foreign Affairs, the Spanish Agency for International Development Cooperation (AECID) and the European Union, organized an event entitled “Trafficking in women, children and adolescents for commercial sexual exploitation: Protocol for addressing the issue in embassies and consular offices”.

215. The support service for children and adolescents dealt with a total of 14 cases during the same period involving victims aged between 12 and 19, of whom 12 were female and 2 were male. These cases occurred in the departments of Colonia, Soriano, Paysandú, San José, Canelones and Montevideo; there were two cases of international trafficking to Brazil and Ecuador.

216. At the regional level, the National Women’s Institute co-manages component 4, entitled “Prevention, awareness-raising and eradication of trafficking and smuggling of women for commercial sexual exploitation in the countries of MERCOSUR”, of the “MERCOSUR institutional strengthening and gender mainstreaming” project run by the Specialized Meeting of Women (REM) and funded by AECID.

217. The main achievements with respect to this component, which were presented at the twenty-sixth meeting of REM from 9 to 11 November 2011, were related to the finalization of a regional analysis of the issue of trafficking in women for commercial sexual exploitation and the presentation of a proposed protocol for providing support to women victims.

218. To achieve this outcome, interviews by regional consultants were arranged in the triple frontier area, on the borders of Paraguay and Argentina, and in the migrant support centre at São Paulo airport.

219. Lastly, with the (technical and financial) support of the Spanish Cooperation Training Centre in Montevideo, a seminar entitled “Trafficking in women within MERCOSUR: Towards a regional agreement on support for women victims of trafficking” was held from 14 to 17 November 2011. It was attended by representatives of key authorities in the four countries and at the MERCOSUR level. Agreement was reached at country level on the proposed protocol, which is to be submitted as a tool to the Common Market Group.

220. At the first MERCOSUR Meeting of Women Ministers and High-level Authorities on Women (formerly the Specialized Meeting of Women) held in Buenos Aires from 28 May to 1 June 2012, it was decided to expand the protocol on trafficking in women for sexual exploitation, which is currently being discussed, to cover the phenomenon of trafficking in women for labour exploitation. It was also decided to continue working towards the swift adoption of a guide on support for women victims of trafficking.

221. In May 2012 the Centre for Judicial Studies organized a course on trafficking in persons for all the country’s judges.

222. A “Training Seminar for the security forces, migration officials, prosecutors and judges on the prevention and combating of trafficking in persons, especially women and children” was held on Tuesday, 4 December, and Wednesday, 5 December 2012.

223. The Seminar was organized jointly by the Organization of American States (OAS) and the Human Rights and Humanitarian Law Directorate of the Ministry of Foreign Affairs and was sponsored by the Spanish Cooperation Training Centre in Montevideo.

224. This initiative forms part of the integrated approach and the action that is being taken to address the issue and of plans to continue building capacity among the security forces, judges, prosecutors and migration officials.

225. Mention should be made of the MERCOSUR agreements aimed at eradicating trafficking in children and adolescents. In particular, MERCOSUR adopted the Follow-up to the General Plan for Mutual Cooperation and Coordination in Support of National Security relating to Trafficking in Minors in 2000, pursuant to which the States parties undertook to take resolute action to supervise the inspection by police and migration officials of minors’ legal documents, especially in the case of unaccompanied children, with a view to ensuring that they are not involved in any kind of smuggling. To that end, it was agreed to make arrangements for coordination and cooperation among the region’s security and/or police forces to facilitate the identification of irregular situations that might be related to trafficking in children. The States parties also pledged to take all necessary measures to safeguard and protect minors and to undertake joint activities, such as the dissemination of information concerning missing, disappeared and/or abducted children, and the promotion of exchanges between the region’s migration control authorities, security forces and/or police forces. With the same end in view, the States parties undertook to develop a database entitled “Information on Trafficking in Minors” containing basic data for all countries in the region and providing each State party with the possibility to enter any additional information that reflects its particular situation.

226. Furthermore, in 2006 a trafficking in persons information and prevention campaign was launched. The relevant document urged States Parties and Associated States to coordinate initiatives and national campaigns aimed at informing the public and preventing the crime of trafficking in persons, especially women and children, with a view to orchestrating a regional campaign using the media and audiovisual aids in the framework of MERCOSUR and Associated States.

227. Two years later, at a Regular Meeting in San Miguel de Tucumán, the Council of the Common Market adopted the “Communication Campaign on Combating Trafficking in Children and Adolescents for Purposes of Sexual, Commercial and/or Labour Exploitation”. It states in its preambular paragraphs that “trafficking in persons is a form of subjection and suppression of liberty and a flagrant violation of human rights; that it is necessary to raise awareness of the crime of trafficking in children and adolescents for purposes of sexual, commercial and/or labour exploitation; that it is essential to promote coordinated and integrated preventive and punitive action in border areas in order to reverse criminal attitudes, conduct and/or practices, generating behaviour that condemns harmful practices and supports protective practices”.

228. Activities undertaken by the Standing Committee on the Niñ@Sur Initiative of the Meeting of High-level Human Rights Authorities and Ministries of Foreign Affairs of MERCOSUR and Associated States (RAADDHH) include the preparation and adoption in 2005 of “Recommendations on the Rights of and Assistance for Child and Adolescent Victims of Trafficking, Smuggling, Sexual Exploitation and/or Sale” with a view to establishing joint guidelines on intervention procedures and standards for protecting victims’ rights, and publicizing commitments to offer assistance so that victims can report cases without fearing retaliation. A second initiative is the implementation of a regional project financed by the Inter-American Development Bank (IDB) aimed at combating child trafficking for sexual exploitation. This project, which is currently being implemented, involves 15 border towns, “twin towns”, in the MERCOSUR member countries. Activities under the project include the conduct of participatory local analyses and the implementation of local operational plans, the training of leading stakeholders, the development of monitoring and assessment systems, and the methodical assembly and publication of the activities undertaken and the agreements reached. The countries involved in this project are: Brazil, through the Special Human Rights Secretariat of the Office of the President of the Republic; Argentina, through the Human Rights Secretariat of the Ministry of Justice and Human Rights; Paraguay, through the Ministry of Education and Culture and National Secretariat for Children and Adolescents; and Uruguay, through the Institute for Uruguayan Children and Adolescents (INAU), which is a body responsible for policies concerning children in the Office of the President, and the Ministry of Education and Culture.

229. It should further be noted that in 2008 Uruguay signed a cooperation agreement between INAU and the IOM office in Uruguay. The parties to the agreement undertook to enhance INAU institutional capacities in the areas of migration and trafficking in persons.

230. An unprecedented regional initiative was launched in July 2011, when Argentina, Brazil, Paraguay and Uruguay signed and submitted jointly to the Inter-American Court of Human Rights a request for an advisory opinion on protection of the rights of migrant children and adolescents.

Articles 12, 13 and 26

Freedom of expression; freedom of thought, conscience and religion; right to join freely any trade union

231. Freedom of religion and belief are enshrined in the national Constitution of the Republic of Uruguay (art. 5), which states that “All religious worship is free in Uruguay”.

232. With regard to freedom of expression and press freedom, article 29 of the national Constitution protects not only these freedoms but also the freedom to impart ideas and opinions; thus, it stipulates that: “The expression of opinions on any subject by word of mouth, private writings, writings published in the press, or any other method of dissemination shall be entirely free and shall not be subject to prior censorship; the author, printer or publisher, as the case may be, shall be held legally liable for any abuses committed.”

233. Trade union rights are protected under article 38, which states that: “The right to peaceful and unarmed assembly is guaranteed. The exercise of this right may not be denied by any authority of the Republic save in accordance with the law, and only in cases where it jeopardizes public health and security and public order.”

234. Furthermore, article 39 provides that: “All persons shall have the right to freedom of association, regardless of the purpose pursued, provided that they do not create an association that the law has declared to be illegal.”

235. The text of the Constitution does not discriminate by confining these rights exclusively to nationals; it follows that they are guaranteed to all inhabitants of the Republic of Uruguay, including both migrant workers and their families.

Articles 14 and 15

Arbitrary or unlawful interference with privacy, family, home, correspondence or other communications; prohibition of arbitrary deprivation of property

236. Article 7 of the Constitution of the Republic, which has already been mentioned, should be cited again in this context. It stipulates that: “The inhabitants of the Republic shall be entitled to protection of their right to life, honour, freedom, security, work and property. Nobody may be deprived of these rights save in conformity with laws that are enacted in the general interest.”

237. Thus, it is the inhabitants of the country whose enjoyment of these rights is protected under the national Constitution, irrespective of their citizenship status or their national origin.

238. With regard to the right to property, article 14 of the Constitution states that: “The penalty of confiscation of property may not be imposed on political grounds.”

239. Article 32 stipulates that: “The right to property is inalienable, but it is subject to the provisions of legislation enacted in the general interest. No one may be deprived of his or her property rights save in case of public necessity or utility established by law, and subject in all cases to fair compensation paid in advance by the National Treasury. Whenever expropriation is ordered for reasons of public necessity or utility, the property owners shall be compensated for loss and damages incurred on account of the duration of the expropriation procedure, whether or not it is completed, including those incurred as a result of changes in the value of the currency.”

240. Article 35 provides that: “No one shall be compelled to provide assistance of any kind to the armed forces, or to permit his or her home to be used for the billeting of troops, save in response to a legal order issued by a civilian judge, and he or she shall receive compensation from the Republic for any damages incurred in such cases.”

241. In addition, article 231 stipulates that: “A law enacted by an absolute majority of the full membership of each Chamber may provide for expropriations relating to economic development plans and programmes proposed by the Executive Branch, with fair compensation and in accordance with the rules laid down in article 32.”

242. Article 232 reads as follows:

“Such compensation need not be paid in advance, but in such cases the law shall make explicit provision for the funds required to ensure its payment in full at the time specified, which shall never be more than ten years; the expropriating entity may not take possession of the property without first having paid at least one quarter of the total amount of compensation.

Small-scale property owners, whose characteristics shall be defined by law, shall always receive full compensation before possession is taken of the property.”

243. Chapter II of the Criminal Code entitled “Offences against the inviolability of the home” defines the offence of violation of the home in article 294 and provides for aggravating circumstances in article 295.

244. With regard to the right to protection of personal data, article 28 of the national Constitution stipulates that: “Individuals’ papers and their epistolary, telegraphic or any category of correspondence are inviolable, and they may never be recorded, examined or intercepted save in conformity with laws enacted in the general interest.”

245. In addition, Act No. 18.331 of 11 August 2011 defines the right to protection of personal data as a human right and establishes their confidential status. It identifies data that enjoy special protection (sensitive data relating to health, etc.). It provides for *habeas data* legal proceedings.

246. Article 1 entitled “Human right” states that: “The right to protection of personal data is an intrinsic human right and is therefore covered by article 72 of the Constitution of the Republic.”

247. Article 10 reads as follows:

“Principle of data security. The controller or user of the database shall take all necessary measures to guarantee the security and confidentiality of personal data. The purpose of these measures is to prevent data from being tampered with or lost, or subjected to unauthorized consultation or processing, and to detect any intentional or unintentional diversion of information, irrespective of whether these risks stem from human action or from the technical means used.

The data shall be stored in a manner that permits their owner to exercise the right of access.

It is prohibited to record personal data in databases that do not meet technical integrity and security requirements.”

248. Article 15 refers to the right of correction, updating, inclusion or deletion. “Every natural or legal person shall be entitled to request the correction, updating, inclusion or deletion of his or her personal data contained in a database on detection of an error, incorrect entry or omission in the information of which the person concerned is the owner.”

Article 16 (paras. 1 to 4)

Right to liberty and security of person

Articles 17 and 24

Protection against arbitrary detention or imprisonment; recognition as a person before the law

249. Article 7 of the national Constitution cited above is applicable in this context.

250. With regard to the detention, imprisonment or any other form of confinement of a migrant worker or a family member, it is important to highlight the provisions of article 36

of the Vienna Convention on Consular Relations, to which Uruguay is a party, which establish the obligation to address a communication to the consular or diplomatic authorities of the State of origin or of a State representing its interests.

251. With regard to the legality of detention or imprisonment, migrant workers and their families are supported in such circumstances by article 17 of the national Constitution, which creates the procedural safeguard of habeas corpus: “In the event of unlawful detention, the person concerned or any other person may apply to the competent court for a writ of ‘habeas corpus’ with a view to requiring the detaining authority to explain and justify forthwith the legal grounds for the detention, in which case the decision of the aforementioned court shall be final.”

252. Mention should also be made of the provisions of articles 15 and 16 of the national Constitution:

“No one may be arrested save *in flagrante delicto* or by a written order of a competent judge based on reasonable evidence.”

“In any of the cases contemplated in the preceding article, the judge, assuming full responsibility, shall take a statement from the arrested person within twenty-four hours and shall initiate the summary procedure within not more than forty-eight hours. The statement of the accused shall be taken in the presence of his or her defense counsel. The latter shall also have the right to attend all summary proceedings.”

Article 16 (paras. 5 to 9)

Right to procedural safeguards; articles 18 and 19

253. The national Constitution of the Republic stipulates in article 15 that: “No one may be arrested save *in flagrante delicto* or by a written order of a competent judge based on reasonable evidence.”

254. Article 16 reads as follows: “In any of the cases contemplated in the preceding article, the judge, assuming full responsibility, shall take a statement from the arrested person within twenty-four hours and shall initiate the summary procedure within not more than forty-eight hours. The statement of the accused shall be taken in the presence of his or her defense counsel. The latter shall also have the right to attend all summary proceedings.”

255. Articles 18 to 23 of the Constitution enshrine further rights to procedural safeguards. Thus, article 23 provides that: “All judges shall be responsible before the law for the slightest infringement of the rights of individuals and for any deviation from the legally established rules of procedure.”

256. It should further be noted that the General Procedural Code contains comprehensive rules governing the form and substance of judicial proceedings and the essential safeguards on which anyone involved in such proceedings should be able to rely.

257. Public defenders’ offices exist to ensure that migrant workers have access to the assistance they require to ensure that the guarantee of due process is met, even where they cannot afford to hire an individual lawyer.

258. It is also possible to request legal assistance from the free legal advice bureaux at the Law Students Centre of the University of the Republic and at other private universities.

259. The National Human Rights Institution and Ombudsman’s Office, which has been mentioned above, is an additional source of safeguards.

260. It should further be mentioned that Uruguay has agreed that the consular or diplomatic authorities of the State of origin or of the State representing the migrant’s

interests should attend the proceedings before all judicial bodies with a view to providing the migrant with effective protection and access to the requisite safeguards.

Article 20

Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfil an obligation arising out of a work contract

261. With regard to the prohibition of imprisonment, attention is drawn to the statements made above regarding articles 15 and 16 of the Constitution of the Republic.

262. Before turning to the issue of deprivation of authorization of residence and expulsion, the question of impediments to entry and residence in the territory of the Republic under the existing legislation should first be addressed.

263. Chapter IX of Act No. 18250, entitled “Impediments to entry and residence”, establishes the grounds that may be invoked to deny entry. Thus, article 45 contains the following list of grounds for denial of entry into the country:

- (a) Lack of the documentation required to enter the country;
- (b) Having committed or participated in government-sanctioned or other acts constituting genocide, war crimes or crimes against humanity or any act defined as a violation of human rights in the international instruments ratified by the country;
- (c) Having been expelled from or prohibited from re-entry into the country where such measures have not been revoked;
- (d) Having been convicted of offences related to smuggling and trafficking in persons, money-laundering, drug trafficking or arms trafficking in the country or elsewhere;
- (e) Having attempted to enter the national territory without passing through immigration controls;
- (f) Public-health grounds in accordance with the provisions of the International Health Regulations in force;
- (g) Grounds related to law and order or State security specified by the executive branch.

264. Notwithstanding the provisions of article 44 of the aforementioned Act, staff assigned to the country’s land, sea, river and air frontiers are not permitted to impede the entry into the national territory of persons who have declared their intention to seek refuge. This provision is applicable even where the foreigners in question do not possess the documentation required by the legal provisions relating to immigration or their documents have clearly been forged or altered.

265. Expulsions are permissible solely on the grounds set forth in the Act and in accordance with the administrative procedure prescribed in articles 51, 52, 53, 54, 55 and 56.

Articles 21, 22 and 23

Protection from confiscation and/or destruction of identity and other documents; protection against collective expulsion; right to recourse to protection and assistance of consular or diplomatic authorities

266. The National Migration Directorate is authorized to confiscate and/or destroy identity documents only where they are found to have been forged. When such a situation arises, the Directorate is required to contact the consulate of the country that issued the document.

267. With regard to collective expulsion, article 56 of Migration Act No. 18250 stipulates that the collective expulsion of migrants is prohibited.

268. All migrants enjoy the right to contact the diplomatic and consular authorities of their country of origin, and the Uruguayan State is required in that context to facilitate access to means and expedients that will ensure their effective protection and assistance.

Articles 25, 27 and 28

Principle of equality of treatment in respect of remuneration and other conditions of work and terms of employment and in respect of social security; the right to receive urgent medical care

269. Article 8 of the Constitution of the Republic states that: “All persons are equal before the law and no distinction shall be recognized among them save those of talent or virtue.”

270. Furthermore, Chapter IV of Act No. 18250 provides that: “Migrant persons shall be treated on an equal footing with nationals in respect of employment” (art. 16).

271. In addition, article 17 stipulates that: “The State shall take the necessary measures to ensure that migrant persons are not deprived of any of the rights protected by labour legislation on account of irregularities relating to their residence or employment.”

272. Article 3 of Decree No. 394/2009 provides that: “Migrant persons shall enjoy the same labour rights as nationals with respect to admission to employment, remuneration, working conditions and access to vocational training.”

273. In 2007 Uruguay – represented by the Ministry of Labour and Social Security – concluded an agreement with the International Labour Organization concerning decent work. The objectives of the agreement include the development of strategies and actions that guarantee compliance with fundamental labour rights. While these actions are designed to promote an increase in productive employment, such progress should not be achieved at the expense of social welfare or safeguards for the exercise of fundamental rights.

274. These fundamental rights (guaranteed by the Constitution of the Republic) are:

- (a) Freedom of association;
- (b) Trade union freedom;
- (c) Recognition of collective bargaining;
- (d) Elimination of all forms of forced or compulsory labour;
- (e) Effective abolition of child labour;
- (f) Elimination of discrimination in respect of employment and occupation.

275. The country has also ratified the following international instruments of the International Labour Organization (ILO):

- (a) ILO Declaration of Fundamental Principles and Rights at Work (1998);
- (b) Forced Labour Convention, 1930 (No. 29);
- (c) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- (d) Migration for Employment Convention (revised) (No. 97), 1949;
- (e) Right to Organise and Collective Bargaining Convention, 1949 (No. 98);

- (f) Equal Remuneration Convention, 1951 (No. 100);
- (g) Abolition of Forced Labour Convention, 1957 (No. 105);
- (h) Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- (i) Minimum Age Convention, 1973 (No. 138);
- (j) Private Employment Agencies Convention, 1997 (No. 181);
- (k) World Forms of Child Labour Convention, 1999 (No. 182);
- (l) Domestic Workers Convention, 2011 (No. 189) (Uruguay was the first country in the world to ratify this Convention, which guarantees domestic workers the same rights as those enjoyed by workers in any other branch of activity: Act No. 18899 of 9 May 2012).

276. In 1998, prior to the adoption of Act No. 18250, the MERCOSUR Social and Labour Declaration was adopted. This Declaration – which contrasts with the heavy emphasis on opening up markets and deregulation which was a prominent feature of MERCOSUR in its early days – focuses, as may be gathered from its title, on social and labour-related issues. Its articles reflect MERCOSUR members countries’ commitment to the introduction of common standards and procedures for the free movement of cross-border workers; the States also agreed to take steps to improve the employment and living conditions of regional workers.

277. Article 4 clearly reflects the spirit underlying the Declaration: “All migrant workers, irrespective of nationality, are entitled to the assistance, information, protection and equality of rights and working conditions guaranteed to the nationals of the country in which they are employed, in keeping with each country’s occupational regulations.”

278. With regard to access to public office, article 76 of the national Constitution stipulates that: “Any citizen may be appointed to public positions. Naturalized citizens may not be appointed until three years have elapsed since they were granted citizenship cards. Citizenship shall not be required for the exercise of the functions of a lecturer or professor in higher education establishments.”

279. It should be noted that the citizenship card is the document which proves that a foreigner is a naturalized citizen. It is granted by the Electoral Court and the following persons are entitled to naturalized citizenship in accordance with article 75 of the Constitution:

(a) Foreign men and women of good conduct, with a family in the Republic, who possess working capital or property in the country, or are engaged in a scientific, artistic or industrial activity, and have resided habitually in the Republic for three years;

(b) Foreign men and women of good conduct, without a family in the Republic, who meet any of the requirements set forth in the preceding subparagraph and who have resided habitually in the country for five years;

(c) Foreign men and women who are granted a special favour by the General Assembly for noteworthy services or outstanding merit.

280. Proof of residence must perforce be based on a public or private document of proven date.

281. The rights pertaining to naturalized citizenship may not be exercised by foreigners covered by subparagraphs (a) and (b) of article 75 until three years have elapsed since the citizenship card was issued.

282. The existence of any of the grounds for suspension referred to in article 80 constitutes an impediment to the granting of a citizenship card. Citizenship is suspended on the following grounds:

- (a) Physical or mental incompetence which prevents free and reasoned action;
- (b) Being under indictment in criminal proceedings that may result in a prison sentence;
- (c) Being under eighteen years of age;
- (d) Having been sentenced to exile, ordinary or rigorous imprisonment, or loss of civil rights for the duration of the sentence;
- (e) Habitually engaging in morally dishonourable activities which are punishable by law in accordance with subparagraph 7 of article 77;
- (f) Being a member of social or political organizations which seek, by means of violence or incitement to violence through propaganda, to destroy the basic constituents of nationality. The constituents shall be deemed, for the purposes of this provision, to be those contained in Sections I and II of this Constitution;
- (g) Subsequent lack of good conduct as required by article 75.

283. The last two grounds are applicable only to naturalized citizens.

284. It should also be noted that the admission of naturalized citizens to the civil service is governed by article 2 of Act No. 10388 (13 February 1943). With regard to subparagraph (b) – compliance with the obligations imposed by the Military Training Act – the relevant wording is that contained in Decree-Law No. 14939 (2 October 1979) (Pledge of allegiance to the flag).

285. With regard to social security, article 18 of Act No. 18250 provides that: “Migrant persons shall be treated, in the area of social security, on an equal footing with nationals provided that they meet the requirements laid down in the relevant legislation of the Uruguayan State and in the bilateral and multilateral instruments ratified by the country.”

286. Article 3 of regulatory decree No. 394/2009 stipulates that: “Migrant persons shall enjoy the same labour rights as nationals with respect to admission to employment, remuneration, working conditions and access to vocational training.”

287. In keeping with the Migration Act, Announcement No. 21/2011 of the Social Insurance Bank and article 43 of Decree No. 394/2009 state that migrant persons shall be treated on an equal footing with nationals in terms of both admission requirements and the right to benefits in all circumstances protected by the legislation in force. All workers, both migrants and non-migrants, enjoy the right to be registered with the Social Insurance Bank and this is an obligation incumbent on the employer.

288. Between 2007 and 2011, immigrants were granted 96 invalidity pensions, 126 old-age pensions, 295 physical disability retirement benefits and 3,477 retirement benefits.

289. With regard to the requirements for obtaining non-contributory benefits such as an old-age pension, the Social Insurance Bank, basing itself on article 43 of Act No. 16.713 until September 2011, required persons born abroad to have been continually resident in the country for 15 years to be eligible for such benefits. The Uruguayan State acknowledges that this period constitutes a deviation from the standard laid down in the Migration Act. However, bearing in mind that migrants are treated in practice on an equal footing with nationals in terms of social security, the Bank will take steps during the current year to

introduce the adjustments required to establish a legal framework that is consistent with the standard contained in the Migration Act.

290. According to the 2011 Census data concerning the economically active population, 57.4 per cent of the total number of recent immigrants were employed, 4.8 per cent were unemployed and 37.8 per cent were economically inactive. Paraguay, Peru, Brazil and Argentina all record remarkably low unemployment rates.

291. The rates for the recent immigrant population of Peruvian nationality were – at the time of the 2011 Census – 75.2 per cent employed and 3.8 per cent unemployed. The corresponding rates for those from Paraguay were 60.6 per cent and 4.2 per cent respectively. Unlike the nationalities present in other countries of South America, none of the remaining South American nationalities recorded unemployment rates that exceeded 5.5 per cent.

292. With regard to employment in occupational categories in which the salaries earned are presumably higher (professionals, persons with technical and similar expertise, administrators, managers and directors), almost one third of the persons concerned (28.9 per cent) fell into these categories.

293. It should be pointed out, however, that the immigrant population is distributed among a wide range of occupations rather than being concentrated in any particular area of employment. This general statement does not, however, rule out the possibility that one nationality may be concentrated in a specific occupation.

294. As noted in the report “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012), none of the records available in 2011 contained information about immigrant workers included in staffing tables or those in an irregular situation.

295. As the recently installed computer system of the National Employment Directorate of the Ministry of Labour and Social Security can register these workers together with documentation from their country of origin, it will be possible to obtain relevant data regarding employment and vocational training.

297. It should also be noted that both national workers and migrant workers of other nationalities can participate in the programmes of the National Employment Directorate of the Ministry of Labour and Social Security. Migrant workers with provisional residence documents have access to employment programmes. So far, however, migrants have only rarely taken advantage of such programmes.

298. With regard to the right to health, article 44 of the Constitution of the Republic stipulates that: “The State shall legislate on all matters pertaining to public health and hygiene, endeavouring to promote the physical, mental and social well-being of all inhabitants of the country. It is the duty of all inhabitants to take care of their health and to seek treatment in the event of illness. The State shall provide means of prevention and treatment free of charge only to needy persons or those without sufficient resources.”

299. Furthermore, article 8 of Act No. 18250 provides that: “Migrant persons and their families shall enjoy the right to health [...]” Article 9 recognizes the “right of access on an equal footing to health-care establishments, regardless of their migratory status”, and the relevant conditions are regulated by articles 34 to 41 of Decree No. 394/2009.

300. Two possibilities are contemplated: those entitled to National Health Insurance, who will be treated on an equal footing with nationals, and those permitted to reside in the country, who will be covered, together with their families, by the State Health Services Administration if they lack the necessary means. They are required, of course, to possess the requisite documents.

301. However, the same Decree guarantees health services to migrants in an irregular situation, even to those without documents, subject to presentation of a sworn statement.

302. Articles 4 and 7 of the Decree also establish State requirements concerning migrants' health, differentiating between permanent residents, whose status must be authenticated by the Health Certificate issued by public or authorized private health-care institutions, and temporary residents, who are recognized as having access to health care through the National Health Insurance system on the same basis as nationals.

303. Article 34 of Decree No. 394/2009 reads as follows:

“Migrants who obtain permits to reside in the country pursuant to the provisions of Act No. 18250 and who are not covered by the National Health Insurance system in accordance with the terms of Act No. 18.211 shall have access to health service providers that are members of the Integrated National Health-care System under the following conditions:

(a) By paying the providers of the services they receive a sum equivalent to that payable by nationals in the same situation;

(b) If they have no financial resources or if the resources that they possess are insufficient, they shall have access free of charge to integrated health-care benefits through the State Health Services Administration, with the maximum entitlements being fixed on the basis of the regulations applicable to nationals in the same situation.

Families who enter the country together with the migrants or at a later time shall be entitled to protection in accordance with the provisions of article 10 of Act No. 18250. In the circumstances specified in subparagraphs (a) and (b) of this article, migrants and other persons referred to in the previous clause shall prove their identity by producing for the service providers the documents issued by the competent national authorities.”

304. It is also relevant in this context to cite the provisions of articles 35 to 41 of the Decree in question:

Article 35: “Without prejudice to the provisions of article 49 of Act No. 18.211, the irregular status of migrants shall not prevent them from having access to the integrated health-care services provided by the entities that are members of the Integrated National Health-care System under the conditions set forth in the previous article of this Decree.

In such cases, the migrants shall prove their identity to the relevant health-care service providers by means of the document in their possession issued by their country of origin or by a third country. If they have no such document, they shall do so by means of a sworn statement. In the case of minors or adults with disabilities, the sworn statement regarding identity shall be made by the persons serving as their guardians.”

Article 36: “The Ministry of Public Health and the service providers forming part of the Integrated National Health-care System shall provide information, through their user service or similar offices, designed to facilitate the regularization of migrants, bearing in mind the provisions of Act No. 18250, its implementing regulations and other relevant norms currently in force.”

Article 37: “The non-resident foreigners referred to in article 36 of Act No. 18250 who are not covered by portable health insurance shall have access to health-care services by paying for the care that they receive on terms freely contracted with the care providers. Where such foreigners do not possess the requisite financial

resources, emergency care shall be provided free of charge by the State Health Services Administration.”

Article 38: “Migrants who use the services of providers that are members of the Integrated National Health-care System shall comply with general health provisions and any specific provisions established by the relevant entities when their services are used. Failure to comply with these provisions shall entail the consequences prescribed in the regulations applicable to nationals.”

Article 39: “Migrants who, having met the requirements in respect of residence and social security laid down in the present Decree and in other applicable regulations, engage in a dependent or independent gainful activity giving them access to National Health Insurance coverage in accordance with Act No. 18211 and its implementing regulations, shall be subject to the same rules and regulations as nationals in terms of compulsory contributions to the National Health-care Fund, extension of such coverage to their children, spouses and cohabiting partners, and access to the full range of benefits in accordance with the programmes adopted by the Ministry of Public Health.”

Article 40: “Service providers that are members of the Integrated National Health-care System may not reject any migrant who is covered by National Health Insurance or restrict his or her access to benefits included in the integrated national health-care programmes adopted by the Ministry of Public Health. In the case of migrants who are not covered by such insurance, the restrictions established in the regulations applicable to nationals shall apply.”

Article 41: “When nationals who emigrated return to the country, their access to health-care services shall be subject to the regulations applicable to residents in the country.”

305. A major achievement on the part of the National Migration Board has been the reduction in the cost of the health card for those who are in the process of applying for residence status. By Decree No. 157/2012 of 15 May 2012, its cost has been reduced to the same level as the workers’ health card (0.4 Uruguayan pesos), although it is still assigned a different status.

306. It should be noted that it is also possible, while migration procedures are still pending, to obtain access to the health-care assistance card.

307. Furthermore, Act No. 18335 lays down rules governing citizens’ rights and duties in the area of health care. Article 2 stipulates that: “Patients and users shall be entitled to equal treatment and shall not be subjected to discrimination on any ground such as race, age, sex, religion, nationality, disability, social status, sexual preference or orientation, educational level or financial standing.”

308. Article 17 also provides that all patients shall be entitled to decent and respectful treatment. This right entitles them to respect at all stages of the health-care process, to receive kind and courteous treatment, to be known by their name, to be provided with a clear and timely account of their situation, and to receive care within the scheduled timetable. Steps shall be taken in all medical procedures to avoid subjecting any person to physical and emotional distress, regardless of his or her physiological or pathological situation. Patients shall be accompanied by their loved ones or representatives of their religious denomination at all times of danger or when they are about to die, provided that this presence does not interfere with the rights of other patients in residence and with medical procedures. They shall have the right to die with dignity, it being understood that this concept includes the right to die a natural death, in peace and without pain. They may refuse to have their illness used for training purposes when this involves loss of intimacy,

physical discomfort, increased pain or a repetition of procedures; moreover, the patient's consent shall be required in all circumstances and may be withdrawn at any time without explanation. Medical acts that are incompatible with a person's physical or mental integrity shall not be undertaken.

309. All patients have the right to be informed of all aspects of their illness and to have access to their medical record.

310. It may be concluded from the foregoing that the existing regulations provide all migrants who have obtained a residence permit that also covers family members with access to health care on an equal footing with nationals. Irregular migrants also enjoy the right to health.

Table 2

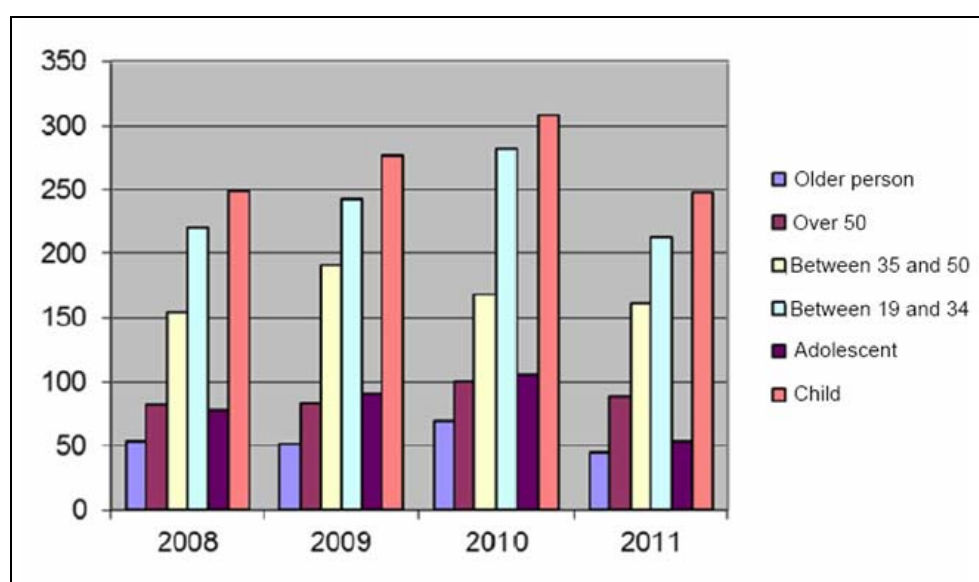
Health-care assistance cards issued by the State Health Services Administration to immigrants during the period 2008–2011, by age group

Age group	2008	2009	2010	2011
Older person	54	52	69	45
Over 50	82	83	100	89
Between 35 and 50	154	191	168	161
Between 19 and 34	220	243	282	213
Adolescent	78	91	105	54
Child	249	277	308	248
Total	837	937	1032	810

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Figure 1

Health cards issued by the State Health Services Administration to immigrants during the period 2008–2011, by age group



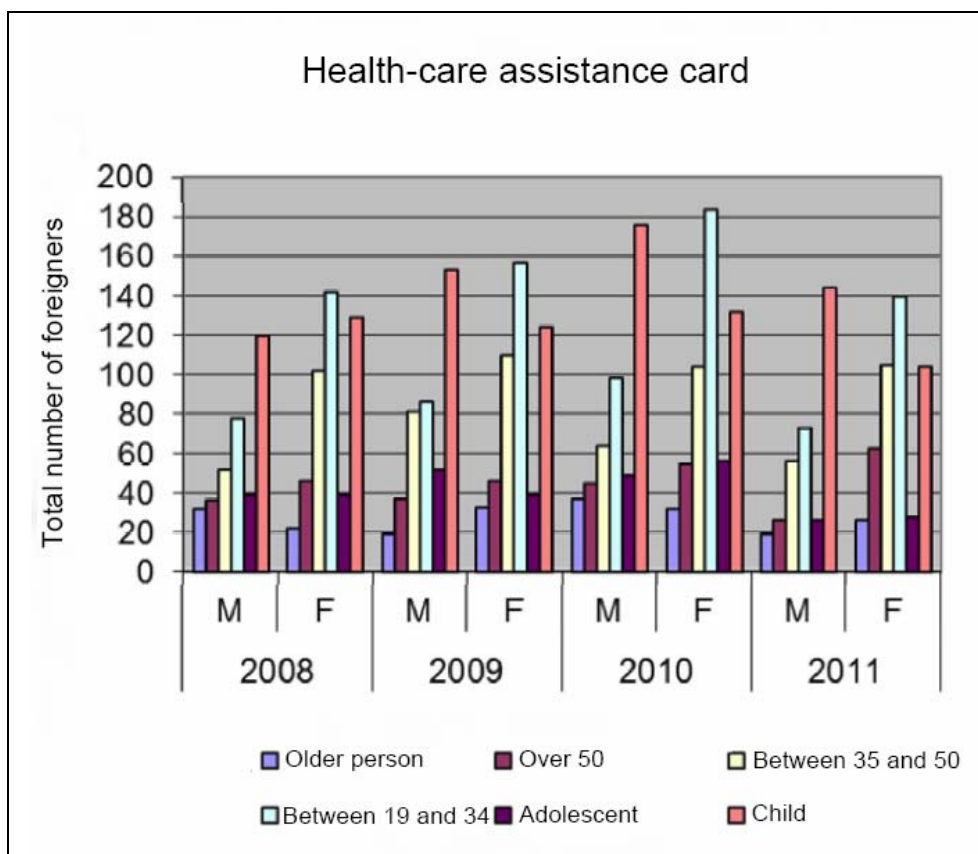
Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 3
Health-care assistance cards by sex and age for the period 2008–2011
 (M: Masculine – F: Feminine)

Age group	2008		2009		2010		2011	
	M	F	M	F	M	F	M	F
Older person	32	22	19	33	37	32	19	26
Over 50	36	46	37	46	45	55	26	63
Between 35 and 50	52	102	81	110	64	104	56	105
Between 19 and 34	78	142	86	157	98	184	73	140
Adolescent	39	39	52	39	49	56	26	28
Child	120	129	153	124	176	132	144	104
Total	357	480	428	509	469	563	344	466

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Figure 2
Health-care assistance cards by sex and age for the period 2008–2011
 (M: Masculine; F: Feminine)



Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 4
Health cards issued by the State Health Services Administration by nationality of origin during the period 2008–2011

<i>Nationality</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Argentines	398	386	450	371
Brazilians	238	240	245	170
Paraguayans	25	46	41	26
Chileans	24	23	24	24
Other	148	239	263	218
No info.	2	5	5	5

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 5
Invalidity pensions granted to immigrants between 2007 and 2011

<i>Year</i>	<i>Sex</i>	<i>Number of beneficiaries</i>
2007	F	13
	M	2
2008	F	14
	M	10
2009	F	8
	M	12
2010	F	15
	M	6
2011	F	12
	M	4
Total		96

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 6
Physical disability retirement benefits granted to immigrants between 2007 and 2011

<i>Year</i>	<i>Sex</i>	<i>Number of beneficiaries</i>
2007	F	22
	M	21
2008	F	18
	M	32
2009	F	37
	M	39
2010	F	40
	M	42
2011	F	19
	M	25
Total		295

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 7
Number of retirement benefits granted to immigrants during the period 2007–2011

<i>Year</i>	<i>Number of beneficiaries</i>
2007	791
2008	623
2009	809
2010	798
2011	456
Total	3477

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Table 8
Old-age pensions granted to migrant persons between 2007 and 2011

<i>Year</i>	<i>Sex</i>	<i>Number of beneficiaries</i>
2007	F	21
	M	9
2008	F	19
	M	6
2009	F	16
	M	12
2010	F	16
	M	12
2011	F	9
	M	6
Total		126

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

Articles 29, 30 and 31

Right of each child of a migrant worker to a name, to registration of birth and to a nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families

311. All children of migrant workers have the right to a name, to registration of birth and to a nationality.

312. The Ministry of Social Development runs a series of programmes that include an approach based on migrants’ rights.

313. Mention should also be made of the IDENTIDAD Programme, which is currently run by the Family Department, Division for Integrated Protection in Situations of Vulnerability, National Directorate for Social Development.

314. This is a continuous countrywide action programme designed to promote inclusion, integration and social equality in the exercise of citizens’ rights, it being understood that the right to an identity is a fundamental, intrinsic and enabling component of the exercise of citizens’ rights inasmuch as it comprises other related rights.

315. The various activities are undertaken by an interdisciplinary team, which arranges for inter-agency and intra-agency coordination with the programmes and directorates of the Ministry of Social Development and with various public and private institutions.

316. The following is a description of the Programme:

- (a) Objectives;
 - (i) General: to contribute to the exercise of the right to an identity;
 - (ii) Specific:
 - To publicize and promote identity as a basic human rights;
 - To promote the exercise of human rights by the migrant persons living in our country;

- To promote social inclusion, thereby facilitating access to other rights.
- (b) Target population: persons in situations of socio-economic vulnerability, especially migrants and transgender persons. During the period April 2008 – October 2012, a total of 17,317 persons were recorded as having benefited from the Programme;
- (c) Activities (April 2008 – October 2012): main lines of action:
- (i) **Promotion throughout the country:** The Programme carried out 152 activities involving 7,533 persons;
- (ii) 108 workshops on promotion of the right to an identity for children and adolescents (4th to 6th grades of public school and 1st and 2nd years of secondary and technical-vocational education); the manifold dimensions of the concept of identity (personal, social, legal, civic) are addressed through educational and game-based/recreational approaches; educational materials are distributed;
- (iii) 17 meeting-workshops to raise awareness of the right to an identity for local actors whose work brings them into direct contact with the target population; activities under the Programme are described, concepts relating to identity are analysed, and the participants work in groups; tools for dealing with specific situations are provided as well as informational and educational materials;
- (iv) 24 local events in support of the right to an identity: one-day events involving cultural and recreational activities which are coordinated with local stakeholders; identity cards are processed free of charge and legal advice is offered concerning administrative and judicial proceedings to address issues concerning relationship by descent in particular and the right to an identity in general. This activity involves civil society organizations, local stakeholders and various public bodies, and is coordinated with the National Civil Identification Directorate;
- (c) Participation in various discussion and planning events:
- (i) The National Migration Board (established under Act No. 18250): participation, as a guest with ministerial representation, by the advisory and coordinating body on migration policy of the executive branch, composed of representatives of the Ministries of the Interior, Foreign Affairs, and Labour and Social Security;
- (ii) The Sub-Commission on Migration (Sectoral Commission on Population): participation with ministerial representation;
- (iii) Working groups on identity: meeting-workshops organized by the Border Programme of the Ministry of Social Development to discuss issues relating to identity with public and private stakeholders from Uruguay and Brazil;
- (d) Procedural-advisory events: the Programme has organized 19,846 advisory and/or procedural events involving a total of 9,784 beneficiaries, including 2,962 foreigners (30.2 per cent). The advice is provided personally (in Planta Baja – Public Service), by telephone and by electronic mail.
317. Inter-agency coordination measures and action taken to regularize Uruguayan documentation are described below;
- (a) Directorate-General for Consular Affairs and Liaison (Ministry of Foreign Affairs):
- Consular acquisition, authentication and/or translation of certified copies of foreign civil status documents;
 - Authentication of criminal records and foreign study certificates.

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- (b) Directorate-General for Civil Status Records (Ministry of Education and Culture):
- Cost exemption and registration of certified copies of foreign civil status documents;
 - Applications for certificates of non-registration;
 - Applications for certified copies of national and foreign civil status documents;
 - Applications for administrative amendments to civil status documents;
 - Applications for the issuance of supplementary foreign papers;
 - Applicants for the assignment of surnames;
 - Applications for a marriage certificate and for registration of children in the certificate;
 - Advice concerning procedures for recognition, late registration, and administrative and judicial amendment of civil status documents.
- (c) Civil Registry Service (Municipality of Montevideo):
- Applications for certified copies of civil status documents (Department of Montevideo).
- (d) National Civil Identification Directorate (Ministry of the Interior):
- Applications for filiation data concerning undocumented persons;
 - Applications for vehicles for the processing of identity cards on behalf of persons who are immobilized (at public hospitals or in individual dwellings).
- (e) National Migration Directorate (Ministry of the Interior):
- Advice concerning residence and cost exemption procedures;
 - Procedural arrangements and advice on specific situations.
- (f) Vital Statistics and Public Hospitals (Ministry of Public Health) – clinics:
- Applications for certificates of live birth or of delivery.
- (g) Preventive Clinics Department (Ministry of Public Health):
- Coordination with the Occupational Health branch with a view to requesting exemption from the requirement of a health card for residence proceedings;
 - Arrangements with this body for requests and consultations concerning specific situations.
- (h) State Health Services Administration;
- Coordination with a view to requesting the processing of health-care assistance cards for undocumented foreigners.
- (i) Consulates in Uruguay (chiefly Argentina, Brazil, Chile, Paraguay, Peru):
- Applications for certified copies of civil status documents, criminal/legal records, consular or registration certificate.

(j) Electoral Court:

- Applications for filiation data concerning undocumented persons (not previously contained in the database of the Directorate-General for Civil Status Records and the National Civil Identification Directorate).

318. Once the residence procedure has been initiated, the applicant acquires the right to be issued with a provisional identity card or a provisional identity sheet where the period for which a temporary residence permit is requested is less than six months.

319. The period of validity of the provisional card is one year and it is renewable for two further periods. The period of validity of the final identity card issued on approval of legal residence in the country is also less than that granted to nationals; in such cases the document must be renewed every three years.

320. The National Civil Identification Directorate has an extensive database containing, among other variables, a detailed breakdown of information by year, sex and nationality for the entire country.

Table 9

Identity documents processed for the first time, 2007 – June 2011

	2007	2008	2009	2010	2011	Total
Montevideo	725	1 997	2 335	2 350	1 048	8 455
Rest of the country	274	801	953	961	373	3362
Subtotal	999	2 798	3 288	3 311	1 421	11 817

Source: Report on “Access to public information as a tool for social monitoring of migration in Uruguay” (CAinfo, 2012).

321. With regard to the **right to education**, the following facts should be highlighted.

322. The Migration Act recognized the right to education of all persons living in Uruguay irrespective of their migratory status and nationality, which constituted a basic change of paradigm with respect to the former Aliens Act.

323. With regard to the integration of children into the local education system, article 11 of Act No. 18250 stipulates that: “Children of migrant persons shall enjoy the basic right of access to education on an equal footing with nationals. The access of children of migrant workers to public or private educational establishments may not be denied or restricted on account of the irregular situation of their parents.”

324. The following provisions of Decree No. 394/2009 should also be cited:

Article 47:

“The Uruguayan State shall ensure that migrant persons and their families are speedily integrated into public, eligible or authorized educational facilities either to begin or to pursue a course of studies. In all cases, they shall meet the requirements applicable to national citizens.”

Article 48:

“With a view to ensuring that children of migrant workers enjoy the right to education, the eligible or authorized public institutions shall enrol them pursuant to this provision for a provisional period of one year if they lack the necessary enrolment documentation. The documentation in question shall be required for the granting, where appropriate, of educational certificates. If the manifest lack of status

of the person concerned persists, responsibility for taking a decision shall lie with the Ministry of Education and Culture.”

Article 49:

“The admission of foreign students to the University of the Republic shall be regulated by the provisions of its Organization Act and by any other provisions laid down by the Central Executive Board of the Autonomous Entity.”

325. According to data provided by the Early Childhood and Primary Education Board (CEIP), 2,975 pupils who had lived abroad were integrated into this educational subsystem during the period 2007–2010.

326. The highest rate of enrolment is recorded at the primary education level.

327. Access to early childhood and primary education in the country is guaranteed for all immigrants, regardless of their migratory status. Foreign pupils are enrolled on the basis of the documentation they possess at the grade corresponding to their age and the content of the relevant curriculum. The assessment is made by the director of the educational establishment in coordination with the teachers and with the approval of the local school inspector.

328. With regard to secondary education, although the Secondary Education Board (CES) lacks comprehensive data for the period 2007–2011 concerning the total number of foreign students, it may be affirmed that an increase in their number was also recorded at this level of education. Admittedly, however, there is no record of the number of applications for validation that were rejected or of the total number of those that were accepted. This information gap means that there are no indicators available to detect any shortcomings in the validation system that have an impact, in particular, on the right of young migrants to study in the country.

329. Nevertheless, the Secondary Education Board has a procedure for processing applications for validation that takes into consideration the situations of social and economic vulnerability in which students may find themselves; it facilitates the translation and legalization of documents, and provides for a declaration of poverty or proof of lack of resources to exempt students from coverage of the cost of regularization of documents.

330. Students who seek validation of studies completed abroad as from the second year of the basic cycle must attend the “Integration into Uruguay course” held in Montevideo, the capital city. Students living in other parts of the country, who lack the necessary financial resources or face other difficulties related to their distance from the capital, may be exempted from attending the course on submitting evidence to that effect. The courses may also be attended while the validation process is still pending.

331. Article 49 of Decree No. 394/2009: “The admission of foreign students to the University of the Republic shall be regulated by the provisions of its Organization Act and by any other provisions laid down by the Central Executive Board of the Autonomous Entity.”

332. The University of the Republic continues to apply Central Executive Board resolutions 66/86 and 14/87. These resolutions require a three-year period of residence in the country for access to any university career in the public sector, although it is possible to request an exception (permitting access for persons who have resided in the country for a year).

333. In recent years the number of foreign students has remained stable at about 2.9 per cent of total university enrolment.

334. Since July 2007 responsibility both for the enrolment of foreign students and for partial validation of studies has been delegated to individual faculty boards. As a result, there are no uniform or systematic records at the central level regarding the number of applications for enrolment and the number of rejected applications for validation. This situation makes it difficult to ascertain the number of validations granted by the University of the Republic, since the information, if it exists, must be obtained in each case from the individual faculty.

335. It should be noted that the recent entry into force of the Hague Apostille Convention will simplify the processing of documents in the future.

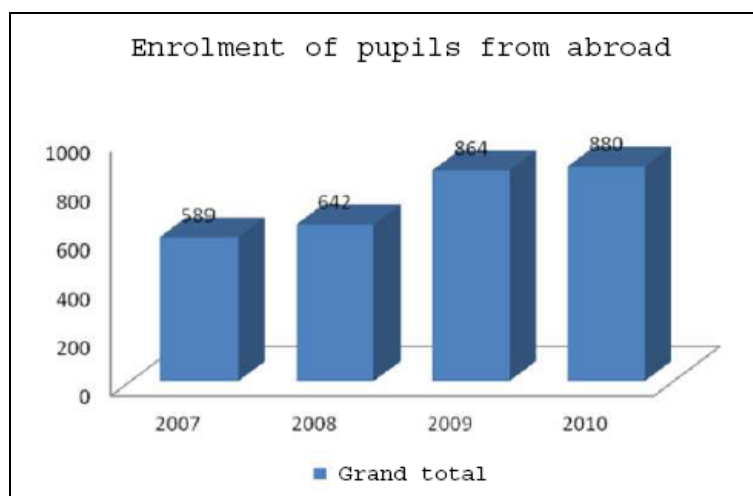
Table 10

Pupils from abroad enrolled in public early childhood and primary education, by level and grade

	2007	2008	2009	2010
Kindergarten 4	18	28	32	32
Kindergarten 5	40	37	49	49
Nursery school 4	3	5	9	20
Nursery school 5	10	9	13	9
Initial subtotal	71	79	103	110
1°	113	117	171	173
2°	102	103	131	127
3°	89	92	123	131
4°	83	87	112	108
5°	58	84	126	106
6°	73	80	98	125
Subtotal 1°to 6°	518	563	761	770
Grand total	589	642	864	880

Source of data: Annual statistical summary as at December of each year. Early Childhood and Primary Education Board

Figure 3
Enrolment of pupils from abroad



336. The highest rate of enrolment is recorded at the primary education level.

337. The following table shows the situation at the secondary education level:

Table 11
Validation of studies at secondary education level 2009 – 2010/11

<i>Validation of secondary-level studies</i>	2009	2010/11
Applications for validation considered	1 036	1 347
Certificates issued	906	1 023
Integration course	345	365

338. The enjoyment of **cultural rights** is guaranteed for both non-migrants and migrants by article 15 of the International Covenant on Economic, Social and Cultural Rights, to which Uruguay is a party, and by Act No. 18250 (art. 14) which stipulates that: “The State shall guarantee respect for the cultural identity of migrant persons and their families, and shall encourage the latter to maintain links with their States of origin.”

Articles 32 and 33

Right to transfer earnings, savings and personal belongings; right to be informed of their rights arising out of the Convention and to dissemination of information

339. Immigrants have the right freely to transfer their earnings and savings to their country of origin, particularly funds required to support their families, in accordance with applicable internal regulations and legislation. Remittances are private flows of funds which represent the earnings of the migrant population and which improve the quality of life of their beneficiaries.

340. The transfer of funds to the State of origin is subject to the provisions of the legislation concerning the control and prevention of money laundering and the financing of terrorism (Acts Nos. 17835 and 18494).

341. All natural or legal persons subject to the oversight of the Central Bank of Uruguay are required to report any transactions, whether or not they have been executed, which, in the light of the customs and uses of the activity in question, are unusual, have no apparent

economic or legal justification, or involve procedures of unusual or unwarranted complexity. They are also required to report financial transactions involving assets that are suspected to be of unlawful origin with a view to preventing the offence of money laundering, as defined in articles 54 *et seq.* of Decree-Act No. 14.294 of 31 October 1974 (incorporated by article 5° of Act No. 17016 of 22 October 1998), and also with a view to preventing the offence defined in article 16 of Act No. 18.494. In the latter case, the obligation to report is also applicable to operations which, while involving assets of lawful origin, are suspected of being linked to natural or legal persons covered by article 16 of the aforementioned Act or of being intended to finance some kind of terrorist activity. The information must be submitted to the Financial Information and Analysis Unit (UIAF) of the Central Bank of Uruguay in the form specified by the Unit.

342. The provisions of Act No. 16.906 on investments by national or foreign investors are also relevant. Article 2 of the Act stipulates that: “The regulations governing the admission and treatment of investments by foreign investors shall be the same as those applicable to national investors” (principle of equality).

**C. Part IV of the Convention.
Other rights of migrant workers and their families who are
documented or in a regular situation**

Article 37

Right to be informed before their departure of the conditions applicable to their admission to the State of employment and to remunerated activities

343. Article 12 of Act No. 18250 provides that: “Every migrant person shall have the right to be informed by the State of his or her rights, duties and guarantees.” In line with this provision, the Ministry of Foreign Affairs, acting through the Directorate-General for Consular Affairs and Liaison, disseminates aforementioned Act No. 18250 by various means. Information concerning the conditions governing admission to and residence in Uruguay is provided on the web page of the Ministry of Foreign Affairs and on the websites of a number of State bodies such as the National Migration Directorate and the Directorate-General of Customs.

344. It should further be noted that a booklet containing a summary of information for migrant workers in the region has been issued at the MERCOSUR level and that the Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs is currently preparing a new information booklet to serve as a guide for migrants.

345. In addition, the sole labour confederation, known as the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT) has created a Commission on Migration which is tasked with promoting and protecting migrants’ rights. According to information provided by its representatives, the Commission is actively involved in both the Consultative Advisory Council on Migration and the Migrant Support Network. However, it has no concrete data for the time being concerning the number of members and/or breakdowns of the figures. The Commission’s activities have included the convening in December 2012, jointly with the NGO Clave, of an international meeting to discuss issues relating to migrant domestic workers and the promotion and protection of their rights. The meeting was attended by foreign women of different nationalities employed as domestic workers in Uruguay.

346. Mention should also be made in this context of Act No. 18381 “Right of Access to Public Information”. The Act, which was adopted in 2008, led to a paradigm shift in the status of information in the possession of public-sector entities: the concept of information was broadly defined and the principle of maximum disclosure was endorsed. This norm

served as the basis for recognition of the right of access to public information as a human right; it follows that all persons enjoy the right of access to clear, complete and truthful information in the possession of public-sector entities concerning administration, procedures and public decision-making.

347. With regard to information concerning remunerated activities, anyone who is outside the country can use the electronic facilities available to contact, for instance, the Ministry of Labour and Social Security in order to obtain official information in this regard.

Articles 38 and 39

Right to be temporarily absent without any effect upon one's authorization to stay or work in the country; right to liberty of movement and to choose one's residence in the State of employment

348. Freedom of movement within the national territory is a right enjoyed by all inhabitants and no distinction is made between nationals and foreigners. Anyone who is present in the national territory, regardless of the migratory category on which his or her admission was based, can move around freely.

349. It should be noted, however, that the Ministry of the Interior, acting pursuant to article 47 of Act No. 18250, may in all cases annul a residence permit and provide for subsequent expulsion where a person holding a permanent residence permit is absent from the country for more than three years.

350. The administrative decision entailing annulment may be challenged by filing an appeal pursuant to article 317 of the Constitution of the Republic and other relevant legal provisions; any such appeal shall have suspensive effect (art. 49, Act No. 18250).

Articles 40, 41 and 42

Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and be elected at elections of that State; procedures or institutions through which account may be taken of the needs of migrant workers in the State of employment and possible enjoyment of political rights

351. Men and women living in the territory of Uruguay enjoy, under article 39 of the national Constitution, "the right to form associations, for any purpose whatsoever, provided that they do not form an association that the law has declared to be unlawful". The same right is enshrined in the core international human rights treaties that have constitutional status in Uruguay, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

352. It should be noted that the Constitution of the Republic does not discriminate against workers' organizations even when they do not enjoy legal status.

353. No restrictions are imposed on the right to form trade unions.

354. The right to vote is addressed by the provisions of articles 75 *et seq.* of the national Constitution, which have already been mentioned above: naturalized citizenship may be obtained by foreigners with an established family, of good conduct, with capital, property and/or formal employment, who demonstrate that they have been resident in the country for more than three years. The minimum period of proven habitual residence for foreigners without a family is five years. The General Assembly of Parliament can grant citizenship to foreigners for outstanding merit. They must in all cases be at least 18 years of age. As will be indicated below, naturalized citizens are entitled to begin exercising associated rights three years after having acquired that status. Good conduct and non-incitement to violence are closely related to the granting and suspension of naturalized citizenship (art. 80).

355. A foreigner who obtains citizenship shares in the sovereignty of the nation and is therefore “a voter and eligible” for political office.

356. In addition, article 78 of the national Constitution stipulates that:

“Foreign men and women of good conduct, who have an established family in the Republic, possess working capital or property in the country, or are engaged in a scientific, artistic or industrial activity, and have resided habitually in the Republic for at least 15 years shall have the right to vote without first needing to obtain naturalized citizenship.

Proof of residence must perforce be based on a public or private document of proven date, and if the evidence is found to be satisfactory by the authority responsible for its assessment, the foreigner shall be entitled to exercise the right to vote with effect from the date of registration in the Civil Register and shall be authorized to do so by a certificate issued by the same authority for the purpose.”

357. As soon as a person becomes a naturalized citizen, he or she may be issued with the citizenship card referred to above. The card confirms that a foreigner is a naturalized citizen. It is a prerequisite for its owner’s registration in the National Civil Register when at least three years have elapsed since its date of issue.

358. The citizenship card is issued by the Electoral Court in the capital city and the responsible departmental electoral offices. The procedure is free of charge; applicants must file the request personally and the card has lifetime validity.

Articles 43, 54 and 55

Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment in respect of protection against dismissal, unemployment benefits and access to public work schemes and alternative employment; equality of treatment in the exercise of a remunerated activity

359. Pursuant to article 42 of Decree No. 394/2009, the Ministry of Labour and Social Security is responsible in its fields of competence, through the Inspectorate-General of Labour and Social Security, for overseeing compliance with the regulations governing labour, social security, safety and hygiene, irrespective of the nationality of the worker.

360. As already mentioned in this report, anyone who makes his or her services available on a continuous basis to an individual or a corporation has the right to be registered with the Social Insurance Bank and such registration is an obligation incumbent on the employer. Once this obligation has been met, all workers, both migrants and non-migrants, have labour rights that are guaranteed by the State and its regulations and accordingly have access to related social security benefits.

Articles 44 and 50

Protection of the unity of the families of migrant workers and family reunification; consequences of death of a migrant workers or dissolution of marriage

361. Article 1 of Act No. 18250 stipulates that “the Uruguayan State recognizes as an inalienable right of migrant persons and their families, without prejudice to their migratory situation, the right to migration, the right to **family reunification** (...)”.

362. Moreover, article 10 of Act No. 18250 requires the Uruguayan State to guarantee the right of migrant persons to family reunification with parents, spouses, cohabiting partners, and minor or adult single children with disabilities, in accordance with article 40 of the Constitution of the Republic. The latter legal norm states that: “The family is the basis of our society. The State shall safeguard its moral and material stability to ensure a proper upbringing for children in society.”

363. In light of the foregoing, it may be affirmed that there are no impediments to the reunification of migrant workers with their families.

Articles 45 and 53

Equality of treatment for members of the families of migrant workers in relation to the points indicated and measures taken to guarantee the integration of children of migrant workers into the local school system; right of members of a migrant worker's family freely to choose a remunerated activity

364. With regard to equality of treatment for members of the families of migrant workers, article 8 of Act No. 18250 stipulates that: "Migrant persons and their families shall enjoy the right to health, work, social security, housing and education on an equal footing with nationals. The same protection and safeguards shall be provided for these rights in each case."

365. The response presented above in respect of articles 29, 30 and 31 is also applicable in this context.

Articles 46, 47 and 48

Exemption from import and export duties and taxes in respect of personal belongings; right to transfer earnings and savings from the State of employment to the State of origin or any other State; imposition of taxes and measures to avoid double taxation

366. Migrant workers based in Uruguay who import and export goods must comply with the customs regulations applicable to nationals; the system is based on the principle of equality.

367. With regard to the transfer of earnings and savings as well as any investments made by migrants in Uruguay, the response presented above in respect of articles 32 and 33 of the Convention is applicable in this context.

Articles 51 and 52

Right of migrant workers who are not permitted freely to choose their remunerated activity to seek alternative employment in the event that the remunerated activity for which they were admitted is terminated; conditions and restrictions applicable to migrant workers who have the right freely to choose their remunerated activity

368. The provisions of articles 16 and 17 of Act No. 18250 should be cited again here: "Migrant persons shall be treated on an equal footing with nationals in respect of employment."

369. Article 17 stipulates that: "The State shall take the necessary measures to ensure that migrant persons are not deprived of any of the rights protected by labour legislation on account of irregularities relating to their residence or employment."

370. The response presented above in respect of articles 25, 27 and 28 is applicable in this context.

Articles 49 and 56

Authorization of residence and authorization to engage in remunerated activity; general prohibition and conditions of expulsion

371. A foreigner who wishes to settle lawfully in Uruguay must complete the residence procedures.

372. Foreigners shall be permitted to enter into and stay in the national territory as non-residents and residents (art. 31, Act No. 18250).

373. The category of resident is subdivided into permanent and temporary residential status.

374. Foreigners are deemed to be permanent residents if they enter the country with a view to settling there permanently and if they meet the applicable legal conditions.

375. The spouses, cohabiting partners, parents and grandchildren of Uruguayans are entitled to permanent resident status provided that they present proof of their relationship to the National Migration Directorate authorities.

376. Article 4 of Decree No. 394/2009 stipulates that:

“A foreigner shall be entitled to seek the status of a permanent resident when he or she intends to settle permanently in the country and complies with the following requirements vis-à-vis the National Migration Directorate or the relevant Uruguayan consular authority (art. 5, Decree No. 394/2009):

(A) Criminal record: An authenticated and translated certificate issued by the competent authority of the country of origin and/or the country of residence during the previous five years, which reliably attest to the fact that the person concerned does not fall under the provisions of subparagraphs B, C and D of article 45 and article 46 of Act No. 18250.

This information may also be obtained through the National Central Bureau, Interpol-Uruguay, or in the form of consular certification of the existence or non-existence of a criminal record. Where a person falls under the provisions of the aforementioned articles, he or she must not have committed any further offence for a period of five years from the date of expiration of his or her sentence in order to be eligible for a residence permit. The requirement in this article shall not apply if the foreigner is under 18 years of age when the procedure is initiated.

(B) Means of subsistence:

(a) The worker shall possess an offer of employment in the country and the employer shall register him or her with the social security agencies and the Employment Control Register. A corresponding identity document shall be issued to that effect.

(b) A self-employed or any other category of non-dependent worker shall certify his or her employment situation by means of a sworn statement and shall be registered, where appropriate, with the social security agencies and the Directorate-General of Taxation.

(c) Where the foreigner is a pensioner, a retiree or a person of independent means, he or she shall present reliable evidence of that status and demonstrate that his or her income is sufficient to meet the cost of living in the country.

(d) An entrepreneur shall be required to certify that status by means of the documentation demanded by the competent bodies.

(C) Health: A health card shall attest to the holder’s entitlement to reside in the country. If the procedure is initiated in Uruguay, migrants shall obtain the health card through the public and/or private health-care providers authorized by the Ministry of Public Health.”

377. The regulations also provide that foreigners who reliably demonstrate that they had been resident in the country for a period of more than seven years on the date of enactment of Decree No. 394/2009 may be granted permanent residence in the country, without prejudice to the requirement to prove that they do not fall under the provisions of articles 45, subparagraphs B and D, and article 46 of Act No. 18250. Foreigners who have been resident in the country for more than 20 years shall be required to demonstrate the

foregoing, except for the record required by article 46 of Act No. 18250 which shall be solely of a national character (art. 6, Decree No. 394/2009).

378. Furthermore, persons who have declared themselves to be refugees shall be recognized as permanent residents and issued with an identity certificate confirming that status. Where the application for refugee status is pending, the foreigner shall be granted pending residence status and issued with a provisional card until such time as his or her eligibility is determined by the Refugee Commission (art. 9, Decree No. 394/2009).

379. The period of residence of permanent residents shall be indefinite unless the conditions applicable to that status are abused or unless they are absent from the country for a period of more than three years (art. 10, Decree No. 394/2009).

380. With regard to temporary residents, article 34 of Act No. 18250 stipulates that:

“A foreigner who enters the country in order to engage in an activity for a specific period shall have the status of a temporary resident.

The following activities may also be recognized as belonging to this category, without prejudice to those which may be included in the corresponding regulations:

- (A) Migrant workers;
- (B) Scientists, researchers and academics;
- (C) Professionals, technicians and specialized personnel;
- (D) Students, scholarship holders and trainees;
- (E) Business people, entrepreneurs, directors, managers and consultants;
- (F) Journalists;
- (G) Athletes;
- (H) Artists;
- (I) Clergy.

The following shall also be included:

- (A) Spouses, minor children and parents of the persons mentioned in the preceding subparagraphs of this article;
- (B) Persons who enter the country on humanitarian grounds;
- (C) Persons not covered by the preceding subparagraphs of this article who are authorized by a reasoned decision of the executive branch.

Citizens of the Member States of MERCOSUR and Associated States shall also be placed in this category on request.”

381. It is important to note that persons with temporary residence status can enter and leave the national territory as frequently as they wish during the period of validity of their residence permits, provided that they authenticate their status in the manner laid down in the regulations (art. 35, Act No. 18.250).

382. In addition, Decree No. 394/2009 stipulates that:

“A foreigner who enters the country in order to engage in an activity for a specific period and who meets the following requirements shall have the status of a temporary resident:

- (A) Criminal record: persons over 18 years of age shall prove that they have no previous convictions by presenting an authenticated and translated certificate issued

by the competent authority of the country of origin and/or the country/countries of residence during the previous five years. If a person has recently committed an offence, he or she may initiate the residence procedures once a period of five years has elapsed since the date of expiration of his or her sentence.

(B) Means of subsistence: Submission of proof to the National Migration Directorate of the activity that has given rise to his or her application for temporary residence.

(C) Health: A health card shall attest to the holder's entitlement to reside in the country. If the procedure is initiated in Uruguay, migrants shall obtain the health card through the public and/or private health-care providers authorized by the Ministry of Public Health.

Migrants covered by National Health Insurance shall be issued with the relevant health card by the health-care providers in whose lists of users they are registered on the same terms as nationals" (art. 7, Decree No. 394/2009).

It should be noted that, according to article 8 del Decree No. 394/2009: "Foreigners who apply for a temporary residence for a period of less than six months shall simply provide evidence to the National Migration Directorate of the activity that has prompted their application and of its date of termination.

Once the activity has been authenticated, the applicant shall be issued with a certificate for submission to the National Civil Identification Directorate so that he or she may be granted a provisional identity sheet to be used for the purpose of registration with the relevant social security agencies and the Ministry of Labour and Social Security."

383. The "duration of the foreigner's approved stay as a temporary resident" may be:

"(a) For two years renewable for a maximum of four years in the case of persons listed in article 34, subparagraphs A, B, C, E, F, G and I, of Act No. 18250;

(b) For one year renewable for a maximum period that shall not exceed the duration of the study course by more than two years in the case of persons admitted as students;

(c) For one year renewable for the duration of the scholarship or traineeship in the case of scholarship holders and trainees;

(d) For one year renewable for an equivalent period in the case of the persons listed in article 34, subparagraph H, of Act No. 18250.

(e) Spouses, minor children and parents may be granted a residence permit equivalent to that granted to the relative with whom they entered the country.

(f) Persons who enter the country on humanitarian grounds shall be granted a term of residence consistent with the grounds invoked in support of their entry; the same shall apply to persons whose entry is authorized by the executive branch based on reasoned decisions;

(g) The period of residence for nationals of the MERCOSUR countries and Associated States shall be determined by the agreements signed and ratified by the Republic.

In determining the duration of temporary residence permits, the National Migration Directorate shall take into consideration the grounds, the duration of the relevant contracts and the characteristics of the categories to which they belong" (art. 11, Decree No. 394/2009).

384. With regard to the category of non-resident, article 36 of Act No. 18250 stipulates that:

“A foreigner who enters the country without intending to stay in the national territory on a permanent or temporary basis shall be deemed to be a non-resident. The following shall belong to this migration category:

1. Tourists: foreigners who enter the country for purposes of recreation, leisure or relaxation;
2. Persons invited by public or private entities on the basis of their profession or art;
3. Business people;
4. Persons involved in public, artistic or cultural events;
5. Crews of international means of transport;
6. Passengers in transit;
7. Persons in transit through neighbouring frontiers;
8. Crews of fishing vessels;
9. Crews transferring to another means of transport in the national territory;
10. Persons who visit the country for medical treatment;
11. Athletes;
12. Journalists and other mass media professionals;
13. Any persons who are not covered by the preceding list but have received express authorization from the National Migration Directorate.”

385. Article 13 of Decree No. 394/2009 provides that:

“The duration of the stay of non-residents listed in article 36 of Act No. 18250 shall be:

- (a) Ninety days renewable for a further ninety days in the case of persons listed under numbers 1, 2, 3, 4, 11 and 12;
- (b) The period spent in the country by the means of transport in which they entered in the case of persons listed under numbers 5 and 9;
- (c) The regulations governing transit through neighbouring frontiers shall be those laid down in relevant international agreements;
- (d) The time required for the medical treatment in the case of persons listed under number 10 and the time specified by the National Migration Directorate in the case of those listed under number 13;
- (e) The time spent in our territory for those on a tourist trip or the time approved by the National Migration Directorate in a case of emergency, bearing in mind the provisions of article 68 of Act No. 18250;
- (f) The time it takes to transfer to the means of transport used to exit the country in the case of those listed under number 6;
- (g) The time that the fishing vessel spends in our country in the case of those listed under number 8, unless the vessel is no longer operational, in which case the permissible period shall expire.”

386. In addition, Act No. 18250 stipulates:

“Article 38. Once the authorized periods of residence expire, foreigners shall leave the country, except where the National Migration Directorate extends the period on reasoned grounds or where the persons concerned apply for a change of migration category before the period expires.

Article 39. Foreigners who are admitted on the basis of their membership of any of the aforementioned categories may apply for a change of migration category provided that they meet the relevant requirements laid down in the regulations.”

387. The document mentioned in the response to articles 29, 30 and 31 of the Convention constituted a major step forward by the National Migration Board. As from May 2012, it has been implementing a “Rapid Response Plan” which enables people to obtain the provisional identity document as soon as the residence permit procedure is launched. This gives them access to basic rights and services such as health care and employment.

388. It should be added that this is not applicable outside the capital city, where the former procedures and requirements are still in force.

389. While the Ministry of the Interior is responsible for issuing these papers through the National Migration Directorate and the National Civil Identification Directorate, there are bodies which maintain direct links with the institutions frequented by migrants such as: consulates, the Directorate-General for Civil Status Records, the Ministry of Foreign Affairs and the Identity Programme of the Ministry of Social Development.

390. With regard to the foreign administrative documents that migrants must submit to obtain a residence permit and, in particular, their translation and registration, mention should be made of the MERCOSUR Agreement exempting administrative documents in Portuguese from translation for purposes of legalization.

391. In other cases, the Document Management Department of the National Civil Identification Directorate has lists of certified translators and provides people with the information they require on request.

392. The Uruguayan State admits that delays have occurred in the issuance of residence permits and that in some cases the delays have been quite prolonged. They have been attributable, inter alia, to the increase in the number of applications filed between 2008 and 2009 in response to Act No. 18250, particularly article 33, pursuant to which a residence permit may be obtained by demonstrating a link with Uruguayan citizens.

393. With regard to the annulment of residence permits and expulsion, articles 47 to 56 of Act No. 18250 authorize the Ministry of the Interior, in all cases, to annul a residence permit and order the expulsion of the persons concerned in the following circumstances:

(a) Where a foreigner was assigned to the relevant migration category on the basis of fictitious or fraudulent facts or acts;

(b) Where a foreigner committed an offence with intent in the national territory and was sentenced to a term of imprisonment or has a record of repeatedly engaging in wrongful acts, except in the case of refugees;

(c) Where a person with a permanent residence permit is absent from the country for a period of more than three years;

(d) Where a person with a permanent or temporary residence permit who entered the country under a programme subsidized by the Uruguayan State or was exempted from paying taxes, fees or contributions fails to comply with the terms on which the subsidy or exemption was based;

(e) Where a person with a permanent or temporary residence permit commits any of the acts referred to in subparagraphs (b) and (d) of article 45 of Act No. 18250;

(f) Where a person with a residence permit commits within or outside the country acts of terrorism or any act that is deemed to constitute a violation of human rights in the international instruments ratified by the country.

394. In addition, the aforementioned Act stipulates that the annulment of a permanent or temporary residence permit shall not be applicable where the foreigner is the mother, father, spouse or cohabiting partner of a national.

395. Moreover, as previously noted, the administrative decision entailing annulment may be challenged by filing an appeal pursuant to article 317 of the Constitution of the Republic and other relevant legal provisions; any such appeal shall have suspensive effect.

396. Article 50 of the aforementioned Act also provides that the National Migration Directorate may, by a reasoned decision, provide for the annulment of a temporary residence permit or of the authorized period of residence of a non-resident where the grounds invoked in support of the permit or period of residence no longer exist and order his or her expulsion.

397. The following specific grounds for expulsion from the national territory are set forth in article 51:

(a) Entering the country at an unauthorized crossing-point or evading migration control;

(b) Permission to disembark granted on a conditional basis owing to doubts regarding a person's legal or documentary status;

(c) Continuing to reside in the country after the authorized term of residence has expired;

(d) Entering the country by means of materially or ideologically forged or falsified documents, where this has been determined by a competent court;

(e) Implementation of a decision entailing the annulment of a temporary residence permit and of the authorized term of residence of a non-resident;

(f) Where it is found that a person who has lawfully entered the country is involved in any of the acts defined in article 45, subparagraphs (b) and (d), of Act No. 18250.

398. Notwithstanding the foregoing, in the cases listed in subparagraphs (a), (b) and (c) the National Migration Directorate, taking into consideration the circumstances of the case such as relationship with a national or the personal and social circumstances of the migrant, should first order the person concerned to regularize his or her situation in the country within a specified deadline on pain of expulsion.

399. Moreover, the legal provisions make it clear that under no circumstances should the expulsion measure of itself undermine the rights acquired by foreigners to receive or demand payment of any wages or other benefits that are owed to them.

Table 12
**Residence permits requested and granted by the National Migration Directorate,
 2007–2011**

<i>Year</i>	<i>Residence permits requested</i>	<i>Residence permits granted</i>
2007	1 743	1 344
2008	2 071	3 981
2009	4 091	3 825
2010	2 709	2 183
2011	1 274	424
Total	11 888	11 757

Source: National Migration Directorate

400. According to the most recent data provided by the National Migration Directorate, 574 permanent residence permits were granted in 2011 and 517 were granted in 2012.

**D. Part V of the Convention.
 Provisions applicable to particular
 categories of migrant workers indicated in articles 57 to 63 of the
 Convention, if any**

Articles 57 to 63

401. According to information provided by the Ministry of Labour and Social Security, the legislation mentioned in the present report is applicable to frontier workers, seasonal workers, itinerant workers, project-tied workers, specified-employment workers and self-employed workers.

402. The following is a detailed description of the situation with respect to frontier workers:

403. In the case of the frontier with Brazil, a frontier document enables its holders to work on either side of the frontier and to enjoy all the rights guaranteed by each State. Two special government bodies have also been mandated to deal with issues related to migration: the High-level Meeting on Border Affairs between Brazil and Uruguay (RAN Frontera) and the High-level Presidential Group on Bilateral Affairs, Brazil – Uruguay (GAN).

404. A Thematic Group on Social and Labour Affairs within RAN Frontera is taking action to consolidate the rights of persons on the border and to promote the sharing of public-sector services and policies between the two States.

405. The GAN Group focuses on issues relating to freedom of movement of persons between Brazil and Uruguay, giving special attention to the border area, with a view to conducting a deeper analysis of the subject than has so far been undertaken by MERCOSUR.

406. The first Binational Rights event will be held this year on the border. All the public-sector social and labour services of the two countries will set up offices at some location on the border in order to publicize the guaranteed rights of the population and to enrol citizens in specific programmes.

407. Mention should also be made in this context of the so-called “Binational Offices Providing Border Assistance and Guidance to Citizens”, which are being run by the Ministry of Social Development with funds provided by the Andean Development Corporation.

408. The project incorporates action being taken to promote the Border Social Agenda of Uruguay and Brazil. Its goal is to further the process of democratization, decentralization and regionalization of public policies, especially those designed to reduce social and regional inequality in the border areas of Uruguay and Brazil.

409. Since 2005 the Ministry of Social Development has been taking stock of the situation of social vulnerability of a large proportion of the population living in border towns. At the same time, inter-institutional and binational action is required to promote the dissemination of the norms endorsed at the bilateral level (Uruguay – Brazil) or the regional level (MERCOSUR) which are currently in force and regulate citizens’ rights in border areas.

410. The pivotal issues that have been addressed are: citizenship, employment, social welfare, health, education, local development, the environment and complementarity of services. At every stage of implementation of the project, steps have been taken to implement a series of measures designed to promote the integration and coordination of public and social policies in the participating countries.

411. The project was designed to include a multidisciplinary team tasked with improving the living conditions of the beneficiary population in the border departments.

412. It was based on the finding that there are specific obstacles to social inclusion in border areas because of the presence of many citizens of both countries who live or work across the border or maintain close cross-border links. As a result, problems inherent in the border areas are added to the typical situations experienced elsewhere by excluded or vulnerable sections of the population.

413. The project therefore sought to improve access to documentation, social welfare, health care and education in the departments of Rivera (Rivera – Santana do Livramento), Cerro Largo (Aceguá – Aceguá) and Rocha (Chuy – Chuí – Santa Vitória do Palmar).

414. The Offices Providing Border Assistance and Guidance to Citizens are tasked primarily with providing guidance and disseminating the regulations contained in bilateral and regional agreements, in the framework of the agreement signed between the Andean Development Corporation and the Ministry of Social Development in Montevideo on 28 February 2010.

415. Seven seminar-workshops have been organized in this context along the border extending from Bella Unión (a triple border-crossing point) through Artigas, Rivera, Aceguá, Río Branco and Chuy to Bagé.

416. The target population is that resident on the border, particularly citizens who are in a situation of poverty and social vulnerability.

417. As already mentioned, situations of exclusion and vulnerability to exclusion on countries’ borders are exacerbated by certain characteristics that are not found in other parts of the national territory. They include the following:

- (a) Difficulties in obtaining access to documentation;
- (b) No access to study facilities, treatment at health-care centres, etc.;
- (c) Similar difficulties in obtaining access to social benefits;

(d) It has been ascertained that local demand exists, on the one hand, for a forum in which the exercise of citizens' rights is publicized and promoted and, on the other, for enhanced dissemination and promotion of citizens' rights on the border. It may therefore be concluded that the implementation of a programme to tackle these problems would be relatively easy and would have a significant impact.

418. All these difficulties and problems are related, in particular, to situations of irregular residence of Brazilians in Uruguay and of Uruguayans in Brazil. It is usually difficult in these circumstances to obtain access to original birth certificates and/or the procedures for obtaining access to documents are usually quite costly.

Specific objectives

419. The objective are as follows:

(a) To enhance the scope and to strengthen the bodies involved in inter-institutional coordination in the border region;

(b) To promote new bodies and mechanisms for coordination, integration and participation in the border areas (Border Groups);

(c) To recognize, legitimize, promote and publicize frontier-based cultural identity;

(d) To compile, process and disseminate socio-demographic information concerning the population resident in the region that is influenced by its vicinity to the frontier;

(e) To compile, process and disseminate information of relevance to stakeholders living in the border region;

(f) To assist in developing a decentralized administrative model that incorporates the social, cultural, political and economic characteristics of the border region;

(g) To assist in developing an administrative model that reflects the regional social welfare and integration policies in MERCOSUR.

420. With regard to human resources, responsibility for project coordination and implementation was delegated to the members of the Border Programme Team of the Ministry of Social Development. Seven officials were recruited for the project: six are members of the teams attached to the Binational Offices; there is a technical expert on social issues and an administrative official in each Office, and an administrative official at the central level.

421. According to the data provided by the Ministry of Social Development, the Offices have dealt with a total of 1,177 enquiries.

422. Forty-five per cent (532) of those who took advantage of the service did so with a view to obtaining guidance on how to deal with a particular request or need. They were provided with information and referred, where necessary, to the relevant service or institution in Brazil or Uruguay.

423. Fifty five per cent (645) of those who contacted the Offices were offered guidance and assistance in respect of their requests.

424. Almost all of the persons who used the service did so with a view to regularizing their situation by obtaining access to a residence permit or identity document, or to seek protection under the Agreement on Study, Work and Residence on the Border between Brazil and Uruguay.

425. The beneficiaries of assistance in all cases were persons in a situation of social vulnerability; they were exempted from all procedural costs and fees relating to the assessment of a social report.

426. The Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs collaborates with the Identity Directorate of the Ministry of Social Development with a view to requesting the documents that are required to obtain a residence permit through the consulates of the Republic and exempting them from any fees. These measures are taken because many consulates in the region and throughout the world have no arrangements for processing their nationals' documents.

427. The following norms are also applicable to border areas:

(a) The border with Argentina and Brazil:

- Act No. 16929: Old-age or invalidity pension. Uruguayan citizens living in the Federative Republic of Brazil or the Republic of Argentina shall not forfeit their right to these benefits under the conditions laid down in the Act;

(b) The border between Uruguay and Brazil:

- Act No. 17094: Additional adjustment to frontier-related legal status;
- Act No. 17659: Agreement on residence permits, study and employment for Uruguayan and Brazilian nationals resident on the border, and the annex thereto;
- Act No. 18157: Agreement on law enforcement cooperation in the investigation, prevention and control of offences;
- Act No. 18158: Agreement on the establishment of binational schools and/or institutes and the introduction of binational technical courses on the border;
- Act No. 18371: The capital city of the Department of Rivera declares itself a symbol of integration among the countries of MERCOSUR;
- Act No. 18546: Uruguayan and Brazilian nationals resident on the border.

428. With regard to seasonal workers, itinerant workers, project-tied workers, specified-employment workers and self-employed workers, according to the information provided by the Ministry of Labour and Social Security, the legislation referred to in the present report is, as already noted, applicable.

429. Mention should be made of the provisions of both Act No. 18250 and its regulatory Decree No. 394/2009 concerning members of crews.

430. Chapter XII of Act No. 18250 entitled "International Transport Companies" (arts. 58 to 68) specifies the requirements to be met by international transport companies and their ensuing obligations with respect to their staff and crew. It thus affords legal protection for workers in this branch and prescribes penalties for non-compliance with the applicable regulations.

431. The provisions of articles 22 *et seq.* of Decree No. 394/2009 are also applicable.

E. Part VI of the Convention
Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 65

Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families

At the regional level

South American Conference on Migration (SACM)

432. This is a permanent forum for political dialogue and agreements on migration among the 12 countries of South America. It discusses strategic approaches to migration from, into and within the region with the ultimate aim of achieving freedom of movement.

433. The 10th South American Conference on Migration, which was held in the city of Cochabamba, Bolivia, with the slogan “Advancing towards South American citizenship”, adopted on 26 October 2010 the Declaration of General Principles and Guidelines of the South American Conference on Migration, which summarizes the position of the 12 member countries on human mobility, and outlines the positions to be supported in international forums.

434. The Declaration recognizes, among other principles, that “mobility with rights” for migrant persons is a key component of the processes of economic, cultural and social integration among member countries of the Andean Community of Nations (CAN) and the Common Market of the South (MERCOSUR); it establishes South American citizenship and adopts the target of freedom of movement of persons as the core component of processes of South American integration.

Specialized Forum on Migration

435. The Forum is convened in the context of meetings of Ministers of the Interior of MERCOSUR and Associated States. Its functions include the production of impact studies of migration within and outside the region, and the analysis and development of draft regulations and/or agreements concerning migration to be applied by the member countries of the bloc.

436. It was established at the 14th Meeting of Ministers of the Interior of MERCOSUR, held on 21 November 2003 in Montevideo, and convened its first formal meeting in 2004 under the temporary MERCOSUR presidency of the Republic of Argentina. The presidency rotates between the four States parties of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) every six months.

437. The following States currently have associate status: the Republic of Bolivia, the Republic of Chile, the Republic of Colombia, the Republic of Ecuador, the Republic of Peru and the Bolivarian Republic of Venezuela.

438. It contributes to the development and dissemination of information concerning movements of persons between the countries of the region, their access to legal residence status in each country, and other questions pertaining to the issue of migration.

Ad Hoc Group on Border Integration

439. The MERCOSUR Ad Hoc Group on Border Integration established in 2002 operates as part of the MERCOSUR Trade Commission, Technical Committee No. 2 on “Customs

Affairs”. Its main task is to further closer and better integration of border populations. To that end, it promotes “... trade between border areas in the States Parties of MERCOSUR and aspects of health care, education, work, migration, transport, economic development and other areas of activity that are conducive to integration between border communities”.

440. A draft agreement on MERCOSUR border areas is being negotiated in this context. Its aim is to promote harmonious relations among border communities by providing for differentiated treatment of the inhabitants in economic terms and in terms of transit, labour regulations and access to public services and education.

441. It provides for a *common border-crossing document*, valid for five years, that can be used by nationals or naturalized citizens of States parties who reside in border areas and cross the border to engage in economic or labour-related activities.

442. With regard to employment in particular, a regime for frontier workers was proposed by Argentina in article III, paragraph (a), concerning rights granted; the provision was amended slightly at a subsequent meeting:

“[...] the right of holders of the Neighbouring Frontier Transit Document to work or to practise a trade or profession in adjacent areas, in accordance with the legislation applicable to nationals of the State Party in which the activity is practised, also with respect to training and professional requirements, and to enjoy equal labour rights and benefits and comply with the same obligations ensuing there from in respect of labour, benefits and taxation”.

443. In view of the existing lack of a specific labour regime applicable to them, this represents a major step forward in terms of the equal treatment of workers in the shared border area and in the effective protection of their rights in both areas involved. Nevertheless, the possibility of seeking future proposals that surpass these provisions may also be discussed.

444. The negotiations had been virtually at a standstill since 2006 on account of an observation by the Republic of Paraguay that was withdrawn in 2010. At that point discussions on the draft agreement resumed. It is currently being amended and will hopefully be adopted and enter into force in the not too distant future.

Subgroup No. 10 on Labour Affairs, Employment and Social Security

445. When the Ouro Preto Protocol was signed in December 1994, Subgroup No. 10 on Labour Affairs, Employment and Social Security replaced Subgroup No. 11 on Labour Affairs, which was composed of eight standing committees.

446. Freedom of movement for workers had been a key objective of Standing Committee No. 3 on Employment and Labour Migration.

447. An ad hoc tripartite Commission on labour migration was created within Subgroup No. 10 to generate input for proposals to be submitted to the Subgroup. At its first formal meeting, priority was given to a study of working conditions in the border regions.

Working Group on Legal and Consular Affairs

448. The mandate of the Working Group on Legal and Consular Affairs consists in examining and developing proposals on issues related to consular cooperation among member States, facilitating the movement of persons within the territory of the six countries, promoting the harmonization of guarantees, rights and duties pertaining to citizens of the region, and any other subject related to these issues.

At the national level

449. Mention should be made in this report of the public-sector planning entities that have been established at the national level to ensure the protection and promotion of the rights of migrant workers and members of their families:

- The National Migration Board;
- The Consultative Advisory Council on Migration;
- The Directorate-General for Consular Affairs and Liaison – Return and Welcome Office – Ministry of Foreign Affairs;
- The Unit for Returnees – Ministry of Labour and Social Security;
- The National Migration Directorate – Ministry of the Interior;
- Units of the Ministry of Social Development such as the National Directorate for Social Development, which currently forms part of the Identity Programme. Other relevant programmes include the Border Integration Policies Programme and the Binational Offices Providing Border Assistance and Guidance to Citizens.

Article 66**Authorized operations and bodies for the recruitment of workers in another State**

450. It should be noted that there are no general regulations applicable to all sectors of employment that impose a ceiling on the number of foreign workers who can be recruited. However, specific regulations are applicable to certain branches of activity such as the fisheries and maritime sector.

451. Act No. 18.498 concerning the Crew of Nationally Registered Vessels:

“Article 1. Article 27 of Act No. 13.833 of 29 December 1969 shall be replaced by the following text:

“Article 27.- Nationally registered fishing vessels shall be commanded by captains or skippers who are native-born or naturalized Uruguayan citizens; moreover, at least 90% (ninety per cent) of the crew shall be native-born or naturalized Uruguayan citizens. This percentage may be adjusted to ensure compliance with international agreements.

Without prejudice to the provisions of the preceding paragraph, at least 70% (seventy per cent) of the crew of nationally registered fishing vessels that operate exclusively in international waters shall be native-born or naturalized Uruguayan citizens.

In the case of exploratory or new fisheries, or fisheries applying technology that has not been used previously in traditional or seasonal Uruguayan fisheries, the Executive Branch may adjust these percentages after consulting ship-owners, entrepreneurs, captains and organizations representing workers.”

Article 2. (Composition of the crew) The crew of national merchant ships shall be composed as follows:

(A) 90% (ninety per cent) of the officers, including the captain, chief engineer and radio operator, shall be composed of native-born or naturalized Uruguayan citizens.

(B) No less than 90% (ninety per cent) of the rest of the crew shall be composed of native-born or naturalized Uruguayan citizens.”

452. Furthermore, with respect to recruitment for work in customs-free areas, article 18 of Act No. 15.921 stipulates that:

“A minimum of 75% (seventy-five per cent) of the staff recruited by users of customs-free areas for the activities that they undertake in those areas shall be native-born or naturalized Uruguayan citizens so that they may maintain their status and the tax exemptions, franchises, benefits and rights accorded under the Act.

In exceptional cases, the Executive Branch may authorize a reduction in this percentage in light of the special characteristics of the activity to be undertaken and for reasons of general interest.”

453. According to information provided by the Ministry of Labour and Social Security, when a company decides to recruit migrants, the first step in the procedure is to obtain the provisional identity document issued by the National Migration Directorate. The next step involves registration with the Social Insurance Bank with a view to ensuring that the migrant has access to various benefits.

454. Where the migrant’s salary and other allowances are to be paid by his or her country of origin or residence, this arrangement should be envisaged in the social security agreement between Uruguay and the country concerned in each case.

455. Lastly, it should be noted that responsibility for monitoring effective compliance with the regulations in force lies with the Inspectorate-General of Labour and Social Security of the Ministry of Labour and Social Security.

Article 67

Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration

456. The Uruguayan State recognizes migration as a human right. Hence, the return of nationals constitutes a right enjoyed by all compatriots who are abroad.

457. A number of measures have been adopted with a view to meeting the needs of compatriots who wish to return or are in the process of returning; the following may be mentioned by way of example:

(a) The import of household goods, tools, machinery and one vehicle per person is free of all exchange formalities and exempt from all customs duties, taxes or related charges;

(b) Establishment of the Return and Welcome Office within the Directorate-General for Consular Affairs and Liaison, which is responsible for compiling, processing and disseminating all information of relevance to the return of Uruguayans living abroad and for foreign citizens who wish to settle in the country;

(c) Establishment in the Ministry of Labour and Social Security of the Returnee Coordination Unit with the following terms of reference:

(i) Planning, implementing and evaluating measures designed to facilitate the employment and social integration of Uruguayans who return to the country;

(ii) Enlisting the assistance, through the Employment and Vocational Training Institute (INEFOP), of various public and private training entities in providing training facilities for the population in question;

(iii) Coordinating with public employment centres and the various services of the Ministry of Labour and Social Security that deal with issues of migration, social security and vocational training.

458. The Ministry of Housing, Land Management and the Environment signed an agreement with the Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs, pursuant to which compatriots who return to the country with an income or find work on their arrival have access to a rental guarantee. In cases of vulnerability and/or financial hardship, a two-year rental subsidy may be granted.

459. As an additional measure, an agreement was signed between the Directorate-General for Consular Affairs and Liaison of the Ministry of Foreign Affairs and the Association of Private Promoters of Construction, pursuant to which the curricula vitae of returning compatriots can be forwarded for consideration to member companies of the Association.

460. The Office of Return and Welcome sends the curricula vitae of returned compatriots to the Deloitte and Advice employment consultants as well as to the Tourism Conglomerate and the Uruguay Chamber of Construction.

461. Individuals and their family members who return are provided with a certificate at the Office of Return and Welcome for submission to the State Health Services Administration so that they can be issued with a medical care card that can be used to obtain free medical care for a year. Adults may also request a worker's health card free of charge.

462. The Ministry of Industry, Energy and Mining organizes training courses twice a year for returnees with small-scale enterprises.

463. The Office of Return and Welcome is working in coordination with the Directorate of Small and Medium-sized Enterprises of the Departmental Council of Montevideo and with the micro-finance service of the Banco de la República Oriental del Uruguay (BROU) on the development of business plans and on possible loans for returning compatriots with proposals for a small-scale enterprise.

464. The Compatriot Assistance Office of the Directorate-General for Consular Affairs and Liaison at the Ministry of Foreign Affairs provides continuous assistance for the repatriation of compatriots and human remains.

465. As an institute responsible for supporting the return of Uruguayan citizens, it is regulated by article 136 of Act No. 17930 of 2005 and ministerial resolution 385/2006. It assists native-born and naturalized Uruguayan citizens to return to the country when they find themselves in substantiated and specific situations of vulnerability.

466. Grounds for repatriation include substantiated health problems, financial hardship, lack of documents or other serious grounds. Priority is given to cases involving minors, women, and people with disabilities or who are seriously ill.

467. As already mentioned above, most compatriots are returning on account of the current crisis in Spain and the United States. The return of compatriots and in many cases their families necessitates joint action with other State institutions such as the Ministry of Social Development, the State Health Services Administration, the Ministry of Housing, the National Food Institute, the National Women's Institute, the Legal Advice Bureau of the Law Faculty, etc. The provision of basic support in coordination with other State bodies is of vital importance to ensure that the persons concerned can reintegrate into our society.

468. An agreement was signed between the Office of Return and Welcome of the Ministry of Foreign Affairs and the Psychology Faculty of the University of the Republic on the provision of psychological assistance to returning compatriots in situations of particular vulnerability and post-traumatic stress as a result of having been imprisoned and deported to Uruguay on account of their status as irregular immigrants.

469. The Ministry of Foreign Affairs submitted various proposals in the most recent accountability Act designed to benefit returning compatriots, such as a reduction in the cost

of certain fees for consular office procedures and exemption from all fees for the legalization of documents relating to the return of compatriots (documents concerning studies, judicial record certificates of foreign spouses, birth certificates of nuclear family members, marriage certificates, university diplomas and degrees). In addition, with a view to scaling down the private expenses incurred by returning compatriots who wish to import a motor vehicle, clearance through customs will not be mandatory; the same applies to household goods, tools and machinery. It should further be noted that the Ministry of Foreign Affairs will not charge any fee for the legalization and translation of documents presented by the Ministry of Social Development and required both by nationals in a situation of social vulnerability and by foreigners in the same situation who have applied for a residence permit in the Republic.

470. The Ministry of Foreign Affairs has promoted information and awareness-raising seminars and workshops through the Directorate-General for Consular Affairs and Liaison for public officials serving, for example, in the Ministry of Housing, Land Management and the Environment, the Ministry of Labour and Social Security – Public Employment Centres, and the Departmental Councils of Montevideo, Canelones, San José, Lavalleja, Rocha, Paysandú, Río Negro, Colonia, Durazno, Tacuarembó and Artigas. These initiatives serve as occasions for joint reflection on how best to implement public policies aimed at promoting the integration of both returning nationals and of foreigners who decide to live in Uruguay.

471. An agreement between the Ministry of Foreign Affairs, the Banco Hipotecario (mortgage bank), the Banco de República, Correo Uruguayo (the postal service) and the Ministry of Housing, Land Management and the Environment is being drafted to make it easier for Uruguayans who wish to return to the country to send remittances as savings or as a means of purchasing accommodation in the same way as Uruguayans who live in the country.

472. Last year the Ministry of Foreign Affairs submitted a bill to Parliament, which was speedily adopted, whereby the period required to obtain an affidavit of residence was reduced from one year to three months for Uruguayans returning to the country, who are over 18 years of age and are not registered with the Electoral Court. Studies were also recognized as a ground for residence. This more flexible approach expedited the procedure for returning Uruguayans who registered with a view to obtaining employment. Whereas previously the waiting period was one year, it is now only three months. As already mentioned in the present report, there are plans to submit a new bill to Parliament whereby the grandchildren of Uruguayans will have access to citizenship; unfortunately, they are currently not recognized as nationals and must apply for a permanent residence permit to the National Migration Directorate as foreigners if they wish to live in Uruguay.

Article 68

Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation

473. The Inspectorate-General of Labour and Social Security of the Ministry of Labour and Social Security is in the process of implementing a new information technology system containing records of the total number of migrant workers in the country, disaggregated by sex, age, nationality, employment and, in particular, migratory status.

474. When the Inspectorate-General carries out inspections on detecting a foreign worker, the corresponding documentation must be produced in accordance with the provisions of article 20 of Decree No. 108/07, which requires corporations to ensure that the foreigners whom they recruit are duly authorized to work in the country, on either a permanent or a temporary basis.

475. During the past five years a total of 134 cases of workers in an irregular situation have been detected. The departments in which the greatest number of migrant workers in an irregular situation have been detected are: Maldonado and Colonia.

476. The findings of inspections of domestic work in Montevideo and Canelones conducted in November 2010 and August 2011 and covering 9,000 households must be added to this total. According to the Inspectorate-General, the inspections found that domestic workers were employed in 20 per cent of the households visited; only five cases of foreign workers were detected. The results were as follows:

(a) November 2010: Three cases of foreign workers detected (Brazilian, Peruvian and Paraguayan). The situation of two was regular and proceedings were pending in the case of the third.

(b) August 2011: Two cases of Peruvian workers were detected. Both were in an irregular situation.

477. In addition, two operations were conducted in the framework of MERCOSUR, one in December 2011 in rural areas of Artigas-Quaraí, during which Brazilian and Uruguayan supervisors surveyed more than a dozen locations in Brazilian territory as observers. A second binational operation was conducted on the same joint basis in March 2012 on the Salto-Concordia frontier and the leading supervisors of the two countries produced a final report. The branch of activity subject to inspection was that of freight transport and the project was supported by the Ministry of the Interior through the highway patrol service.

478. Domestic service operations were also conducted: households were inspected with the assistance of the law enforcement agencies and the presence of two Bolivian workers was detected, one of whom had no documentation. It was also found that they had no weekly rest period and that no contributions were being made on their behalf to the Social Insurance Bank.

479. Another source to be consulted with a view to assessing the situation of migrant workers in Uruguay is the list of workers who are registered with the Social Insurance Bank. In June 2011, a total of 6,918 immigrant workers were registered. That number has remained relatively stable – in the region of 7,000 workers.

Article 69

Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures

480. Mention should again be made in this context of the so-called “Rapid Response Plan” which aims to remedy the irregular status of migrant workers. The Plan is based on the worker’s right to obtain an identity document (identity card) as soon as he or she applies for a residence permit in Uruguay. As a result, a marked reduction has been achieved in the phenomenon of irregular migration. As noted throughout this report, as soon as a person obtains this document, he or she enjoys equal treatment with nationals in terms of access to basic services such as health care, employment and housing.

481. Moreover, article 22 of Act No. 18250 on Migration stipulates that: “No employer may recruit foreigners who are in an irregular situation in the national territory.” Domestic legislation thus supports the fight against irregular migration inasmuch as the right to work is restricted by the requirement to obtain appropriate documentation.

482. Furthermore, pursuant to the provisions of Decree No. 108/007, no enterprise may employ workers who are not authorized to work in the country either on a permanent or a temporary basis. Their status is authenticated by the provisional sheet issued by the National Migration Directorate or the identity document. Failure to comply with this

regulation is punishable under article 289 of Act No. 15.903, in accordance with the wording of article 412 of Act No. 16736, which provides for the possibility of a warning, a penalty or closure.

Table 13

Workers in an irregular situation detected by the Inspectorate-General of Labour and Social Security

<i>Departments</i>	<i>Years</i>					<i>Total</i>
	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	
Maldonado	1	37	1	6	2	47
Colonia		12	5		8	25
Río Negro	15	2				17
Rocha					13	13
Artigas	1		2	5		8
Río Branco		2		1	4	7
Tacuarembó				7		7
Lavalleja			4		2	6
Durazno			2		1	3
Rivera					1	1
Total	17	53	14	19	31	134

Source: Inspectorate-General of Labour and Social Security

Article 70

Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety and health and principles of human dignity

483. The reader is referred to the information provided throughout this document.

Article 71

Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to the death

484. The State of nationality of the migrant or of his or her family decides whether the repatriation of human remains is possible pursuant to its domestic legislation. However, if the foreigner dies in Uruguay and there are no family members who can assume responsibility for his or her repatriation or interment, there are institutions and mechanisms at the national level that can make the arrangements for a decent burial.

485. With regard to the repatriation of nationals by the Uruguayan State, the applicable provisions are those described in the present report with reference to article 67.