

**Third item on the agenda: Information  
and reports on the application of  
Conventions and Recommendations**

**Report of the Committee on  
the Application of Standards**

PART ONE

GENERAL REPORT

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## A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: “Information and reports on the application of Conventions and Recommendations”. The Committee was composed of 235 members (123 Government members, 8 Employer members and 104 Worker members). It also included 15 Government deputy members, 89 Employer deputy members, and 206 Worker deputy members. In addition, 36 international non-governmental organizations were represented by observers.<sup>1</sup>

2. The Committee elected its Officers as follows:

*Chairperson:* Mr Patrick Rochford (Government member, Ireland)

*Vice-Chairpersons:* Ms Sonia Regenbogen (Employer member, Canada) and Mr Marc Leemans (Worker member, Belgium)

*Reporter:* Ms Corine Elsa Angonemane Mvondo (Government member, Cameroon)

3. The Committee held 18 sittings.

4. In accordance with its terms of reference, the Committee considered: (i) the reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions; (ii) the reports requested by the Governing Body under article 19 of the Constitution on the Social Protection Floors Recommendation, 2012 (No. 202); and (iii) the information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference.<sup>2</sup>

### Opening sitting

5. **Chairperson:** “*Dia dhuit agus fáilte roimh gach duine inniu go dtí seisiún céad agus ocht den chomhdháil saothair idirnáisiúnta agus an nócha ceathrú seisiún den choiste ar an iarratas de chaighdeán.*” Hello and welcome everyone today to the 108th Session of the International Labour Conference and the 94th Session of the Committee on the Application of Standards.

6. Let me start by expressing my sincere gratitude to you for the confidence you have placed in me to conduct the Conference Committee on the Application of Standards. It is a great honour for my country, Ireland, to represent the Western European group, and to be given the responsibility of chairing the Committee in this year of the Centenary of the International Labour Organization. And it is of course a privilege personally for me to conduct this session of the Committee on this historic date.

7. This Committee has always been at the cornerstone of the regular ILO supervisory system, and the heart of the ILO’s tripartite system. It is the forum for tripartite dialogue in which

<sup>1</sup> For the initial composition of the Committee, refer to *Provisional Record* No. 2. For the list of international non-governmental organizations, see *Provisional Record* No. 1A.

<sup>2</sup> Report III to the International Labour Conference – Part A: Report of the Committee of Experts on the Application of Conventions and Recommendations; Part B: General Survey.

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the Organization debates, the application of the international labour standards and the functioning of the standards system since 1926. Indeed, my own country has a very special link to the Committee on the Application of Standards. For it was at the Conference in 1925 that the suggestion was first made that a more effective system for the supervision on the application of standards adopted had to be found. It is during the same session that the Government delegate from Ireland, Professor Alfred O’Rahilly, first proposed that the ILO establish a special supervisory committee at future sessions of the Conference. Quoting Professor O’Rahilly over 90 years ago: “I wish to say one word about the reports which have been sent in. It is only now that these reports are beginning to be valuable and I think we do not sufficiently appreciate their value. If we can supervise the application of every Convention, we have a complete system of reciprocal control. And I venture to hope we shall in future Conferences establish a committee to examine such reports, and see that they are presented in sufficient detail so as to give a universal guarantee that the obligations undertaken by constituents are carried out.” This innovation received immediate support from the Director-General at that time, Mr Albert Thomas, and thus was launched the unique tripartite supervisory system of the ILO.

8. The conclusions adopted by the Committee and the technical work of the Committee of Experts on the Application of Conventions and Recommendations (henceforth the Committee of Experts), together with the technical assistance of the Office, are essential tools for member States when implementing international labour standards. The report of the Committee of Experts provides a solid basis for our debates once again this year.
9. I would like to take this opportunity to acknowledge the presence of the outgoing Chairperson of the Committee of Experts, Justice Koroma. I also acknowledge the presence of the newly elected Chairperson of the Committee of Experts, Justice Dixon Caton. I have the honour to inform the members of the Committee that Professor Evance Kalula, Chairperson of the Committee on Freedom of Association, is also here with us for the first time to present that Committee’s annual report.
10. I strongly encourage you to participate actively in the Committee’s debates. I trust that in the course of the two-week session of the Conference, the Committee will be able to meet the high expectations of the ILO constituents, in a spirit of constructive dialogue. If one was to seek to capture the mandate of this Committee on the Application of Standards in one word, that word would have to be “dialogue”. The strength of this Committee lies in the constant will to engage in dialogue between Employers, Workers and Governments of member States. As the Irish poet and former Nobel Laureate Seamus Heaney noted: “History says, don’t hope on this side of the grave. But then, once in a lifetime the longed-for tidal wave of justice can rise up. And hope and history rhyme.” If you have the words, there is always a chance that you will find the way.
11. “*Go raibh maith agat ó chroi arís don phribhléid a bhain leis an seisiún tábhachtach stairiúil seo den choiste seo a stiúradh.*” Thank you again sincerely for the privilege of leading this important and historical session of this Committee.
12. **Employer members:** This year, we celebrate the Centenary anniversary of the ILO, commemorating and reflecting on past achievements, as well as looking to the future. One of the ILO’s successes is this Committee, the Committee on the Application of Standards. Founded in 1926, the Committee is a permanent tripartite body of the International Labour Conference and an essential component of the ILO’s supervisory system. The Committee continues to demonstrate its importance and indispensability in terms of its role in the supervisory functions of the ILO. The Committee has provided a regular platform for social dialogue between tripartite constituents from all ILO member States on the application of ratified Conventions and other standards-related obligations. These discussions focus on the real life practical impact of standards on the world of work and social justice. We take this

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opportunity to congratulate the active engagement of Government, Employer and Worker representatives in the Committee since 1926 on their participation and the supervision of international labour standards.

- 13.** In this year of the Centenary, it is also an important moment to reflect on the Committee's mandate. As Article VII of the Standing Orders of the International Labour Conference stipulates, the Committee has the mandate to supervise the application of standards. In delivering its tasks, the Committee receives technical preparatory support from the Committee of Experts and the Office, and uses the Committee of Experts' report as a starting basis in its consideration of individual member States' compliance and application of international labour standards. The Committee then, after its discussion and debate and analysis and social dialogue, builds on this in order to present a complete picture of a country's compliance with its standards obligations. This is all part of a healthy social dialogue and open freedom of expression to ensure that the work of our Committee is robust and carries moral authority.
- 14.** As the two pillars of the supervisory system must constructively and continually work together, we appreciate the presence of the Chairperson of the Committee of Experts, Justice Koroma, in the Committee's general discussion and the debate on the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202). We are of the view that ongoing and direct dialogue between the Committee, the Committee of Experts and the Office is important, not only for ILO constituents to better understand standards-related requirements, but also to facilitate the Committee of Experts' understanding of the realities and needs of the users of the supervisory system. It is key that the work of the Committee of Experts is not carried out in isolation from the real-world.
- 15.** We welcome the presence of Justice Dixon Caton – and express our commitment to seeking further opportunities for continued dialogue between the members of the Committee and the Committee of Experts during the coming year in order to regularly share our views, opinions, challenges, needs and achievements of these two unique mechanisms.
- 16.** The Employer members look forward in this 2019 Committee session to a results-orientated tripartite dialogue reaffirming the role of the Committee in the ILO standards supervision, especially at this very special Centenary Session. We note that the views expressed by the Employers within the Committee on the Application of Standards, and also importantly, the recommendations in the Committee's conclusions, must be considered by other ILO supervisory bodies, by the Office – for the support to the overall system and the technical assistance it provides – and also, by all of the ILO initiatives and discussions in the context of the 2030 Agenda.
- 17.** To remain relevant for the next 100 years, the ILO supervisory system must continue to work to ensure that the supervision of international labour standards takes into account the strong tripartite nature of the ILO, as well as the changing realities of the world of work, and works to enable the protection of workers, as well as balance with the creation and development of sustainable enterprises. One cannot exist without the other. This will happen together with the work that is being done in the Standards Initiative to strengthen labour standards. We support a process with which we will have a body of solid, up-to-date labour standards to move forward into the next 100 years.
- 18.** Tripartite governance, transparency and efficiency are key values that contribute to the success and, importantly, the authority of the Committee. The Employer members will continue to uphold these values in our engagement in this historic Committee session and restate our strong commitment to active participation and contribution in the discussions in a proactive and constructive spirit once again this year.

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- 19. Worker members:** This year, the work of our Committee will have a special feel, as it coincides with the ILO Centenary, our Organization's 100th anniversary. An anniversary is an opportune moment to remember the past and envisage the future. Turning to the past, the history of our Organization is replete with events and developments that have helped it to successfully overcome all the challenges it has faced. Allow me to recall some of them. Founded in 1919, the ILO was born out of the ruins of the First World War. Its Constitution demonstrates its will to incarnate the ideal of peace, itself based on the realization of social justice. From the outset, the Organization adopted a series of important standards which have improved living and working conditions throughout the world. Examples include the Conventions on hours of work in industry, maternity protection, night work for women, child labour and the Convention on forced labour. The objective of all these standards was to lay the foundations of an internationally competitive social policy. However, it is precisely this exacerbated competition among the nations and poorly tended wounds of the First World War which would give rise to a new war. At the end of the Second World War, the International Labour Conference, meeting in 1944 in Philadelphia, adopted a fundamental declaration. It was in reality a new birth certificate for the Organization which, in addition to once again emphasizing the link between peace and social justice, aimed to establish economic and social solidarity among nations. The Declaration affirmed that economic and financial policies must be evaluated and accepted in the light of this fundamental objective. The Declaration of Philadelphia is still relevant today. It forms the basis of our Organization's mandate. In fact, today, international labour standards are more necessary than ever to promote a truly human working regime and prevent work from becoming a commodity. The task we carry out each year in this Committee is the best evidence of this.
- 20.** Since its creation, the ILO has had to confront and overcome difficulties which, far from destabilizing it, have instead continued to strengthen it – for example, the Cold War, the decolonization process, to which the ILO had to adapt by reforming its structure, and globalization, which has accelerated over the past 30 years. Each time, the ILO has found the resources to meet these challenges which have formed its history.
- 21.** As for the future, we are not starting from zero. Within the framework of the Centenary Initiative, launched by the Director-General in 2013, the Conference this year will focus on the Report of the Global Commission on the Future of Work. Without commenting on the declaration that will be debated, we would like to emphasize some key elements: (a) we must reaffirm that social justice, decent work and protection for workers in the context of fair globalization, remain the best ingredients for peace and stability; (b) we are convinced that there can be no inclusive growth without respect for trade union rights and the world of work; and (c) we must revitalize the social contract to give workers an equal share of economic progress. Respect of workers' rights must be at the heart of this renewed social contract.
- 22.** It is also very significant that this year the Conference will adopt a Convention aimed at ending violence against women in the world of work. Women's equal participation in the labour market, equal pay for women and men, and the eradication of violence and harassment are necessary for women's economic integration. Our societies are facing and will continue to face multiple ecological, demographic and technological transitions. The direction that these transitions will take is not written in the stars and is not fated. On the contrary, it is the conviction and strength that we put into making these transitions which will be decisive. They must be fair for workers. In order to manage these transitions, we have to refocus our objectives and programmes of action on human beings, to enable them to develop their potential, strengthen work institutions and guarantee that work remains decent and sustainable.
- 23.** However, ambitious objectives and programmes of action do not suffice if they are not supported by robust and specific standards recognized at the international level. The

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achievement of these objectives will therefore certainly require the updating or development of new standards. To ensure the full effectiveness of standards, it is essential to have efficient monitoring and supervisory mechanisms, such as those guaranteed by the Committee.

24. Celebrating the anniversary of a great Organization like the ILO also means reaffirming its principles. In this regard, the Worker members would like to draw your attention to two fundamental principles of the Organization: tripartism and multilateralism. Firstly, multilateralism, which is a characteristic shared with other United Nations agencies: this principle is still relevant and even represents a key for the future, unlike what some may say. We are in a multipolar world in which no power can claim hegemony. States must face crucial challenges such as the globalization of the trade of goods and services, climate change, migratory flows and the explosion of inequalities. Unfettered globalization increases the unequal distribution of wealth, and job and income insecurity within countries and regions. Unbridled globalization threatens peace and security. Populations become nationalist and xenophobes are reduced to demanding the closure of borders and the construction of walls. Globalization without rules only increases social dumping, and the exploitation of workers, and sets people against each other. The world is today three times richer than it was 20 years ago, but our public services and social protection systems have been weakened under the attack of devastating austerity measures. To believe that the solution to all these challenges can only be found in bilateral discussions is either denial or a lack of knowledge of our world's resources. More than ever, we need a forum such as the one offered by the ILO to exchange different points of view, take into account complexity and find solutions.
25. As for tripartism, throughout history it has demonstrated its vitality and usefulness. The richness of the ILO lies in allowing employers and workers to participate fully in the discussions, while in the other international organizations only the official voices of governments can be heard. Guaranteeing social partners and governments the possibility of enacting and monitoring the standards that concern them is an exercise in social democracy which, while it can certainly be improved, is hugely beneficial. In the end, social dialogue is only the expression of democracy in the workplace.
26. The role of the ILO is to give the answer to a question, that of social justice. The ILO Constitution itself proclaims that, while working conditions remain that involve injustice, misery and deprivation, universal peace and harmony are at risk. This issue is more relevant than ever. It has even been nourished by other problems and issues and, therefore, I can only affirm, or at least hope, that our Organization has and will have many days ahead of it.

## **Work of the Committee**

27. During its opening sitting, the Committee adopted document D.1, which sets out the manner in which the work of the Committee was carried out<sup>3</sup> and, on that basis, the Committee considered its working methods, as reflected below.
28. In accordance with its usual practice, the Committee began its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution. In this general discussion, reference was made to Part One of the report of the Committee of Experts

<sup>3</sup> Work of the Committee on the Application of Standards, ILC, 108th Session, C.App./D.1 (see Annex 1).

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on the Application of Conventions and Recommendations. A summary of the general discussion is found under relevant headings in sections A and B of Part One of this report.

29. The Committee then examined the report concerning teaching personnel of the Joint ILO–UNESCO Committee of Experts. This discussion is contained in section C of Part One of this report. The final part of the general discussion focused on the General Survey. Its discussion is contained in section A of Part Two of this report. The outcome of this discussion is contained in section D of Part One of this report.
30. Following these discussions, the Committee considered the cases of serious failure by member States to respect their reporting and other standards-related obligations. The result of the examination of these cases is contained in section E of Part One of this report. More detailed information on that discussion is contained in section B of Part Two of this report.
31. The Committee then considered 24 individual cases relating to the application of various Conventions. The examination of the individual cases was based principally on the observations contained in the Committee of Experts’ report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers’ and workers’ organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions once again required the Committee to select a limited number of individual cases among the Committee of Experts’ observations. With reference to its examination of these cases, the Committee reiterated the importance it placed on the role of tripartite dialogue in its work and trusted that the governments of the countries selected would make every effort to take the necessary measures to fulfil their obligations under ratified Conventions. The result of the examination of these cases is contained in section F of Part One of this report. A summary of the information submitted by governments and the discussions of the examination of individual cases, as well as the conclusions adopted by the Committee, are contained in section B of Part Two of this report.
32. The adoption of the report and the closing remarks are contained in section G of Part One of this report.

## **Working methods of the Committee**

33. **Chairperson:** One of the important challenges that our Committee must face again this year will be to complete its crucial work in a very tight time frame. To ensure success, we have to abide by our working schedule and strictly implement the measures contained in document D.1, in particular concerning time management, maximum speaking time will apply during the discussion of the General Survey and during the examination of individual cases. These limits will be strictly enforced.
34. Interventions should be relevant to the subject under discussion and should avoid reference to extraneous matters. It is my role and task to maintain order and ensure that this Committee does not deviate from its fundamental purpose to provide an international tripartite forum for a full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the ILO.
35. Governments that are on the list of individual cases may supply written information prior to the examination of their case. These written replies are to be provided to the secretariat at least two days before the discussion of the case, and may not duplicate the oral reply nor any other information already provided by the government. The total number of pages for this reply should not exceed five pages. The secretariat will prepare a summary of the written

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information which is to be shared with the Committee in a D document which will be made available online.

- 36.** In the context of the Informal Tripartite Consultations on the Working Methods of the Committee held last November 2018 and in March 2019, it was decided that the discussions of this Committee will be produced in the form of verbatim transcripts. Each intervention will be produced in extenso in the working language in which it has been delivered, or failing that, the language chosen by the government – English, French or Spanish. Delegates who will be intervening in a language other than English, French and Spanish will be invited to indicate to the secretariat in which of these three working languages their intervention should be reflected in the verbatim draft minutes.
- 37. Worker members:** The discussions concerning the working methods of our Committee have sometimes given rise to lively debate, which is normal to a certain extent as, through the working methods, part of the functioning of the Committee is under discussion. Since no procedure is perfect, the Worker members have always been open to all relevant suggestions to improve the functioning of the Committee and, in this respect, there will be certain innovations this session. For example, it is now possible for governments which are on the preliminary list to provide written information to the Committee. This information may only cover elements not examined by the Committee of Experts. We hope that this possibility, available to governments, will be used judiciously and will enlighten the Committee on the Application of Standards regarding the country concerned. In order to facilitate access to the reports of our Committee, it has also been decided to reorganize the report in two parts: the first will include the general discussion, the conclusions on the General Survey and on individual cases, as well as the concluding remarks; and a second part will contain the verbatim minutes of all the discussions. We firmly hope that this new way of working will facilitate the work of the secretariat and make the report easier to read. Moreover, to facilitate the work of the secretariat, the minutes will henceforth be transcribed verbatim.
- 38.** Finally, regarding time management, and more precisely the reduction in speaking time in the event of numerous interventions, we wish to underline that the discussion of these procedures must not take up too much time. Let us remain mindful that all these aspects are only intended to enable our Committee to fulfil its mandate, which is to supervise compliance with ILO standards.
- 39. Employer members:** Since the last Committee session, we note that there have been two informal tripartite consultations on working methods of the Committee, one held in November of 2018 and one in March of 2019. We note that both meetings were very fruitful in terms of the discussions and decisions taken to work to continuously improve the working methods of this Committee. We welcome the constructive feedback and participation of the Governments and Workers in efforts to ensure that we continue to improve on our working methods and capitalize on advances in technology in the assistance of the presentation of our work.
- 40.** We have participated in the Working Group in an effort to ensure that we make a commitment to ongoing improvement of the tripartite governance, transparency and efficiency of the work of the Committee. In particular, we highlight the enhanced use of the D.1 document, an improvement that was proposed by the Employers' group that we were very pleased to have the support of the rest of the group. We hope this amendment is helpful for the governments who are able now to submit up-to-date information on the experts' observations before the Committee session takes place. In any case, the Employers' group found this amendment very useful in negotiating the list of cases with Workers and to begin our preparation for the discussions of cases. We support the continued use of these informal consultations on the working methods of the Committee as they provide an excellent occasion for the Committee to continuously improve its efficiency and relevance of the work



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in light of the changing realities and constituents' needs. With these comments, we fully support the adoption of the D.1 document presented before us.

- 41. Government member of Brazil, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC):** On several occasions, including at the most recent International Labour Conference and Governing Body meetings, GRULAC has supported the need to revise the working methods of the Committee. Our regional group has actively participated in tripartite consultations regarding these working methods. We deeply regret that the position of GRULAC is still not reflected in document D.1, although some progress has been made, such as the verbatim publication of the minutes of all parts of the discussion. Document D.1 still contains non-consensual elements that distance us all from a transparent, predictable, effective and fully tripartite mechanism. This does not help to build trust or enhance the credibility of the system.
- 42.** In this context, GRULAC reiterates its views regarding the working methods of the Committee, emphasizing the following: (a) the final list of individual cases under examination by the Committee should be released earlier, in order to enable governments – who are not authorized to participate in any way in the selection of cases – adequate time to prepare a satisfactory response; (b) the manner in which the criteria set out in document D.1 has been applied to select the list of individual cases should be transparent and objective; (c) we consider that the most serious cases, according to the report of the Committee of Experts and technical criteria, should take priority; (d) regarding the drafting of the conclusions of the Committee on country cases, the Chairperson of the Committee could play a role in identifying the recommendations that have the highest possible level of tripartite consensus; (e) the governments concerned should also be informed of the conclusions in their respective cases well in advance so that they can forward all the information relevant to internal coordination to their competent authorities, to enable them to respond appropriately; (f) a better parliamentary practice should be followed in the Committee when adopting conclusions on cases. The government concerned should be allowed to take the floor, if it wishes to do so, before the adoption of the conclusions by the plenary. Thus, the government concerned would have the opportunity – which does not exist at present – to contribute its views and provide any clarifications it perceives to be appropriate concerning the conclusions before their adoption. A small change in this regard could significantly improve the perception of respect for governments; and (g) the General Survey should be subject to tripartite discussion in informal sessions ahead of time, in order to afford the constituents the opportunity to grasp the positions of the different groups before arriving at the Committee. Furthermore, we request more active monitoring of the conclusions of the General Survey, which will be more successful insofar as the constituents would feel like an integral part of the process and, in the case of success, would improve the quality of its content. Such an important document should not be approved following less than 24 hours of analysis in a very short session without any discussion of its content.
- 43.** It is also crucial that the participation of governments is increased in informal tripartite consultations on the working methods of the Committee, which should be held more frequently. However, sustainable and substantive progress will not be possible without the social partners paying closer attention to the requests of the governments, particularly those governments that participate most in the supervisory system, through their commitment to the ILO and decent work and through their rate of ratifications. These proposals do not give rise to any difficulties as to their acceptance, which are immediately obvious, although entirely relevant. GRULAC is presenting them once again because we value the significance of the Committee within the ILO standards supervisory system and because we advocate effective tripartism that does not allow the views of the governments to be ignored and reflects the search for consensus, the central characteristic of the ILO.

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44. Lastly, bearing in mind that the purpose of the Committee is to examine the measures adopted by Members to implement the provisions of the Conventions to which they are parties, as well as the information provided by Members on the outcomes of inspections, it is vital that the Committee examine cases of progress, which reflect the efforts made and measures adopted by States towards compliance with Conventions in law and in practice. Examination of cases of progress by the Committee would certainly have a great impact on future ratifications, since it would illustrate good practices that could serve as an example for other States. The Centenary Conference would be the perfect opportunity to resume the practice of highlighting and discussing cases of progress as well as to make an appeal for international cooperation and constructive social dialogue.
45. **Government member of Algeria:** Algeria considers that the Committee's current working methods have not been adequately strengthened, and it therefore shares the concerns expressed by certain Governments in this regard. As a result, we believe that we should focus our efforts on the effective implementation of new working methods that would seek, first and foremost, to enhance the efficiency of the Committee, while also making its action more transparent and strengthening tripartite dialogue. This improvement of working methods may be considered one of the most important aspects of the reform of the supervisory bodies.
46. We have nevertheless noted improvements with respect to time management, as well as in attempts to faithfully reflect the content of the Committee's discussions through the publication of verbatim draft minutes. We have also noted an improvement as regards the attempt to restructure the thematic examination of the General Survey. Accordingly, we believe that tripartite consensus is possible in order to advance, within the framework of the Standards Initiative, the key goal of the Organization, which is to give greater visibility to international labour standards so as to enhance their pertinence through appropriate supervisory machinery.
47. Algeria considers that the reform of working methods is an opportunity that should be seized in order to increase the efficiency and transparency of the Committee and give up the practice of certain groups having an implicit monopoly in the drafting of conclusions. Although the proposals are modest, we are aiming at a more participative process for dealing with individual cases, which we believe would help to create a culture of adopting better, more collaborative conclusions. Algeria would also like to welcome the efforts made to create an appropriate database on the progress achieved in the implementation of international labour standards. In this regard, Algeria encourages all member States to submit information on the initiatives taken at the national level in their annual reports on the implementation of their commitments.

### **Adoption of the list of individual cases**

48. The Committee adopted, during the course of the second sitting, the list of individual cases to be discussed.<sup>4</sup>
49. **The Government member of India:** India, a founding member of the ILO, has deep respect for and a very high level of commitment to the international labour standards, which is reflected in its national policy and practice. As regards the specific case related to the Labour Inspection Convention, 1947 (No. 81), it may be noted that all relevant and available information availing the opportunity provided to a member State this time was well and truly provided in writing by my country, to substantively address the issues raised by the Committee of Experts, inter alia. It is inexplicable and regrettable that, despite this, the case

<sup>4</sup> ILC, 108th Session, Committee on the Application of Standards, C.App./D.4 (see Annex 2).

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related to Convention No. 81, which was adequately discussed in the International Labour Conference in 2017 and subsequently followed up by my Government, has been shortlisted. On such an important matter of shortlisting, it is also unfortunate that there is no prior consultation with the Governments concerned, or within the respective groups, which would be useful and highly advisable. We, therefore, have serious concern over the adoption of this shortlist of countries, which includes India, and wish to know from the Officers of this Committee, the specific, clear and objective rationale and basis for inclusion and exclusion.

## **B. General questions relating to international labour standards**

### **Statement by the representative of the Secretary-General**

50. I would like to welcome Justice Koroma, who was the Chairperson of the Committee of Experts at its last session in November 2018. He will address you for the last time as the outgoing Chairperson of the Committee of Experts, as he has completed his two terms of office. On this occasion, I wish not only to welcome him, but also to express all our gratitude, and that of the Secretary-General, for the exemplary manner in which he carried out his important – and sometimes burdensome – duties during the six years that he chaired the Committee of Experts. I also wish to welcome Judge Dixon Caton, who will address you at the end of the general discussion.
51. Regarding the Constitutional mandate and work of your Conference Committee, as you know, your Committee is a standing committee of the International Labour Conference. It has met every year since 1926 and its mandate, which lies at the heart of the ILO's action, consists of examining and bringing to the attention of the plenary of the Conference, firstly the measures taken by Members to give effect to the provisions of Conventions to which they are parties; and secondly the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution. Under the terms of this article, every year your Committee examines a General Survey on the law and practice of member States in a specific area.
52. Document D.1 contains all the information required for the proper conduct of the work of the Committee. It also reports on the many improvements made to the methods of work of the Committee since 2006. Once again this year, informal tripartite consultations were held on the working methods of the Committee on the Application of Standards and a number of decisions were taken which have a direct impact on the work of the Committee. Accordingly, governments on the long list of individual cases are now able to submit, on a purely voluntary basis, written information to the Committee on recent developments not examined by the Committee of Experts. Fifteen Governments have taken advantage of this opportunity and have provided information, which is available on the web page of your Committee. Furthermore, as from the present session, the discussions of your Committee will be reproduced in extenso in verbatim transcripts. The Chairperson will provide you with fuller information on this subject. May I nevertheless also draw your attention to another decision concerning the report that will be adopted by your Committee. The first part of the report of the Committee will contain the verbatim minutes of the whole of the general discussion, the outcome of the discussions on the General Survey, and the conclusions adopted following the examination of “automatic” and “individual” cases. In the same way as last year, the first part of the report will be produced in the form of a consolidated document translated into the three working languages for adoption by the Conference in Plenary on the last Friday of the Conference. The second part of the report will consist of the trilingual verbatim minutes of the discussion of the General Survey, the discussion of the “automatic” cases and the

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discussion of “individual” cases. These verbatim minutes will be made available as they are adopted, but only online on the web page of your Committee. The second part of the report will be submitted to the plenary sitting of the Conference for adoption only in electronic format. The full report translated into the three languages will be made available online 30 days after its adoption by the International Labour Conference.

- 53.** Moreover, it was decided at previous informal tripartite consultations to allocate more time for the discussion of the General Survey to permit its examination in depth. This request has been taken into account. I would invite you to take full advantage of this opportunity to inform the Committee of problems and national practices relating to social protection floors in light of the examination undertaken by the CEACR in its General Survey.
- 54.** Finally, I would remind you that all the documents of the Committee are placed online on the Committee’s web page. The Committee’s web page will be our means of sharing important documents, in accordance with the paperless policy adopted by the Office.
- 55.** I wish to refer to the standards mandate of our Organization in its Centenary year. The fact that the ILO is the oldest agency in the United Nations system certainly bears witness to the enduring values that it defends, but also means that it bears within it the traces of a world that no longer exists. And yet, the more urgent the need for the general rules of the game in social matters, the greater the expectations placed on the ILO and the more it would seem that its original mandate – to draw up standards, promote their ratification, and support and supervise their implementation through the provision of the necessary technical assistance – retains its full relevance. This is amply demonstrated by the pertinence of the Organization’s standards-related work in its Centenary year. Turning to the adoption of new standards, as you know, following a first discussion last year, the Conference will examine this year in second discussion the adoption of new instruments intended to bring an end to violence and harassment against women and men in the world of work. These instruments should take the form of a Convention, supplemented by a Recommendation.
- 56.** These issues, as regularly demonstrated by current events, are sadly too widespread in the world of work. In this respect, may I recall what I said last year that all those attending the Conference are invited to consider their own actions, and those of their colleagues, and to speak up if problems arise. It is incumbent on all of us to ensure that the International Labour Conference offers an example in this respect from which everyone can find inspiration.
- 57.** Even though new standards are being discussed, the Tripartite Working Group of the Standards Review Mechanism is continuing its work commenced in 2015 in the context of one of the seven Centenary Initiatives. It would appear to be appropriate to recall that the Standards Initiative is intended to reinforce the standards work of the ILO in its second century based on a body of standards that is robust, clear and up to date, and a system of supervising the application of these standards that is authoritative and based on strengthened tripartite consensus. The work of the Tripartite Working Group of the Standards Review Mechanism is progressing constructively. At its fourth session in September 2018, the Working Group completed its in-depth examination of all the instruments on occupational safety and health, as well as those on labour statistics and labour inspection. Next September, the Tripartite Working Group will continue its in-depth examination of the instruments on employment policy and employment promotion. Of the 235 international labour standards covered by the initial programme of work of the Standards Review Mechanism Tripartite Working Group, 75 instruments will then remain to be examined. Finally, with a view to ensuring the follow-up of the recommendations of the Tripartite Working Group, the Office will continue to take measures to support the development of tripartite national plans of action on international labour standards. In March 2019, welcoming the progress achieved, the Governing Body called on the Organization and its tripartite constituents to take

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appropriate measures to give effect to all of the recommendations made by the Standards Review Mechanism Tripartite Working Group.

- 58.** The second component of the Standards Initiative relates to the strengthening of the ILO supervisory system. Discussions are continuing on this issue. At its last session, the Governing Body examined several issues related to improvements that could be made to the supervisory system, including the lengthening of the reporting cycle for technical Conventions from five to six years and strengthening the thematic planning of requests for reports. The various supervisory bodies have continued to discuss their working methods and to introduce innovations wherever necessary.
- 59.** With reference to Office technical assistance focused on the achievement of tangible progress in the implementation of standards at the national level, once again this year information on the measures taken by the Office to give effect to the recommendations of your Committee has been placed online on your Committee's web page and is updated in line with the work of your Committee. It is my pleasure to announce that, in accordance with the conclusions and recommendations adopted last year by your Committee, a high-level mission recently visited Algeria and three direct contacts missions visited Bahrain, Honduras and Myanmar. Several other countries have also requested and received technical assistance from the Office. I would like to emphasize that the reports provided by Governments that have received such assistance often show the extent to which the discussions and conclusions of your Committee can facilitate targeted and really effective support by the Office. In the case of serious failings by member States to comply with their reporting obligations, following the discussions in your Committee in 2018, the Office sent out some 60 letters to the States concerned and proposed technical assistance specifically adapted to their needs. Several of these member States have since fulfilled their reporting obligations, at least in part. Document D.2, on the Committee's web page, contains more information on work carried out in this area.
- 60.** Finally, with the Turin Training Centre, the Office is continuing to provide tailored training on international labour standards at the national, subregional and regional levels. The International Labour Standards Academy has been held for the third time this year as our flagship training programme for the sharing of knowledge and tools on international labour standards with tripartite constituents, judges, lawyers, law professors and media professionals.
- 61.** I now turn to one final standards-related matter, the Centenary Ratification Campaign "One for All". I am sure that you are well aware that, within the context of the ILO's Centenary, the Office launched a major ratification campaign at the beginning of January entitled "One for All". "One for All" may be understood in different ways: an invitation to all 187 member States of the ILO to ratify at least one international labour Convention in the course of 2019; a commitment to apply a set of standards governing one aspect of decent work to all men and women; one political commitment supporting sustainable development for all. Within the context of this campaign, however, the ratification of an ILO instrument is both a political and a legal act that supports cooperation between countries in pursuit of social justice, which must remain one of the pillars of the multilateral system. Since the campaign was launched, 22 new ratifications have already been registered and the Conference should provide the momentum for this number to rise rapidly over the next few days. Finally, it absolutely must be emphasized that, with the recent ratification by Eritrea, only two further ratifications are needed to achieve the universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182). Universal ratification of Convention No. 182 would be an historical landmark in action to combat the evil of child labour. Of the new ratifications, eight concern the Maritime Labour Convention, 2006 (MLC, 2006), which is therefore continuing to be ratified at a good rate. It should also be noted that the 2016 amendments to the MLC, 2006, entered into force in January 2019. They contain innovative provisions on the prevention of

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harassment and intimidation of seafarers on board ship. This is the second set of amendments to the Convention that has entered into force, following those of 2014 on financial guarantees in the event of abandonment, death or long-term incapacity. There are good grounds for hoping that the MLC, 2006, will pass the milestone of 100 ratifications during the course of the Centenary year.

62. In parallel, the Work in Fishing Convention, 2007 (No. 188), is the subject of increased interest and its implementation will significantly improve the often difficult conditions of life and work on board fishing vessels.
63. Finally, the “50 for Freedom” campaign is progressing towards its objective of achieving 50 ratifications of the Protocol of 2014 to the Forced Labour Convention, 1930, by the end of the year, as 32 ratifications have currently been registered.
64. This overview of the Organization’s standards policy shows that, although it is 100 years old, the Organization remains dynamic and that its standards action retains its pertinence at all levels: the formulation of new standards, the examination of the existing body of standards, supervision, technical assistance in support for implementation and ratification.
65. Coming back to your Committee, and on a more philosophical note, allow me to recall the reflections of one of the greats of antiquity. Some 2,300 years ago, Aristotle, the famous Greek philosopher, said that “a just society is based on dialogue and a balance between extremes”. The spirit of tripartism inherent in your Committee, founded on frank discussion, dialogue, compromise and consensus, would undoubtedly have been wholeheartedly encouraged by Aristotle in his wisdom.
66. And rest assured that the Office is determined to support and consolidate the constructive participation of all the tripartite constituents in your work. The International Labour Standards Department is determined to continue the tradition of public functions devoted to excellence and is placing its expertise at the service of your Committee to help you play your vital role within the ILO’s constitutional framework.
67. Allow me to conclude by recalling the parchment placed at the beginning of the twentieth century under the first stone of the former ILO building in Geneva, which reads, “If you desire peace, cultivate justice”. Humanity in 1919 was faced with the historic responsibility of ensuring peace based on social justice, and I am sure you will agree with me that the women and men of today bear an equally important responsibility.

### **Statement by the outgoing Chairperson of the Committee of Experts**

68. On behalf of the Committee of Experts, I wish to express our appreciation to the Committee on the Application of Standards for having renewed the invitation made to former Chairs of the Committee of Experts since 1993. I feel privileged to participate as an observer in the general discussion of your Committee as well as in its discussion of the General Survey. Justice Dixon Caton has been elected as the new Chairperson of the Committee of Experts last December. It is our pride to have such a distinguished jurist of the Committee to serve in this position and the very first woman of the Latin American region. This year will therefore be the last time in which I will attend a discussion of your Committee. I would therefore like to thank you all for the strong and conducive cooperation our two committees have heard over the past years which has always been guided by a spirit of mutual respect and responsibility. It has been a great honour for me to serve as Chairperson of the Committee of Experts and to represent it on your invitation at your annual discussions. I would lastly like to take this opportunity to thank all of my fellow members of the Committee

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of Experts for the trust they have bestowed on me and for the rich and fruitful collaboration we have had over the years.

- 69.** Throughout its existence, the ILO has always relied on its standard-setting activities as a means to promote social justice and the international labour standards remain the fundamental pillars of its activities. This puts our two committees, which are tasked with supervising the application of these standards, at the core of the ILO's mandate. I am proud to note the lasting impact our two committees have had over these years. I trust that in the future they will continue this constructive dialogue in the interests of authoritative and credible ILO supervisory system working for social justice worldwide.
- 70.** At the same time, it appears that such assurances of the contemporary relevance of international labour law and its supervision do not work on complacency. In this context, the Committee must remain vigilant of the challenges to the effective supervision of international labour standards. Some of these relate to the rapid transformations in the world of work and the attention that will be required of international supervision for the timely evaluation of delicate problems. Any evolution of the supervisory system must be based on the system's strength. International labour standards constitute not only the main source of international labour law but also the foundation of national labour law in many countries throughout the world. International labour standards have managed to exert this influence and maintain their relevance over the years largely thanks to the comments of the ILO supervisory bodies linking ratified Conventions to constantly changing national circumstances. The comments of the Committee of Experts would not have produced the same results if they had not been enhanced by the impact of discussion at the Conference Committee in a tripartite context. An important condition for maintaining the impact of the experts' comments has always been the coordination between the two bodies, on the basis of their complementary mandates and the cooperation they have built over time.
- 71.** Let me now inform you of some of the outcomes of the last meeting of the Committee of Experts. A detailed account of the discussion can be found in the general part of the Committee of Experts' report. I will confine myself to highlighting a few points.
- 72.** As every year since the early 2000s, the Committee has considered its working methods and has agreed on certain measures. The Committee, through the Subcommittee on Working Methods, focused its discussion during its 2018 session on four main issues: (a) the implications of the Governing Body discussions and decisions on the standard initiatives for the working methods of the Committee; (b) the treatment of observations submitted by employers' and workers' organizations under article 23, paragraph 2, of the ILO Constitution; (c) the improvement in the streamlining of the treatment of repetitions and urgent appeals; and (d) the reinforcement of the deadlines for the receipt of article 22 reports.
- 73.** The Subcommittee discussed the important decisions taken by the Governing Body at its 334th Session and their implications for the Committee's working methods. It gave particular consideration to improving the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximises their value for constituents. In this regard, the Committee of Experts advises the secretariat which will seek to present the General Survey in the revised format next year. This year already, the General Survey contains an executive summary highlighting key findings. The Committee also had the opportunity to discuss the pilot project for the establishment of electronic baselines which would facilitate reporting by governments and information sharing on compliant practices. The experts were particularly interested in this project and will continue to follow closely its development in collaboration with the Office.
- 74.** In relation to the timely submission of reports, the Committee of Experts reiterated its long-standing concern at the low proportion of reports received by 1 September each year, and

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highlighted once again the fact that this situation disturbs the sound operations of the regular supervisory procedure. The Committee therefore decided to reinforce the practice of urgent appeals that it launched last year drawing on experience with the implementation of this decision. Already at its last session, the Committee of Experts has issued urgent appeals to eight countries which have failed to send a first report for at least three years. The Committee decided that as of its next session it will generalize this practice by issuing urgent appeals in all cases where article 22 reports have not been received for three consecutive years. As a result, repetitions of previous comments will be limited to a maximum of three years, following which the Convention's application will be examined in substance by the Committee on the basis of publicly available information even if the government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the regular reporting cycle.

75. Regarding the new six-year reporting cycle for technical Conventions, the Committee also examined the implications on the criteria for the examination of observations submitted by employers' and workers' organizations outside the regular reporting cycle. Following an in-depth discussion on these issues, the Committee reached certain decisions which are detailed in the general part of our report.
76. Finally, as in previous years, the Committee of Experts called on all Governments to ensure that copies of reports on ratified Conventions are communicated to the representative employers' and workers' organizations, in order to safeguard this important aspect of the supervisory mechanism. This year again, certain Governments failed to comply with this fundamental obligation. The active participation of employers' and workers' organizations in the work of the Committee of Experts, by making observations on the application of Conventions and Recommendations, has been an important attribute of the supervisory mechanism and an indicator of its vivacity. This year the number of observations received from employers' and workers' organizations was slightly lower than last year, when it had reached an unprecedented level. For its last session, the Committee received 745 observations in total, 173 of those were communicated by employers' organizations and 572 by workers' organizations.
77. I would also like to draw your attention to the cases in which, in view of the seriousness of the issues addressed, the Committee of Experts has requested Governments to provide full particulars to the Conference, known as "double-footnoted cases". As always, serious consideration was given by the Committee as a whole in identifying these cases which are contained in paragraph 80 of the General Report.
78. The General Survey, which concerns Recommendation No. 202, is unique, being the first of such reports to focus on a single stand-alone Recommendation. This reflects the importance of social protection in the global development agenda, and the relevance of the Recommendation in guiding action to combat poverty, inequality, social exclusion and to achieve universal rights that together ensure life in health and dignity. On the occasion of the ILO Centenary, the General Survey is a contribution from the Committee of Experts to improve universal social protection and social justice worldwide. The Survey looks into the impact of the Recommendation at a national and international level and provides guidance to enhance social protection in accordance with the Recommendation. Recommendation No. 202 is the first international instrument to define the basic social security guarantees of social protection floors that every human being should enjoy for a life in health and dignity. As the Survey shows, it has established itself as a reference in international law and is used by the United Nations treaties bodies and experts as a guiding framework for the advancement of the human rights to social security to an adequate standard of living, and to the highest obtainable standard of mental and physical health. Implementing Recommendation No. 202, is also instrumental in achieving the Sustainable Development Goals (SDGs). The inclusion of social protection floors as targets for the SDGs illustrates



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the relevance of the Recommendation's objective to a social and economic development and inclusive growth and its role as a guiding policy framework. Social protection systems play an essential role in reducing and preventing poverty, inequality, social exclusion and social insecurity. As the Survey shows, most countries successfully use social protection policies, schemes and benefits to combat poverty and inequality.

- 79.** The General Survey has also highlighted a number of challenging issues in national laws and practices. It shows that securing effective and universal success to essential healthcare remains a global challenge. While universal health coverage has been achieved in many high and middle-income countries, in many other countries the population has access to only certain components of essential healthcare. Severe gaps still exist across and within a majority of countries with only 61 per cent of the global population covered by law and over 50 per cent of the global population having no access to adequate essential healthcare, including prenatal care and the most basic treatment against malaria, HIV/AIDs and tuberculosis. In most countries, the accessibility and affordability of essential healthcare are little or not guaranteed. Important gaps also remain in guaranteeing basic income security. Less than 60 per cent of countries reported having schemes and benefits ensuring income security for children. While full coverage of persons of active age is virtually achieved in all OECD and European Union Member States, in other countries coverage is often limited to certain categories of persons and is conditional on the type of economic coverage – of economic activity, sector of employment, legal status or other factors. At the global level, only 68 per cent of persons above retirement age receive some form of pension. In many low-income countries, fewer than 20 per cent of older persons over the statutory retirement age are in receipt of a pension. The Committee thus recommended that the benefits provided by social protection systems should be set at a level that is sufficient to realize at least the basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability, social exclusion without which they could not be considered to meet the principle of adequacy established by the Recommendation.
- 80.** The General Survey also showed that adopting and implementing a national social protection policy, as suggested by the Recommendation, is key in the pursuit of a universal and comprehensive social protection system. Such policy development processes are also optimal for addressing the challenges related to the informal economy. Furthermore, the Committee has concluded that effective social dialogue during policy development and implementation is key, as it acts as a strong catalyser for building a stronger social protection system.
- 81.** It is hoped that the General Survey will inform the preparation of the forthcoming recurring discussion on social protection by the International Labour Conference in 2020, which will review trends and developments in social protection and determine how the needs of member States can be addressed more efficiently by the ILO, including standards-related action, technical cooperation and research.
- 82.** Allow me to assure you that the Committee of Experts is firmly engaged on the path of meaningful dialogue with your Committee and all the other supervisory bodies in the interests of an authoritative and credible ILO supervisory system that promises decent work and social justice worldwide.

### **Statement by the Chairperson of the Committee on Freedom of Association**

- 83.** It is a privilege and honour for me to come before you today on this historic occasion for the celebration of the ILO Centenary. It is indeed a fitting occasion for this invitation to the

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Chairperson of the Committee on Freedom of Association to present to your Committee, the Committee on Freedom of Association's annual report for 2018.

- 84.** The idea for an annual report of the Committee on Freedom of Association was first considered in March 2017 between Workers' and Employers' groups, and in the joint statement, they provided that "on the basis of a proper clarification of their role and the mandate of the Committee on Freedom of Association vis-à-vis regular standards provision", the Chairperson of the Committee on Freedom of Association could present every year to the Committee on the Application of Standards a report of activities. Their statement emphasized, that this information would be important in showing complementarity of the committees, and could limit double procedures. We are speaking of complementarities because, unlike your Committee, the Committee on Freedom of Association is a complaints-based mechanism. While share the tripartite nature of your august body, the role of the Committee on Freedom of Association is to examine the complaints brought before it, regardless of the ratification of the relevant Freedom of Association Conventions, and to make conclusions and recommendations to guide governments and national authorities. The Committee on Freedom of Association therefore provides a unique opportunity, to ensure that across the globe there is a fair and level playing field where the fundamental rights of workers are ensured.
- 85.** Freedom of association has been at the heart of the ILO since its very creation, anchored in the Preamble to the Constitution, linked to the pursuit of sustainable development and progress, the human dignity enshrined in the Declaration of Philadelphia, and the belief in the principles that inspire the Conventions the application of which you will be reviewing in the next two weeks, was reaffirmed in the 1970 resolution concerning trade union rights and their relation to civil liberties. The freedom of workers and employers to join organizations of their own choosing and for those organizations to operate freely and without interference is a cornerstone of participatory democratic governance of the labour market. It is a critical element to the promotion, protection of free societies everywhere. It is therefore a given, to state that respect for freedom of association is essential for the legitimacy of all tripartite bodies of this Organization. It is thus equally effective, equally critical to the effective functioning, to the vital work you do, in supervising the application of ratified Conventions. Each of our committees, has its own role and contribution to play in ensuring these foundational rights of freedom of association and the effective recognition of the right to collective bargaining. The Committee on Freedom of Association's report on specific cases are not submitted to your Committee for appreciation but may provide the avenue for fostering social dialogue at the national level sufficient to address pending concerns that may have otherwise been raised in your global public forum.
- 86.** In this respect, the annual report of the Committee on Freedom of Association provides information on the functioning of the Committee and statistics on the use of this special procedure, which can be compared to the baseline set in its first report in 2017. Judging from the nearly 170 active cases before the Committee in 2018, it would not be an exaggeration to say that the Committee's work is well known and appreciated as an authoritative voice for identifying shortcomings and finding workable solutions to freedom of association challenges around the world. In some cases, where the government has ratified the relevant Convention, the Committee on Freedom of Association transmits the legislative aspects to the Committee of Experts on the Application of Conventions and Recommendations. In 2018, this practice which ensures complementarity in the system for a follow-up through regular supervision and avoid duplication on discussions was used in four cases.
- 87.** While regrettably the report shows that the highest number of complaints examined by the Committee on Freedom of Association in 2018 concerns threats to trade union rights and civil liberties and inadequate protection against anti-union discrimination, it is my pleasure to inform you that there have been a number of important cases of progress noted by the

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Committee on Freedom of Association following its recommendations, including the reinstatement of dismissed trade union leaders, conclusions on long-standing conflicts through the signing of collective agreements, improved registration processes, expedited investigations and legislative changes to allow for trade union diversity.

- 88.** Additionally, the Committee on Freedom of Association is fully conscious of the important support that can be provided to Governments and social partners through the Office by providing technical assistance. As has been in many cases requested directly by Governments to the Office, such assistance was offered by the Committee in 11 cases and received by three Governments in 2018. This form of effective collaboration and cooperation is a critically important tool for Governments and social partners alike to resolve our sundry matters through home-grown solutions.
- 89.** Allow me to conclude by recalling that the object of the special procedure on freedom of association, the work of the Committee on Freedom of Association is not to blame, it is not to apportion blame. It is not to punish but engage in constructive dialogue with the experience and expertise that its members bring to bear from the real economy to promote respect for freedom of association both in law and practice. I would be remiss if I did not take this opportunity to share my honour of presenting this report with the Government, Worker and Employer members of the Committee who have demonstrated since I have been privileged to be Chair their commitment to coming together, to proposing common solutions that enhance respect for this fundamental human right.

### **Statement by the Worker members**

- 90.** Allow me to thank Justice Koroma, who will finish his second term as Chairperson of the Committee of Experts at the close of the Conference. He has fulfilled his mandate in an exemplary fashion throughout the past six years, and has made a decisive contribution to the excellent cooperation between our committees that endures to this day. I am convinced that Justice Dixon Caton will continue the positive momentum built.
- 91.** Now, more than ever before, we must stand up to movements that are trying to call into question the legitimacy of our Organization. More broadly, it is the legitimacy of the standards established by the international multilateral system that are being challenged. This challenge is principally expressed under the banner of economic competitiveness. Democratic, social and environmental standards should seemingly be cast aside if they run counter to this economic competitiveness. And in fact, we have to note the decline of these standards. The erosion of democratic standards is demonstrated by the emergence of citizens' movements that are seeking new forms of representativeness in order to attempt to influence the policies adopted. It is essential to pay close attention to civil society's involvement in our decision-making processes. The ILO is still a forerunner in this regard. This model should be exported and expanded. The fading of social standards takes the form of rising social injustice and deprivation for an increasing number of citizens. Moreover, the benefits of growth are increasingly less fairly redistributed. This is the finding of the Global Commission on the Future of Work, which recalled that wage growth has not kept up with productivity growth and that the share of national income received by workers has decreased. The withdrawal of major States from binding environmental standards will damage, first and foremost, the most vulnerable populations. However, let us not forget that all of us – whether vulnerable or less vulnerable – will be affected sooner or later by the consequences of climate change caused by human activity. Democratic movements must not underestimate and brush aside these various fundamental aspects. They must quickly and profoundly grasp them. If they fail to take them on, they will leave the door wide open to populists, often to the detriment of those most in need of strong democratic, social and environmental standards.

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92. Making economic competitiveness the cardinal value of national or international policy raises the spectre of perils such as inward thinking, the exacerbation of nationalist feeling, the designation of competition to be vanquished which may quickly become an enemy to be beaten, and I could go on. It is precisely to combat such temptations to turn inwards that it was necessary to found an organization such as ours.
93. The harmful effects of these trends are not only felt in socio-economic matters. In the field of fundamental freedoms, we must also, unfortunately, acknowledge significant reverses. I am thinking, in particular, of the decline of the freedom of the press, the freedom to teach and, of course, freedom of association, which includes the right to organize. These trends are also accompanied by the unleashing of discriminatory discourse and outbreaks of violence against any form of opposition. As you may expect, civil movements, including trade union organizations, are particularly exposed to the harmful effects of these trends. We will have the opportunity to examine unfortunate examples during our discussion of the individual cases.
94. In this respect, it seems important for the Workers' group to recall that the right to strike must be recognized in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and that it is a fundamental ILO right and principle. Freedom of association would be devoid of all its substance without this indispensable corollary of any democracy.
95. A few moments ago, I mentioned the decline of democratic, social and environmental standards. The mandate of our Committee is to promote the proper application, in law and practice, of existing standards. Our Committee is therefore an essential actor in efforts to combat the decline of these standards.
96. Nor should we forget that the ILO also endeavours to establish international labour standards that are universal in scope. It is precisely by developing binding international labour standards that we can provide a response to the social injustices experienced by an increasing number of citizens around the world. In order to do so, we must also rely on the firm commitment of member States.
97. We therefore call on all Governments here present to reaffirm the commitment they made 100 years ago, alongside the Workers and Employers, to work together for social justice in order to guarantee universal and lasting peace. Now more than ever, we must show that we can provide a response to social injustice.
98. For the Worker members, it is essential and necessary to promote and implement a system of binding universal international standards that will consolidate human rights and regulate the social, environmental and democratic aspects of our societies. This is fundamental for refocusing policies on humane values rather than on economic competitiveness; in other words, economics at the service of humankind and not the opposite. This is the principle that must guide all our initiatives at both the national and international levels. Our Committee, by ensuring that international labour standards are respected by member States, is helping to put human beings back at the centre of our concerns and to work for the establishment of truly humane conditions of work. This mission is at the heart of the ILO's mandate and the Declaration of Philadelphia. It will also, without doubt, be at the heart of the Centenary Declaration.
99. As emphasized in the draft Centenary Declaration, the supervision of the application of international labour standards is of fundamental importance for all ILO action. For these standards to be applied, in law and practice, they must be subject to effective and authoritative supervision. The report of the Committee of Experts is the basic tool on which the work of our Committee is based. This work by the Committee of Experts can be

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undertaken largely thanks to the contributions of workers' and employers' organizations. As noted by the Committee of Experts, this year there has been a decrease in the number of observations sent by workers' and employers' organizations. We hope that this fall is not due to frustration among certain constituents, that the observations that they have sent are not always reflected in the report. The Committee of Experts must clearly be able to judge in full independence the relevance of the observations that they receive, although there may be supporting work to be carried out for constituents by the various ILO services.

- 100.** It is nevertheless important to ensure that as many as possible of the observations sent are reflected in the report so as to feed better into the discussion. To do so, the secretariat needs to be provided with the necessary resources to undertake this workload, which is considerable. This will guarantee the examination of the observations provided throughout the year. This is all the more important in light of the lengthening of the reporting cycle for technical conventions, which implies a longer delay in the examination of observations. Nevertheless, the broadening of the criteria for the interruption of the cycle and the examination of an observation outside the normal reporting cycle is to be welcomed. It was a necessary compensatory measure.
- 101.** Another way of compensating for this lengthening of the reporting cycle could be to consider changing the status of certain Conventions: the reporting cycle for the fundamental Conventions is shorter. Certain technical Conventions could therefore become fundamental Conventions. As suggested by the Global Commission on the Future of Work, it would certainly be time to recognize that the right to wages that ensure suitable living conditions, the right to the limitation of working time and the protection of occupational safety and health are accepted as fundamental rights.
- 102.** It is also important for the observations made by the social partners to be covered by observations in the report of the Committee of Experts, rather than being taken up in direct requests. The elements covered by direct requests cannot unfortunately be discussed by our Committee. And yet, many relevant elements are raised in direct requests. It would be useful in this regard to establish clear distinguishing criteria to determine the subjects that can be covered by an observation and a direct request.
- 103.** In addition to the observations of the social partners, observations by member States are also necessary for the functioning of the supervisory bodies. However, as we will see during the special session devoted to serious failings, there is a decrease each year in the number of reports reaching the Committee of Experts on time. What is worse is that more and more reports are simply not being received by the Committee of Experts. This is a fundamental problem which is endangering the effective operation of the supervisory bodies.
- 104.** The expertise of the Committee of Experts, the quality of its analysis, and in particular its independence, are essential elements in the promotion of compliance with international standards and their proper implementation in the countries concerned. The specific observations of the Committee of Experts allow us to undertake substantive work. This independence does not mean that our respective Committees cannot cooperate with a view to the mutual strengthening of their action and the Chairperson of our Committee very rightly emphasized yesterday the complementarity of the different supervisory bodies. Strengthening this complementarity is precisely the objective of the informal meetings organized each year between the Committee of Experts and the Vice-Chairpersons of the Worker and Employer groups. During these informal meetings, we have the opportunity to discuss the points that seem to us to be important to further improve the effectiveness of our respective work.
- 105.** We have already had occasion to express our concern at the reduction of the report in recent years. This reduction no longer allows us to discuss cases in such depth as previously. And

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yet this is indispensable in order to make the most effective and relevant recommendations possible.

- 106.** There are many forms of interaction between our Committee and the Committee of Experts. Dialogue between our Committees must be on an equal footing. Our Committee has no authority over the Committee of Experts. That must remain the case. It is imperative that the terms of reference of the Committee of Experts are respected.
- 107.** Interaction between the different supervisory bodies is essential to develop interpretation, and therefore for the evolution of international labour Conventions. Alongside our Committees, the Committee on Freedom of Association also plays a role in this respect. It is therefore very positive that we were able to hear the observations yesterday of the Chairperson of the Committee on Freedom of Association. It is essential to be able to ensure the overall coherence of the supervisory system as a basis for its legitimacy. That is why it is important to develop dialogue between the various components of this supervisory system so that they are mutually reinforcing.
- 108.** It is by assuming fully its mandate that our Committee will contribute to reinforcing the social, environmental and democratic standards necessary for the achievement of the constitutional objectives of our Organization.

### **Statement by the Employer members**

- 109.** We would like to thank Justice Koroma for his dedicated service to the Committee of Experts. Justice Koroma has always been committed to open and constructive dialogue between our two groups. I also wish to start by warmly welcoming Justice Dixon Caton as the new Chair of the Committee of Experts. We are particularly pleased to see that a highly qualified, experienced woman such as yourself is chairing the Committee as it demonstrates the ILO's true commitment towards gender equality.
- 110.** We would also like to begin by highlighting a number of positive developments in the regular standards supervision since last year and to make some constructive proposals for further improvement. We would begin by welcoming the Committee's two general observations on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and on the Indigenous and Tribal Peoples Convention, 1989 (No. 169). We hope that these general observations will provide clarity to governments in the full implementation of the provisions in both law and practice. In fact, we would like to propose the general observations issued by the Committee of Experts over the years be compiled into one publication to ensure that ILO constituents can consult them on a more readily accessible basis if they wished to do so.
- 111.** We also reinforce a proposal that we made previously for the Committee of Experts to consider presenting the report in a more user-friendly manner. We are of the view that presenting the observations by country, rather than by Convention, could help constituents have a more holistic and full view of application issues in a particular country. We therefore invite the Committee of Experts to give serious consideration to this proposal so that it can be discussed and, if necessary, implemented at its next session. Alternatively, we would suggest that an online version of the report, divided by country, could also be made available.
- 112.** With respect to the Committee, we embrace the changes accepted, such as reproducing in verbatim format discussions in the Committee's report. We believe that this will continue to help improve the accuracy of the reports by avoiding potential problems with misinterpretations or errors in the process of making summaries of statements, as well as

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saving time and cost. We think that this is an important measure to improve the efficiency of the working methods of our group.

- 113.** We also support the amendments to the Committee's working methods to allow member States to submit their latest information on cases in the preliminary list in the format of a D document. We trust this will improve the transparency, relevance and efficiency of the Committee and will assist the social partners in making fully informed decisions on the final shortlist of cases. The Employers' group remains fully committed to working on efforts within the working group to continue to improve the transparency and efficiency of the work of the Committee on the Application of Standards.
- 114.** Turning for a moment to the question of the lack of timely submissions of government reports, we note that the Committee of Experts once again expressed concerns this year of the low number of government reports received by the 1 September deadline. Even by the end of the expert session, not more than two thirds, more precisely, only 62.7 per cent of the reports were received. According to the annex to the Committee of Experts' report, it is our understanding that this is the lowest percentage since 1999. It also seems that many government reports did not contain the necessary information required for a full and complete examination. This is evident in the high number of direct requests made which, according to the Committee of Experts, are used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. In this context, the Committee of Experts has once again expressed concern for the high number of observations and direct requests that have not received any reply.
- 115.** Regarding article 22 reporting, we note that despite all genuine efforts and measures taken in the past, we have not been able to satisfactorily and sustainably improve the reporting situation. Instead, we have seen a backlash this year. We highlight that while the ILO bears the responsibility to facilitate the reporting procedure by introducing e-reporting and simplifying the reporting forms to make it as easy and straightforward as possible for governments to report, the ultimate responsibility to deliver reports under article 22 remains with the governments themselves. This responsibility and this commitment, in fact a legal obligation, derives from the government's autonomous decision to ratify ILO Conventions. The persistent failure of non-reporting and late reporting suggests that the problem is of a structural nature. To better understand and address this problem at its roots, we propose to make an in-depth study to clarify and make fully transparent the issues involved. In this context, we would like to know what other alternative information exists for the Office and the Committee of Experts to make up for the absence of a government report. In particular, to what extent do the Committee of Experts use other information channels apart from the information sent by the employers' and workers' organizations?
- 116.** In addition, we note that there seems to be a persistent problem relating to the capacity of the Office and the experts to examine the very high number of reports received. The Committee of Experts noted in paragraph 69 of the report that in view of the secretariat's heavy workload, which is largely due to the high number of reports submitted after the due date of 1 September, a number of reports could not be brought to the Committee's attention and will be examined at its next session. In paragraph 11, the Committee of Experts stated that reports received by this deadline might be deferred for other reasons, for example, the need for translation into the ILO working languages.
- 117.** Accordingly, we are interested in having some indication of the number of reports for which the examination has been postponed, along with the specific reasons why this is the case. It would also be helpful to have information on the Office's capacity and its limits to examine governments' reports. If the Office requires more resources, it would be helpful to understand what additional resources would be required, how we can maintain the Office's

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workload while ensuring a meaningful standards supervision process. We believe that this discussion would be helpful to continue to work towards ensuring the proper functioning of the supervisory system in the long term.

- 118.** The second issue that I will turn to is the lack of the clear differentiation in practice between direct requests and observations. Last year we raised the issue concerning the Committee of Experts' differentiation between observations and direct requests. We observed the additional explanation provided by the Committee of Experts in paragraph 27 of its 2019 report that even though criteria might appear clear at first, their application sometimes called for a delicate balancing and that the Committee of Experts needed room for reasoned discretion in this area. While we appreciate the Committee of Experts' need for discretion, we reiterate the need for a transparent and clear differentiation in practice between the two categories of comments given the important consequences it has for the supervisory process. While observations are included in the Committee of Experts' report and can be discussed in the Committee, this is not the case for direct requests. We are concerned that, as a result of making numerous substantial comments in the form of direct requests, the Committee of Experts excludes from our discussion a major part of standards application. This year, the Committee of Experts made 1,075 direct requests compared to only 535 observations; therefore, we think this is an important issue that merits further discussion. We would then, as a result, again request the Committee of Experts to make any comments that contain assessments of compliance, and that are not mere requests for information or clarification, in the form of an observation.
- 119.** Furthermore, we would like to reiterate our previous request for the Committee of Experts to provide clear reasons and explanations as to why a case has been double footnoted in the report. We believe that such additional information would be helpful to increase the transparency in the identification of cases each year and also to provide all groups with additional context regarding the case concerned.
- 120.** Third, we would like to make a comment on the Committee of Experts response to the International Chamber of Shipping observations concerning the meaning of Regulation 2.5 on the entitlement to repatriation and the right of the seafarer to forgo this right in certain cases. The Committee of Experts agrees to the interpretation of this provision but also considers in this context Regulation 2.4 on minimum annual leave, which is one month per year. While agreements can be concluded to forgo the leave entitlement, Standard A2.4, paragraph 3, permits the competent authority to provide for some exceptions. Nevertheless, the Committee of Experts considers that in order not to defeat the purpose of Regulation 2.4, paragraph 3, Standard A2.4 should be read restrictively. We disagree with this view as the provision authorizes competent authorities to define the exceptions as they see fit. In our understanding, there is no specified qualification in these provisions requiring that exceptions must be defined restrictively, other than that they must be genuine and must not become the general rule. So we would request that the Committee of Experts provide further clarification in this regard.
- 121.** In addition, the Employer members would like to comment on paragraph 43 of the Committee of Experts report regarding the ILO's role in measuring progress towards achievement of the SDGs. In October 2018, the International Conference of Labour Statisticians adopted the methodology for measuring progress towards indicator 8.8.2 on freedom of association and collective bargaining for which the ILO is the main custodian. During the previous negotiations, the Employers' group expressed concerns on the evaluation criteria used for indicator 8.8.2, as it contained many contentious interpretations made by the Committee of Experts in this field. The Employers' group also noted that diverging views of the Committee would only be considered in the measurement process if they were explicitly stated in the Committee's conclusions. The Employers' group has made its position clear that agreement on the methodology does not in any way mean an agreement



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with the Committee of Experts' interpretations on this point. We also recalled that the International Conference of Labour Statisticians called upon the Governing Body to set up a tripartite committee to further address improvements in the methodology.

- 122.** Finally, since the Worker members have addressed the issue of the right to strike, the Employer members recall that they have never excluded the possibility of discussing in a tripartite manner an ILO instrument on the right to strike. However, in the absence of such an instrument, our position has been consistent that the Committee's conclusions will not make requests to governments to change their law or practice on this issue, as our position is that the conditions and practices of industrial action, including strikes, are, in fact, regulated at national level. In considering the reputation and credibility of the supervisory system, we continue to express our view that it is not acceptable for the Committee of Experts to unilaterally and extensively interpret an ILO Convention without taking into account the view of the full tripartite International Labour Conference, including the views of the Committee members.
- 123.** The Employer members reaffirm their firm and ongoing commitment to support ILO standards supervision, clearly an important governance institution in international labour and social policy. In our view, in order for ILO standards and standards supervision to have the desired impact and outcome in the real world of work, both of these components of the ILO standards system need to be balanced, taking into account workers' protection, rights, as well as the needs of sustainable enterprises, and to be mindful of the changing world of work and the changing situations and needs of that changing world of work. We look forward to continuing cooperation with Government and Worker representatives in a constructive spirit at this, the Centenary Session of the Conference, and look forward also to continuing our respectful and ongoing dialogue with the distinguished Committee of Experts.

## **Statement by Government members**

- 124. Government member of Romania, speaking on behalf of the European Union and its member States:** We are pleased to take the floor on this special and unique occasion to celebrate the ILO Centenary. The ILO's normative and supervisory activities constitute a fundamental element of its core mandate. They are part of its DNA and more relevant than ever in today's world. Indeed, the ILO's norms have a global coverage and constitute a good example of rule-based multilateralism. They are also essential to respond to societal challenges and needs. One illustration is the Convention on harassment and violence at work, which is meant to address a very timely topic that we should adopt at the end of this International Labour Conference.
- 125.** Today's world is confronted with many global challenges, including persistence of inequality, protracted conflicts, migration, climate change, demographic changes and unprecedented technological transformations that will have an impact on the world of work. Numerous examples of these challenges can be found among the cases we will be discussing during this session of the International Labour Conference. Thanks to its normative role, the ILO has often been an Organization that contributes to social progress and the fulfilment of human rights in relation to the world of work and social justice. One of the first Conventions adopted in 1919, when the Organization was founded, is related to maternity protection. Other historical areas of progress relate to hours of work, wages, health and safety at work, social security and social dialogue. In 1998, the Fundamental Principles and Rights at Work Declaration committed member States to respect and promote principles and rights in four major areas whether or not they have ratified the relevant Conventions: freedom of association and the effective recognition of the right to collective bargaining; the elimination of forced or compulsory labour; the abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

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**126.** The international community has recognized that ensuring decent work is essential for development and the precondition to fulfil a certain number of the 2030 SDGs and targets, mainly SDG 8.5, SDG 8.7, SDG 10 and SDG 17, as indicated in the report. Moreover, compliance with ILO Conventions is essential for social and economic stability in any country, and an environment conducive to dialogue and trust between employers, workers and governments contributes to creating a basis for solid and sustainable growth and inclusive societies. International norms constitute a core element of the United Nations system's work at the country level. We hope that the ILO's normative work and priorities will have a prominent role in the ongoing reform of the United Nations system. Adopting international norms without having a robust and independent supervisory system to oversee their implementation would be inefficient. Indeed, this is critical to ensure credibility of the Organization's work. We, therefore, attach great importance to the reporting mechanisms under the ILO's regular supervision. We acknowledge that this reporting process is burdensome to some ILO Members who have ratified a high number of Conventions but it is essential to ensure a successful monitoring of the international labour standards application. Moreover, having a regular review of labour standards implementation enables focusing on technical aspects of the cases in a balanced and thorough manner. None of the ILO Members are pleased to be on the shortlist for obvious reasons, but our member States have accepted the Committee rules and abide by them. We see the Committee as a tool aiming at assisting governments in fulfilling their obligations. It also facilitates social dialogue, requiring the governments to review the application of standards and to share this information with the social partners who may also provide information. The ensuing social dialogue can lead to further problem-solving and prevention. We also value the technical assistance provided by the Office in drafting and revising national legislation to ensure that it is in conformity with international labour standards. As some European Union policies and instruments make reference to the promotion of international labour standards and to the results of their supervision, the conclusions of the Committee are also important to us for assessing compliance with those standards. Special procedures or representation and compliance are complementary to the regular supervision and we support the right of workers' and employers' organizations to make use of such mechanisms in case of breach of ILO standards. This system, as a whole, has had a real impact on the implementation of ILO Conventions and enables progress in the field of human rights related to the world of work and social justice since its creation. Such a unique role and asset should be preserved and included as a prominent feature in the Centenary Declaration that we should adopt at the end of the current session of the Conference.

**127.** We need to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work and which is subject to authoritative and effective supervision. For all these reasons, the European Union and its member States will continue to support ILO standards and supervisory mechanisms and will stand firm against any attempt to weaken or undermine this system.

**128. Government member of Oman, speaking on behalf of the Gulf Cooperation Council:** We pay tribute to the work of this Committee and to the Committee of Experts for the in-depth Survey which looks at the challenges facing us today, with a view to achieving social justice for all. This report describes our efforts for social justice within this Organization under difficult and changing conditions. Among the major challenges facing us today is how to link working life and the future of work in particular, given the impoverishment afflicting many countries despite the efforts made by the United Nations, in the framework of the 2030 Agenda, to achieve the objectives of social justice and progress for all, in cooperation with all member States. This report describes the changes and transformations facing the world of work to seize every opportunity for a social pact, to change conditions of work to achieve decent and lasting work. We, the Gulf States are committed towards sustainable development, within the context of our national and global strategies, to resolve the problems relating to working conditions. And as we have faith that we need to work for greater

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economic progress based on respect for human rights and the rights of the individual, our countries and the countries of the Gulf Cooperation Council, in cooperation with the ILO and all colleagues here, will work to adopt policies for decent work, and to improve living conditions.

- 129.** The member States of the Gulf Cooperation Council hope that the three partners in the tripartite system will work to ensure respect of the international labour standards and that the Committee's work will be a complete success.
- 130. Government member of Belgium:** Belgium endorses the statement of the European Union and its Member States. We are happy to be celebrating the ILO Centenary with the Committee on the Application of Standards. Belgium is one of the founding Members of the ILO and one of the nine countries which help to draft the Constitution of the Organization. The adoption of international labour standards, the promotion of their ratification and the monitoring of their application has been one of the fundamental tasks of the ILO since its creation.
- 131.** The aim of international labour standards is to guarantee decent work for all workers, and the most fundamental principle shaping these standards, which is enshrined in the Declaration of Philadelphia and has already been repeated several times, is that labour is not a commodity and that all human beings have the right to pursue their well-being in conditions of freedom and dignity, of economic security and equal opportunity. These standards also serve to create a level playing field to ensure fair competition among countries since, as the ILO Constitution indicates, the failure to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve conditions for workers in their own countries. However, to achieve a genuine improvement in conditions of work for all workers, the ratification of these standards by a growing number of countries and also their effective application in law and practice is essential. Belgium has always endeavoured to set an example in this field. Our country has ratified, *inter alia*, all the fundamental and governance Conventions, and it appears that we occupy equal third position with Italy, after France and Spain, in terms of the number of ratified ILO Conventions.
- 132.** The supervision of international labour standards is a fundamental aspect of the ILO's mandate, and the work of the Committee on the Application of Standards, as a pillar of the supervisory system, is of unquestionable and immutable relevance. Its tripartite character constitutes a unique model of cooperation and dialogue between governments, employers and workers throughout the world. The functioning of the supervisory system is based above all on the reports sent by governments. Accordingly, to ensure the best possible functioning of the Committee on the Application of Standards, it is of course important that countries fulfil their obligations regarding the submission of reports within the set deadlines, and this is where the low proportion of reports received remains a source of concern. Belgium notes that reporting represents a huge workload for member States which have ratified a large number of Conventions. We therefore think that it is vitally important to continue discussions on simplifying the current reporting system, in order to lighten the administrative burden for States.
- 133.** While celebrating the ILO Centenary, we must resolutely turn towards the future and think about the world we want to live in. One of the major challenges will be to ensure that the ILO has a robust, clearly defined, up-to-date and relevant body of international labour standards, in particular through the adaptation of existing standards or the creation of new standards enabling it to respond to the changes in the world of work in order to provide genuine protection for all workers. The prevalence of an effective, authoritative supervisory system will also be crucial for the future.

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134. Lastly, the Decent Work Agenda and international labour standards will play a leading role in the implementation of the 2030 Agenda for Sustainable Development and also in the reform of the United Nations system. Belgium reaffirms its commitment to international labour standards as the cornerstone of decent work and social justice.
135. **Government member of Brazil:** Brazil recognizes that the new working methods of the Committee of Experts regarding the eventual breaking of reporting cycles for the analysis of comments of social partners and for the request of additional information from governments, can be a step in the right direction. However, in our understanding, such a break should only be used in exceptional and urgent cases. The relevant justification – and I refer to a justification, not only a reference to a general rule – the relevant justification should be clearly stated in the analysis of the individual cases. Moreover, these closing arguments and grounds for decisions regarding procedural matters is also a key aspect of the rule of law and should be taken fully into consideration.
136. Brazil also takes note that the guide on established practice of the supervisory system which is currently in the final stages of preparation, does refer to the procedures adopted by the Governing Body, and its Officers in particular, in the selection of members of the Committee of Experts. This had been a request of our regional group of GRULAC. In Brazil's view, such a procedure should be inspired by the best practices of the UN system, safeguarding a selection process that is fully transparent and guided by clear and technical criteria. The general part of the report of the Committee of Experts should also reflect, and when possible further clarify, those criteria with a view to strengthening the Committee and strengthening the important role of the Governing Body in this regard.

### **Reply of the Chairperson of the Committee of Experts**

137. I am greatly honoured to have been elected by my peers to chair the Committee of Experts for the next three years because of the importance of the work that we perform. The privilege of being present at this historic session of the International Labour Conference allows me to appreciate first-hand the exchange of reflections made by the ILO constituents on the report and the General Survey produced by the experts after extensive analysis.
138. It is undeniable that the dialogue which has been taking place between the Committee of Experts and the Committee on the Application of Standards and which has been strengthened at various levels in recent years underscores the complementary nature of the work done by our two Committees, which in turn helps to strengthen the pillars which have been supporting the ILO structure for the last 100 years. Once again, the supervisory mechanisms of our Organization have proven to be its distinguishing feature and to make it highly effective.
139. I recognize that one of the most valuable elements of this coming together is the synergy generated by the rigorous examination of the reports presented by the Committee of Experts in the tripartite setting. Even though divergent opinions have certainly arisen among the numerous comments made, the meetings have taken place in a climate of respect, cooperation and responsibility. This enables me to convey your reflections back to my colleagues with the aim of resuming the analysis of the aspects that have been underlined here, and this helps to enhance the quality of our work. You can be absolutely certain that I have taken note of your comments and these will be duly forwarded, as is appropriate, to my colleagues, the members of the Committee of Experts.
140. I will take this opportunity to emphasize that some of the elements reiterated in this Committee have, on every occasion, deserved special attention from the Committee of

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Experts in terms of contributing conceptual explanations, definitions, clarifications and distinctions, as reflected in a number of our previous reports. However, I observe that there are still some concerns over matters such as the criteria for distinguishing observations from direct requests; the criteria used for examining cases outside the reporting cycle; the format, model and scope of our reports; and the impact on our work when governments fail to submit their reports. You can be sure that the views expressed here will be shared with the members of the Committee of Experts for prompt and timely consideration. That said, it is my responsibility to note that on each occasion the Committee of Experts, as part of the examination of its working methods, has taken follow-up action and has given its views on the specific aspects highlighted during the meetings of your Committee. Before concluding, allow me to express my immense satisfaction at the substantive statements on the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202). There have been 39 statements from the three sectors in the various regions of the world represented here, which is testimony to the high relevance of the social protection set out in Recommendation No. 202, the subject of the General Survey.

141. I would like to reiterate my sincere gratitude for the proposals made by the Vice-Chairpersons and Government delegates. These enrich the work of the Committee of Experts and reinforce our supervisory system as one of the key mechanisms for promoting social dialogue, a vital element for achieving social justice and continuing to build lasting peace in the world for another 100 years.

### **Reply of the representative of the Secretary-General**

142. Allow me to begin my reply to your Committee by sharing a piece of very good news. Today is 12 June, the World Day Against Child Labour. In my opening speech, I informed you that we were two ratifications away from universal ratification of Convention No. 182. I have the great honour to announce that the Secretary-General of the Conference and the ILO yesterday registered the ratification by Tuvalu of Convention No. 182 and that we are now just one ratification away from universal ratification of Convention No. 182. You will understand, on this World Day Against Child Labour, that I wished to start with this. Regarding the Centenary ratification campaign, which I spoke to you about in my opening speech, as you know, it was initiated by the Secretary-General and actively supported by the ILO constituents and the Office. This campaign continues to receive a good deal of support and to achieve positive results. Since the opening of the Conference we have registered, in addition to the ratification by Tuvalu, the ratification by Singapore of the Occupational Safety and Health Convention, 1981 (No. 155), and the ratification by Niger of the Maternity Protection Convention, 2000 (No. 183).
143. First of all, I wish to thank each and every one of you for your contributions, comments, proposals, suggestions and ideas, expressed throughout the general discussion. This discussion is always very rich and the views are always very varied and cover a number of topics. I assure you that we have scrupulously noted all the proposals, comments and suggestions made. I would now like to respond to some of the proposals, suggestions and comments made by delegates during this general discussion.
144. The first topic I would like to come back to concerns the visibility and accessibility of the report of the Committee of Experts, the General Survey and the general observations. Your request for greater visibility in fact matches a request made by the Committee of Experts itself. The Office made a commitment to innovate with respect to the presentation of the General Survey. In addition to the executive summary, which is new this year, we are currently working on other innovations to surprise you – I hope positively – next year and, in the first instance, to respond to the request made by the Committee of Experts itself. We

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have heard the Employers, among others, welcome the hard copies of the general observations of the Committee of Experts. Hard copies are available, for those who are interested, of the general observations published this year on both Conventions Nos 111 and 169. We will continue this practice and have taken note of the suggestion to envisage the publication of a compilation of the general observations. The Office will examine the extent to which we can take this proposal forward in the future.

- 145.** The Employer members suggested envisaging the publication of the discussion of the General Survey by your Committee in a separate document. We will examine this proposal. However, at this point I would like to remind you that, in line with the new working methods adopted by your Committee this year, the full set of transcripts of the discussion of the General Survey will be available as of tomorrow. From tomorrow, you will have on your Committee's website the transcripts of all the General Survey discussions. That already provides, by and large, a response to the proposal put forward. They will be available in the three ILO languages 30 days after the closure of the Conference.
- 146.** Regarding the proposal for the report of the Committee of Experts to be presented by country, that discussion should continue. But on the same theme, I would like to mention already that the database on international labour standards (NORMLEX) has a very simple and visible tab entitled "country profiles". In a single click, you have all the information from the entire supervisory system, which includes not only the comments of the Committee of Experts, but also the comments of the other supervisory bodies. So, in just one click, you have all the information available by country.
- 147.** Many comments related to the technical assistance of the Office. I am delighted to hear the extent to which this technical assistance is proving useful and that it is requested by all of you. That it is useful, on the one hand, to strengthen the capacity of ILO constituents to fulfil their reporting obligations, and that it is also useful for reinforcing the capacity of the social partners to contribute to the supervisory mechanisms. As you know, the Office always responds to these requests as a priority, whether it be from headquarters in Geneva or from our multidisciplinary teams in the field. Providing support to the tripartite constituents – Governments, Employers and Workers – in their effective participation in standards activities is a priority of the current programme and budget and will remain a priority in the next programme and budget.
- 148.** The issue of resources was mentioned by several speakers. This issue arises because the Organization does not have an unlimited budget. The Office has therefore also considered mobilizing extra-budgetary resources. This year, I would once again like to thank the European Commission in particular for its funding of a project on a theme that is generally very unattractive to donors, but which enables us to offer much stronger support to 12 countries to better implement ratified international labour standards, particularly the fundamental Conventions. Your support – Governments, Employers and Workers – for resource mobilization is welcome. I am fully available to discuss how we might work together to mobilize further resources to provide the technical assistance that you have requested.
- 149.** Regarding the more specific issue of technical assistance and the failure to fulfil reporting obligations, first of all, I would like to put our discussion into perspective. When compared to other international organizations, the proportion of reports received by the ILO is one of the highest among all the organizations. This is important to highlight because it demonstrates the strong commitment of governments to participating in and engaging with the supervisory system. Now, we can always do better. The Office is determined to explore all avenues and means to do so.

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- 150.** Apart from situations of particular crisis that may explain why, in some cases, some countries find themselves in difficulty and are unable to meet their reporting obligations in a timely manner, one of the main causes is the rotation of officials within labour ministries and the consequent loss of institutional knowledge and expertise in national administrations. This is not a new situation, it is a recurring situation that we have seen in the past, we see today and we will continue to be faced with in the future. It is therefore a situation that is with us and will continue to be with us. Rest assured that, when I meet with the Ministers of Labour in bilateral meetings, I take every opportunity to discuss this issue in order to identify how the Office might better support this transmission of institutional memory within the various national administrations.
- 151.** Following all these consultations and exchanges, the Office is currently developing, along with the Turin Centre, an online training programme specifically aimed at newly appointed officials who are given responsibility for reporting obligations, and therefore for preparing and coordinating the drafting of reports. This work is under way and should in any case facilitate the rapid assumption of these new responsibilities by these officials. This is precisely the kind of initiative the Office is taking in response to the issue of the frequent rotation of officials responsible for reporting obligations.
- 152.** The broader issue of the reporting burden and the late submission of reports leads gives way to several comments to make on this matter. Firstly, this is an issue that receives our full attention and to which the Office gives the highest priority. I would like to take this opportunity to assure each of the Governments present that we are listening very carefully and that we are taking into account your concerns about the difficulty of meeting reporting obligations, concerns that we heard in the opening remarks by, among others, the representative of Belgium, which occupies joint third position with Italy for ratifications, behind France and Spain, all countries that have ratified a large number of Conventions and are now facing a very heavy reporting burden. We have heard you for a very long time and we have examined this issue from different angles. The first lesson we have learned is that we must not have any illusions. There is no single, miraculous solution that will enable us to respond satisfactorily to your request. The Office is therefore currently implementing a multidimensional strategy.
- 153.** The Standards Initiative, one of the Initiatives launched in the framework of the Centenary, has given us the unique opportunity to propose a set of measures that the Office is currently implementing. The combined effect of these measures will produce the results you have requested. The measures included in the multidimensional strategy are the following:
- (a) The first measure is the approval by the Governing Body to increase the reporting cycle for technical Conventions from five to six years.
  - (b) The Governing Body also approved, as part of the Standards Initiative, a pilot project aimed at establishing draft reports to serve as a baseline for the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). As part of this pilot project, the Office is preparing draft consolidated reports on occupational safety and health Conventions based on information already submitted by governments in previous reports. Thus, the Office takes the available information already submitted by the government concerned and pre-fills the draft consolidated report for reference. The draft report is then sent to the government for the information to be updated, approved and subject to consultation with the social partners. This new reporting mechanism should reduce the reporting burden and ultimately speed up the reporting process, through this dual measure for the consolidation of reports as far as possible and the pre-completion of reports by the Office before the draft reports are sent to the governments concerned. This new method is currently being tested by six countries which I would like to thank for agreeing to try out this new approach. The countries concerned are

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Thailand, Togo, Turkey, United Kingdom, Viet Nam and Zambia – a big thank you once again to all these countries. This will enable us to see how to fine-tune this reporting method and assess whether it can function efficiently.

- (c) The Office is also developing an IT application which will enable us to extract the information contained in the reports submitted by governments, in order to reply to a request to make available the very valuable information in these reports on the legislation and practices that duly give effect to the Conventions. This information remains in the reports and only a brief summary is included in the observations of the Committee of Experts. Hence this is indeed a valuable source of information and we are developing an IT application from this pilot project which will enable us to extract information, post it online and share it with all member States.
- (d) The Office is developing an initiative that the Committee of Experts already launched a few years ago, namely the introduction of consolidated comments covering several Conventions at a time. This initiative has received strong support from you in the Committee on the Application of Standards and also from the Governing Body and the Committee of Experts. The Committee of Experts has now asked us to extend it as far as possible to other Conventions.
- (e) The use of IT tools to facilitate, in turn, the Office's handling of reports, with the number of reports inevitably increasing in view of the growing number of ratifications. Clearly we have non-computerized working methods within the Office, and many people, particularly members of the Committee of Experts, have been asking us for several years to use IT to facilitate everyone's work. We have carried out an extremely rigorous analysis of our working methods as part of the wider reform of the processes used by the Office. We have called for support for this initiative to help us with this rigorous analysis of our working methods; we have identified a number of solutions. These will be implemented in a planned and coordinated manner this year and next year. This will also enable us to be more efficient in processing the reports received and preparing the necessary documents for the Committee of Experts, but all of this has a cost. The budget for computerization is available for this year. However, the budget for the computerization of activities that will still have to be implemented next year will be discussed in due course and has not been entirely settled at this stage.
- (f) The decisions taken by the Governing Body in the context of the Standards Review Mechanism will also entail a lightening, albeit slight, of the reporting burden in relation to certain instruments which will no longer be the subject of reporting since they will no longer be considered up to date.

**154.** It is the combined effect of all these measures that will truly enable us to have the outcome that we expect and will enable us to meet the requests of governments, the social partners and the supervisory bodies to thus find more modern working methods in order to reduce the reporting burden, speed up the reporting process and be more efficient.

**155.** A number of your remarks and suggestions have concerned the working methods of the Committee of Experts and, without duplicating the statement of the Chairperson of the Committee of Experts, the Office reiterates that all your remarks and suggestions concerning the distinction between observations and direct requests, the criteria for the examination of observations from the social partners and for breaking the reporting cycle, the issue of the social partners' observations sometimes being ignored or only reflected in direct requests, the growing number of direct requests compared with the number of observations, to mention but a few, will be faithfully reported to the Committee of Experts for discussion and examination. In the context of the discussions on its working methods, the Committee of Experts is really dedicated to continuing innovation and is pushing the Office into always doing more and better. We are preparing for these discussions to be held at the end of the



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year with the Committee of Experts to see what other innovations it wishes the Office to implement in relation to its work.

## Concluding remarks

- 156. Employer members:** We fully align ourselves with the introductory comments made by the outgoing Chairperson of the Committee of Experts, as well as with the reply presented by the new Chairperson of the Committee of Experts. Their presence demonstrates the mutual respect and cooperation demonstrated by both Committees, within the framework of their work. We thank Ms Vargha for her detailed and comprehensive reply.
- 157.** We remain of the view that the work of the Committee of Experts is essential to the successful functioning of the Committee on the Application of Standards, as well as to the work of the regular standard supervisory system as a whole. We welcome the commitment of the Committee of Experts to ensure further synergy between the two Committees. We remain committed to ongoing dialogue between the Committee of Experts and our Committee as this is important not only for the ILO constituents to better understand standards related requirements, but hopefully also in the spirit of facilitating the experts' understanding of our perspective of the realities of the world of work and the needs of the users of the supervisory system.
- 158.** While maintaining its independence, it is important for the Committee of Experts to hear and consider the ILO's tripartite constituents as well as to continue to work towards implementing measures to make the regular standard supervision more user-friendly, effective and transparent. We believe that these overall efforts will continue to work to facilitate the understanding and application of international labour standards. We are of the view that, while the experts are clearly independent and free to form their observations, it is important to take into account the practical realities of the world of work in order to remain relevant and authoritative within the multilateral system.
- 159.** Ms Vargha summarized a number of the ongoing initiatives and we welcome these efforts both from a human and technological perspective in terms of the improvements that are being considered to increase efficiency and manage what is clearly a very voluminous workload. In summary, we would encourage the Office to give further consideration to our proposals regarding article 22 reporting where we have proposed an in-depth study to clarify and make fully transparent the issues involved. Specifically in this context, we would like to know what other alternative information exists for the Office and the Committee of Experts in the absence of government reports. In addition, concerning the persistent problem for the Office and the Committee of Experts to examine the reports received, we have proposed some indication of the number of reports for which the examination has been postponed along with an understanding of why this was the case so that we could continue to assess and better understand the Office's capacity in this regard.
- 160.** We note several issues of concern which we express in respect of, in particular, the Committee of Experts' differentiation between observations and direct requests. So, in this spirit of mutual respect and understanding we invite the Committee of Experts to consider the use of direct requests and whether in some cases this is the most appropriate and transparent manner in which to communicate with member States. We look forward to further discussion on this point.
- 161.** In addition, we have raised concerns on the evaluation criteria used by the Committee of Experts for measuring progress towards the achievement of indicator 8.8.2 of the SDGs, as it contained many contentious interpretations in this field.

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162. Finally, we also raise, for further consideration, the issue on the interpretation of Convention No. 87, the use of direct requests in this regard and also the consideration of the interpretation of the right to strike and guidance given to governments in this regard.
163. We believe and continue to invite ongoing dialogue in terms of the best solution and reiterate our position that we are hopeful that the Committee of Experts will take into account the Employer members' view on the right to strike as well as the views of the majority of the tripartite constituents in this regard.
164. We welcome Ms Vargha's initial reactions to the Employer proposals and we welcome further opportunities to engage in dialogue with the Office to build on these efforts in the spirit of cooperation between our group and the International Labour Standards Department of the Office. We trust that our constructive comments will be duly considered by both the Committee of Experts and by the Office in providing support to the work of the Experts. We very much look forward to ongoing exchanges between the Committee and the Committee of Experts in 2019. We also remain open to additional opportunities to engage in dialogue where those opportunities may exist.
165. To conclude, we would like to reaffirm their full commitment to continue improving the international labour standards system including the regular standard supervision to ensure that it remains credible, relevant and transparent as the ILO enters into its second century. More specifically, we restate our commitment to the good and efficient and transparent functioning of the Committee on the Application of Standards, as well as reaffirm our commitment to the Standards Review Mechanism and the work taking place in that regard.
166. **Worker members:** We have had fruitful discussions which have given us a glimpse of the possibilities for further improving the efficiency of our respective supervisory bodies. It is clear that our supervisory bodies are constantly evolving. And, as very well put by Justice Koroma in his intervention, any development of a supervisory system must be based on its strengths. It is clear that the reforms we are putting in place can only be carried out with a view to strengthening the supervisory bodies. I have heard interesting suggestions which could contribute to increasing efficiency.
167. The proposal made, for example, by the Employer members, to establish a compilation of general observations made by the Committee of Experts on certain Conventions is an excellent idea to get an overview at any given time of the main comments formulated by the Committee of Experts on a specific Convention. Moreover, the representative of the Secretary-General has already provided some examples.
168. The possibility offered to member States to submit information to the Committee as soon as the long list of cases likely to be handled is published is, as highlighted by the Employer spokesperson, a very positive initiative that is already bearing fruit. It enables us to start a discussion of an individual case on the basis of the most recent information. We must nevertheless be sure to remain objective with regard to such information as it cannot be cross-checked in such a short space of time.
169. We can only share the statements made concerning the reporting obligations of member States. We had the opportunity to discuss them at length during the discussion on cases of serious failure this morning. Carrying out an in-depth study in order to understand the intrinsic reasons for the steady deterioration in the rate of replies received from member States is an avenue to explore. But the ILO seems to have a good idea of the factors explaining the poor response rate as explained by the representative of the Secretary-General. This analysis seems to have been addressed consistently by the Office, which is positive.

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- 170.** Some points addressed in our discussions, however, seem to need to be qualified. We would like to improve the user-friendliness of the reports by presenting the Experts' observations by country. The presentation of the report seems to us, however, to be perfectly user-friendly and already contains a country index, showing all the Conventions on which comments have been issued.
- 171.** We are also concerned that establishing comments by country would water down the understanding required by member States of the observations and recommendations made regarding the different obligations enshrined in the Conventions examined. The current presentation has the advantage of regrouping all the information in a single place, thereby facilitating access. Furthermore, and as the representative of the Secretary-General also said, the NORMLEX database, accessible through the ILO website, already contains country profiles, providing access to all the information on the examination of the application of Conventions by different supervisory bodies. It is really a very useful and interesting tool which can be used for this purpose.
- 172.** With respect to the comments of the Employer members on the interpretation of the MLC, 2006, the Worker members fully align themselves with the interpretation of the Convention made by the Experts. It is clear to us that the maximum continuous period on board a vessel cannot exceed 11 months. Another interpretation of the Convention would contravene its purpose, which is to guarantee seafarers appropriate leave of at least 30 days per year.
- 173.** The methodology used to measure progress towards SDG indicator 8.8.2, on the degree of respect for labour rights (freedom of association and the right to collective bargaining) at national level, has been contested. It appears, however, that this methodology was adopted through a tripartite decision at the International Conference of Labour Statisticians in October 2018, barely eight months ago. The mandate given and the decisions made at that Conference should be respected. In accordance with the agreement concluded following the consultations held by the ILO prior to the Conference of Labour Statisticians, a technical reference group will be responsible for examining this methodology after two years.
- 174.** The Employer members consider that the Committee of Experts should not be able to broaden the interpretation of the Conventions without tripartite consensus of our Organization's constituents on the interpretation of the provisions of a Convention. The Committee of Experts' mandate involves the examination of the legal scope, the content and the meaning of the provisions of the Conventions. Obliging the Committee of Experts to obtain tripartite consensus among constituents on its interpretation of provisions of the Conventions would amount to imposing supervision over it, which is incompatible with the independence of this body. The best evidence of the degree to which the Committee of Experts uses its competence of interpretation is reflected in the incorporation of its opinions and recommendations into national legislation, international instruments and court decisions. It also appears to us that, in a world in constant evolution and transformation, the interpretation of the Conventions is necessary for the development of these dynamic instruments which are, and must be, international labour Conventions.
- 175.** The independence of the Committee of Experts is an essential guarantee of the ILO supervisory mechanism that reaffirms the clear fundamental principles that unfortunately cannot always be affirmed through the requirements of consensus.
- 176.** It is indisputable that the International Labour Office has a leading role to play in the coordination that must exist among our different supervisory bodies and, evidently, also in the promotion of the ILO international labour standards, particularly by encouraging the ratification of Conventions by member States.

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177. It is also important to underscore that, with regard to the right to strike, the Worker and Employer members have a difference in opinion. But we would like to reiterate the position of the Worker members. For us, the right to strike must be recognized within the framework of Convention No. 87. It is a fundamental right and principle of the ILO. Freedom of association would be void of all substance without this indispensable corollary to all democracies.

178. Lastly, we are pleased to have been able to listen to the Chairperson and outgoing Chairperson of the Committee of Experts as well as the Chairperson of the Committee on Freedom of Association during our discussions and we thank them for their participation. We hope that we will be able to further build constructive cooperation with respect for our mutual independence.

### C. Report of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)

179. **Representative of the Secretary-General (Director of the Sectoral Policies Department):** The Joint ILO–UNESCO Committee of Experts (Joint Committee) on the Application of the Recommendations concerning Teaching Personnel (CEART), held its 13th Session in Geneva at ILO headquarters from 1 to 5 October 2018. Founded in 1968, the CEART meets every three years, alternating between Paris and Geneva, to review the application of both the ILO–UNESCO Recommendation concerning the Status of Teachers (1966) and the UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel (1997). As in previous practice and as set out in its terms of reference of 1999, the CEART examined a number of urgent issues affecting teaching personnel. This session discussed for-profit low-fee private schools in lower-income countries, upper secondary and tertiary technical and vocational education and training (TVET) conditions, teachers and the future of work, assessment and evaluation of higher-education personnel, as well as education financing. The Joint Committee also examined a number of allegations from teacher organizations regarding the application of the Recommendations. In view of its 50th anniversary in 2018, the CEART also adopted a Declaration titled “Education is not a commodity: Teachers, the right to education and the future of work”. The Declaration underscores the principle that education is a fundamental human right and not a commodity and sets out a reflection on the role of the teacher in the future of work in relation to such matters as technology, migration and the demands of the labour market for skills. The Governing Body at its 335th Session in March 2019 authorized the Director-General to publish its final report and forwarded it, along with any observations made by the Governing Body, to the present International Labour Conference for examination in the first instance by the Committee on the Application of Standards. The Executive Board of UNESCO also took note of the report at its 206th Session in April 2019 and invited the UNESCO Director-General to assist the CEART in carrying out its next cycle of work and to communicate the report to UNESCO’s members. With the continuing importance of target 4.3 on qualified teachers under SDG 4 on quality education, and in the follow-up to the discussion on the future of work emanating from this Conference, the CEART’s work over the next years could be an important means to support the professional and labour conditions of teachers, the very people who are charged with achieving quality education and skills outcomes.

180. **Employer members:** Education is the cornerstone of development. It can improve a country’s overall social, economic and cultural conditions. It can also strengthen social well-being and social cohesion, such as productivity, competitiveness, social mobility, poverty reduction and social identity. Education – both public and private – is crucial in enabling youth to enter the labour market. It is therefore essential for the private sector to engage in the development of educational policies and curriculum to ensure that youth

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receive essential skills and qualifications required for the labour market of today and tomorrow. Similarly, we recognize the important role that teachers play in facilitating timely comprehension and in instilling “world of work” values such as those related to sustainable enterprises.

- 181.** We welcome the CEART report on the 1966 and 1997 Recommendations, as well as most of the report’s recommendations concerning teaching personnel. This report provides a solid basis for this Committee to examine the pressing labour-related issues in the education sector. This report summarizes the Joint Committee’s analysis of major issues affecting teaching personnel worldwide at all levels of education and their recommendations. It also includes the Joint Committee’s examination on certain complaints brought by teacher unions regarding the violations of the principles of the Recommendations concerning teaching personnel. We note that recommendations of the Joint Committee, directed to governments, employers’ and workers’ organizations are legally non-binding.
- 182.** Concerning the promotion of the two Recommendations and the work of the CEART, the Employer members recommend involving members from the private sector in the Committee and engaging active consultations with private companies and institutions on education matters. This will enable wider visibility of the Recommendations, as well as strengthen the inclusiveness and effectiveness of the CEART work. Concerning teachers and the future of work, the Employers’ group believes that this is a very important trend that aligns with the International Labour Conference’s broad theme and focus this year on the future of work.
- 183.** The Employer members agree with the recommendation in paragraph 37(a) for the need to review and update the teacher education curriculum. However, this is not only to better prepare new teachers, but also to ensure that students obtain the required skills for future employment. Diverse forms of employment as well as technologically driven jobs that continue to add value to national economies as well as allow workers to enjoy a better quality of life can be cited as examples. To achieve this, we believe that it is vital to include collaborative partnerships with the private sector and companies as they create employment opportunities to understand the relevant skills for future market needs. The critical role teachers play in guiding students for future roles cannot be underestimated. Career guidance linked competencies are an essential element that should be provided to teachers, and resources should be diverted in a manner that students benefit from such services at an early age.
- 184.** Relating to the funding for teacher training under the Recommendation in paragraph 37(d), we suggest that it should also include private funding and private professional development that will update and advance teachers’ knowledge and skills for future market needs. The use of technology is an essential part of this strategy.
- 185.** With regard to upper secondary and TVET training conditions, the Employers support the Joint Committee’s recommendations for the social partners, including employers, to actively engage in TVET policy design and delivery through partnerships and to promote decent work.
- 186.** As mentioned at the beginning, employers and businesses have valuable knowledge and insights into the labour market that can add value to the policy-making process.
- 187.** The Employer members recognize the important role teachers play in designing courses that are timely in content and recommend modes of delivery that take advantage of technology. Distance learning continues to reach out to large numbers, irrespective of age, and is a fillip to those aspiring to enhance their skills and competencies, continuously. Employers can supplement these efforts through effective long-term partnerships.

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- 188.** The Employer members recognize the importance of developing a consistent approach in providing quality TVET education through qualification standards, certification processes and valid assessment methods in pursuance of achieving acceptable outcomes.
  - 189.** Regarding the assessment and evaluation of higher education personnel, we welcome the Joint Committee’s recommendation to mandate the UNESCO and the ILO to lead the work on developing an internationally accepted framework for defining and assessing effective teaching. This will assist in improving the quality of effective teaching and further contribute to the work these organizations have done in these areas. We note that such joint initiatives targeting common areas of interest and objectives is consistent with the UN’s policies of management and assisting stakeholders to prioritize their activities and the channelling of resources.
  - 190.** The Employer members overall support online learning programmes as they enable society to develop an attitude for lifelong learning and create more access to learning opportunities for people when and wherever they want. Furthermore, higher education can help individuals to update their existing skills and acquire new ones to change different fields of employment.
  - 191.** Relating to low-fee private schools, we welcome the recommendation in paragraph 58 for social partners and stakeholders to find ways to enable teachers working in privatized schools the right to be organized, acknowledged and respected. We are long-time supporters of inclusive social dialogue and the right of collective bargaining and freedom of association in both the public and private sectors.
  - 192.** The Employer members welcome the 20th anniversary of the 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel. This Recommendation continues to be relevant and important today for the education sector. We support the recommendation in paragraph 64 to continue to regularly and adequately monitor the implementation of this instrument.
  - 193.** We agree that the role of private sector institutions in financing for education should be recognized. However, we emphasize that the Employers oppose, I reiterate, the recommendation to establish a global fund for financing education through an education tax. We agree that more money should be invested in education, but this should come from the existing tax regime, not a specially created one. Impediments that can have a negative impact in achieving positive outcomes should be identified and removed at the first instance.
  - 194.** We congratulate the CEART for their 50th Anniversary Joint Declaration entitled “Education is not a commodity”. Teachers, the right to education and the future of work go hand in hand. We believe that this document captures well the value of education and provides solid principles and actions that all relevant stakeholders should follow.
  - 195.** Furthermore, this Declaration corresponds to this year’s overall broad theme of the future of work by recognizing the importance of the future of work on the right to education and preparing future generations for employment.
  - 196.** We appreciate that the Declaration recognizes the contribution of private investment and public–private partnerships in providing resources and technological knowledge for education institutions. However, we disagree that these will pose threats to education quality and equity, but rather we believe that they will strengthen and broaden education opportunities for all.
  - 197.** Good learning requires a strong teacher. Therefore, we hope that the guidelines in the report, when implemented, will further empower teachers.

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- 198.** As for certain complaints regarding cases in Japan, we note that these cases concerning Japanese teachers discussed in the report have already been resolved between the Japanese Government and the major Japanese teachers' unions. Additionally, the cases have also been rejected by the Japanese Supreme Court. The report therefore reflects only the voice of radical minority unions, which we do not accept or recognize. In fact, with much respect to CEART, we humbly request them to revisit and amend these provisions to ensure accuracy.
- 199.** We trust that the Joint Committee will continue to improve working conditions for teachers worldwide and we look forward to the next report in 2022.
- 200. Worker members:** The future of work for teachers is a broader challenge than simply learning a new discipline. The role of teachers goes beyond merely imparting skills. Education is about developing the whole person. Tomorrow's jobs will require an understanding of the complexities of our societies, the management of the overflow of information, critical thinking, creative adaptation to changing environments and collaboration with others from diverse backgrounds and across cultures.
- 201.** The report of the Committee of Experts on the application of the two Recommendations for the teaching profession states the importance of teachers in learning and in achieving Goal 4 on education of the SDGs. It also underscores the holistic function of education not just the economic, the role of technology in teaching and that education is not a commodity. While 69 million new teachers are needed to only achieve quality primary and secondary education for all by the year 2030, teaching continues to be a profession of low prestige. Education workers are employed on precarious contracts with poor service conditions and salaries and with increasing workload and little access to professional development opportunities. There continues to be pressure on teachers to focus on learning outcomes and the employability of students driven by an economic agenda which overrides the discourse around education as a fundamental human right, a cornerstone of democracy and an equalizer for social justice. Some countries even deny education workers the right to join unions. They cannot bargain collectively.
- 202.** Colleagues in this room can testify to the suppression of teachers' union rights in Iran, the Philippines, Eswatini and Turkey, for example. The absence of freedom of association, limitations on the scope of bargaining, strike bans and other restrictions often make it difficult for education workers and support personnel to participate in the development of their profession and influence education policy. However, the CEART recommendations provide guarantees for teachers and their representative organizations to be consulted, not only on working conditions, but also on education reforms, school organization and curricula. You would have thought that with economic benefits, what the twentieth century brought, this was achievable. Yet education systems, education authorities and education gurus still refrain from talking to their teachers. We know social dialogue is key to bringing all actors on board, and restoring or implementing a dialogue between legitimate union and education authorities is a recommendation made by the CEART Committee in many allegations.
- 203.** The ILO has been working for 100 years now to improve the conditions and realities in which people work. The 1966 Recommendation concerning the Status of Teachers is still relevant. Now it is more widely known by teachers and also by governments. The 1997 Recommendation added further clarity for the higher-education sector. The *ILO Policy Guidelines on the promotion of decent work for early childhood education personnel* are getting some leverage and we ask that the reach of the Joint ILO–UNESCO Committee also cover personnel in early childhood education and that the CEART is mandated to supervise those guidelines. The CEART report was presented on 5 October last year which is World Teachers' Day. On that occasion, Education International, the global federation representing 32 million teachers, education support personnel, education workers and academics,

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presented a survey on the status of the teaching profession. What are the main findings? The deterioration of democracy in many countries and the importance of the status of teachers in rebuilding support for democratic values and practices in and through education, and the attacks on academic freedom and professional autonomy. Allegations to the CEART have denounced a restrictive environment for academic freedom in Denmark and in the United Kingdom, but pressure is not coming only from governments, but also from non-state actors, including community groups, extremists and sometimes parents. Academic freedom may also be compromised by the increasing dependence of universities on corporate financing. Another worrying development is precarious work and teachers' health. Teachers are paid less than professions with similar qualifications. The CEART report talks about a decent work deficit. Precarious work is prevalent, particularly in universities and for education support personnel. Work-related stress is a growing threat to the health of both education workers and students. Stress for teachers is not inevitable. In the right environment, teaching is an enormously satisfying profession.

- 204.** Social discrimination against teachers is also becoming significant with 16 per cent reporting this to be very common for teachers expressing political views, and with 13 per cent reporting harassment for union activism. This statistic shows that not only is it difficult for teachers as a result of insufficient spending on education, but also because of inadequate social support for the profession. One of the allegations reviewed by the CEART deals with this issue of freedom of expression. It is a sensitive and divisive issue, but the principle is critical today.
- 205.** The German Far Right party (AFD) has created a website to report teachers who expose critical views of German history. Hungary and Poland are facing similar issues. In Brazil, a member of Parliament created an online platform to report teachers and academics who express criticism of the current Government. Teachers are the change we need in our education systems. Governments need to nurture them. All the wrong things have been tried, ranging from privatization, blame and performance pay which evidently do not work, as well as structural reform which often means segregation, removal of rights and contract insecurity, lack of consultation and the list goes on. Coherent education policies through collective bargaining negotiations need to make teaching a more attractive profession. Perhaps it is time you start trusting the teachers and their unions and put them in the position to make a positive difference for students the world over.
- 206. Observer, Public Services International:** We are taking the floor on behalf of the Public Services International Education Support Workers' Network and the Confederation of University Workers in the Americas (CONTUA) with reference to the report of the Joint ILO–UNESCO Committee. In that regard, we wish to express our congratulations to the members of the Committee, to our brothers and sisters in Education International, and to emphasize the importance of the existence of a body that sets out social and labour policies in the context of education. First, we wish to say that we share the approach of the Committee when it says that education is not a commodity, associating this concept with the famous terms of the Declaration of Philadelphia. And we concur with the ideological clarification that education is a universal human right, a public and social good that must be financed and guaranteed by States to promote upward social mobility and personal development.
- 207.** We wish to emphasize the importance of the 1966 and 1997 ILO–UNESCO Recommendations, and of furthering their objectives, coverage and impact. However, we also recall that there is a very important sector of men and women education workers, the sector that we represent, of non-teaching technical, administrative and support workers who are excluded from any sectoral protective system. For that reason, we place emphasis in this Committee on the outcome of the Global Dialogue Forum on Employment Terms and Conditions in Tertiary Education, held by the Office in September 2018, in which we concluded that the Office should carry out and disseminate research on the employment



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conditions of education support personnel. The proposal was accepted by the Governing Body and we agreed that it will constitute an analytical tool to propose the inclusion of education support workers in the protective standards that are in force or, as appropriate, to propose a specific standard for the group that we represent.

- 208.** We are enthusiastic in the Public Services International and the CONTUA about this work and ready to begin work with Education International. We will make every effort to achieve positive results based on consensus. So we wish to reaffirm that in the trade union movement we support the need to guarantee quality public and free education that is inclusive, egalitarian and based on equity. An education focused on local, national and regional development, without any type of discrimination. We believe in lifelong education that fulfils the principal objective of providing a response to the challenges of the future of work, which are being addressed by the various committees at the present Conference.
- 209.** There is no future of decent work without quality egalitarian public education based on equity. We can write hundreds of papers on the future of work, its challenges and consequences, but if we do not conclude agreements for active public policies with sufficient financing, we will only be compiling catalogues of illusions. The current context does not appear to be taking us along the right path. The trend is for privatization and the increased influence of the private sector, thereby perverting education policies for mercantilist purposes. Precarious work is increasing and it is becoming more difficult every day to exercise freedom of association, collective bargaining and the right to strike in the public sector in general, and in education in particular. But we men and women workers are optimistic. We believe in the need for a new social contract focusing on the individual, the universal labour guarantee and the relevance of the concept of decent work. We believe in the ILO, in tripartism and social dialogue, all of which is only possible with public education for all men and women. To achieve this, there is no doubt at all that we need to guarantee the labour rights of men and women teachers, non-teaching personnel, education technicians, and administrative and support personnel in every corner of the world.
- 210. Observer, Education International:** I greet you all on behalf of Education International and the Education and Science Workers' Union of Turkey. First of all, I want to draw your attention to the attitudes of the governments which are using education as a tool for their political wills. Of course, to some extent, each and every government has a will to use education for their objectives but, as a public service, education has to be autonomous to some extent. The content, administration and inspection of this service must be independent from political powers and political groups. But currently, in Turkey and in other countries, the situation is not like this. The Turkish Government and the Ministry of Education are planning to enact a new law by which some of the issues like professionalism and professional freedom, as mentioned in the 1966 Recommendation, will be negatively affected. Because of the lack of cooperation on policy items, creating a climate for open discussion does not seem possible. We, as the international community, have to say a few words against this. There must be some mechanisms like this Committee or like this session which will intervene in these kinds of situations when we need it.
- 211.** Secondly, if development in the fields of economy and technology are taken into consideration together, it can easily be stated that the future of the teaching profession will also be negatively affected. The use of artificial intelligence and other instruments by global companies, on the one hand, has commercialized the data of students and education in general and, on the other hand, limited the role of the teacher in the classroom and the need for them. We always have to keep in mind that education is more than teaching and learning. It is a long journey on which children get to know themselves, become aware of their abilities, and develop socially and psychologically. So the roles of technology and teachers must be redefined one more time from a point of view which puts the student and the teacher

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in the centre. This is also related to issues of professionalism, teacher training, responsibilities and cooperation on policy items.

- 212.** Thirdly, ministries of education and governments, when deciding on the policies of education usually do not cooperate with the teachers' organizations, especially with the teachers' trade unions. Inevitably, this results in failure. It is not possible for them to achieve any success without cooperation. We understand that the governments' expectations and society's expectations from education are different, but when we are deciding on the issue of education as a public service, the decisive factor must be the high interest of the child. Again the issue of cooperation on policy items in the 1966 Recommendation is ignored in this sense.
- 213.** As a result, we strongly believe that an international framework based on an international consensus for strengthening the status of teachers and also protecting the status of teachers is a must for the international community, not only for teachers, but also for the common future of humankind and also for our world. The ILO and UNESCO did a very valuable and historic job 53 years ago. Now it is our turn to take one step further and improve the rights and working conditions of teachers. Now it is our turn to stop violence against teachers and in the field of education. Now it is our turn to restructure the school and the classroom in which all teachers and students feel happy and satisfied. Now it is time to revise and improve the Recommendations of 1966 and 1997. We believe that in Turkey if teachers lose, we will lose. Because of that, supporting and being in solidarity with teachers means supporting society and the common future.
- 214. Observer, Education International:** Analysis of the report of the Joint Committee is based on recognition of the fact that the world has changed. Indeed, education and public services have been severely affected by the crisis of 2008 and the resulting policies involving budget cuts. In France, reforms have been initiated which, wherever they have been applied, have led to the growth of inequalities. This is at odds with SDG 4, which seeks access to quality education for all. Teaching salaries have not increased for ten years. Although they represented 180 per cent of the minimum wage in the 1980s, they are equivalent to 110 per cent of the minimum wage today. The new appraisal system which has been established is seen more as a source of pressure and stress than a form of assistance. This makes the profession less attractive. In higher education, fixed-term contracts account for one third of recruitment with a turnover that is harmful to the quality of public service. Recruitment on short-term contracts is constantly increasing in other sectors with staff who are setting out in the profession and facing immense difficulties. The draft Education Act and the draft Civil Service Act will undermine status and make contractual employment widespread in a quest for flexibility which can only be for budgetary reasons. The reform of the baccalaureate would introduce a local diploma that would provide holders with no guarantees. This would undermine collective guarantees and, ultimately, collective bargaining and the trade union organizations that engage in it.
- 215.** In France in 2017, the unemployment rate stood at 16 per cent for persons without qualifications compared with 6 per cent for "Bac +2" holders. The defence of national diplomas is therefore at the heart of the teachers' mission, in a context where collective guarantees must be protected. Under these conditions, the Recommendations of 1966 and 1997 are more relevant than ever. We are bound to call for a massive increase in government investment in the public sector, and in particular in quality public education. We can only underline the need to reinforce the recruitment of teaching personnel on the basis of permanent employment with statutory tenure, together with the right to training and a salary commensurate with a demanding profession. We can only support tenure being given to all staff in precarious situations. This is the prerequisite for quality education open to all.

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- 216. Worker member, Republic of Korea:** I would like to draw the Committee's attention to the repeated breaches of freedom of association and trade union rights of teachers in the Republic of Korea, especially the decertification of the Teachers and Education Workers Union. Back in 2013, the Ministry of Employment and Labour notified that the Union is not a teachers' union under the Act on the Establishment and Operation etc., of Teachers' Unions, based on the fact that the Union rejected the order to revise the Union by-law, which allows union membership for dismissed teachers. While the validity of this administrative measure by the Ministry is still pending in the Supreme Court, the Ministry of Education ordered full-time union officials back to work. The 34 full-time union officials who decided to remain as full-time union officers were dismissed and are still not able to be reinstated. The Supreme Court ruling is delayed even though the Committee on Freedom of Association of the ILO recommended to the Court to rule based on the principle of freedom of association.
- 217.** The Union has strongly requested the new Government, which declares itself as a labour-respecting Government, to nullify the unjust administrative measure which is a serious violation of the freedom of association of teachers. However, the Government is maintaining that it cannot take any step before Convention No. 87 is ratified and the existing law is revised accordingly, and the Supreme Court has delivered its decision. So the Korean Teachers Union still remains an outlawed union and cannot exercise any trade union rights including the right to collectively bargain or take leave for union activity. I would like to emphasize that the freedom of association of teachers is fundamental for the democracy of society and for the quality of the education system.
- 218. Government member, Japan:** Let me thank the Committee members who participated in the examination of the allegations concerning Japan. The Japanese Government has always administered its education policy in a manner that conforms to Japan's circumstances and legal system while respecting the spirit of the Recommendation concerning the Status of Teachers. We have worked to ensure the propriety and fairness of the system that was the subject of the allegations. The Japanese Government has properly explained its position and opinions regarding the Japan-related allegations submitted by the five organizations concerned. However, the CEART report contains sections which are written without making sufficient allowance for Japan's circumstances and legal system. We are disappointed that Japan's circumstances and legal system were not properly understood. The Japanese Government will place top priority on what is good for the children who will be responsible for the future. While respecting the spirit of the Recommendation concerning the Status of Teachers, we will continue to administer our policy in a manner that conforms to Japan's circumstances and legal system.
- 219. Government member, Republic of Korea:** As pointed out by my Worker colleague, article 2 of the Teachers' Unions Act in the Republic of Korea explicitly prohibits dismissed education workers from joining trade unions. Given that the Korean Teachers Union's litigation to revoke the notification that the Union is illegal is pending in the Supreme Court after the notification was ruled legitimate by the First and Second Instance Courts, it is difficult in practice for the Government to use its authority to reverse the decision. The Government is of the view that the issue of dismissed workers should be addressed through legislative reform. The Amendment Bill to the Teachers' Unions Act that will allow dismissed teachers to join trade unions was submitted on 21 February 2019 and is currently pending at the National Assembly. The Government will support the discussion at the National Assembly to come up with reasonable measures.
- 220. Worker members:** We thank all the participants for their constructive interventions. In concluding, we would like to state the continued relevance of the two Recommendations on the status of the profession. They provide, among other things, useful provisions for the union rights of education workers. They insist on the values of social dialogue, not only to

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improve conditions of service, but also to give teachers and their unions a say in education policy, a say in education funding, professional development and curriculum development, among other issues.

- 221.** Of course, as workers, we would prefer the Recommendations to be elevated to the status of Conventions within the ILO's supervisory mechanisms. We will also push to extend the mandate of the CEART to also monitor the implementation of the *ILO Policy Guidelines on the promotion of decent work for early childhood education personnel*. Together, the 1966 and 1997 Recommendations provide relevant guidance for governments and for achieving the seven targets of the SDG on quality and inclusive education for all by 2030.
- 222.** The shortage of teachers worldwide is a challenge. Teaching is not attractive because of the poor status and low prestige of the profession. A high proportion of young teachers leave the profession within the first five years of teaching. The conditions in the education sector, including those of support personnel, are worsening, while the workload continues to increase.
- 223.** As unions, we are committed to: (1) engage in social dialogue with the education authorities at all levels, particularly to advocate for funding of public education because we believe public education is a public good that must be supported by the State; (2) improve the status of the teaching profession and to make teaching and learning attractive; (3) strengthen the professional autonomy of teachers and academics; and finally (4) focus education on the development of the whole person and instil competencies for life around the principles of inclusion, democracy, citizenship, critical thinking, collaboration and respect. With the proper implementation of these recommendations, we envisage the total implementation of the SDG on inclusive and quality education by the year 2030.
- 224. Employer members:** We wish to emphasize the importance of our common goals of achieving future work objectives and it would be extremely important in that context to get the private sector and the employers involved in every process in relation to education. We also understand that education, being one of the important SDGs for any country, will thrive only if there is inclusivity, and I do not think it will succeed if there is segregation, as mentioned by some of the speakers. So, there has to be inclusiveness, and the private sector, especially, has a lot to offer in terms of well-trained teachers and the common objective of benefiting the students.

## **D. Reports requested under article 19 of the Constitution**

### **General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202)**

- 225.** The Committee dedicated a sitting to the discussion of the General Survey carried out by the Committee of Experts concerning the Social Protection Floors Recommendation, 2012 (No. 202). The record of this discussion is contained in section A of Part Two of this report.

### **Concluding remarks**

- 226.** At the meeting on the adoption of the outcome of the discussions, the following statements were made by members of the Committee.

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- 227. Worker members:** We welcome the adoption of the outcome of the discussions on the General Survey which reaffirm the crucial nature of the subject of social protection for the ILO and the fact that the extension of that protection is one of its priority objectives.
- 228.** The aim of social protection floors is not just to tackle poverty but also to reduce inequalities and ensure that cohesion and social justice are achieved.
- 229.** Our conclusions also provide an overview of the challenges that remain. One example is the accessibility of health care, which is a fundamental right but continues to pose major problems for many nations, irrespective of whether they are high- or low- income countries. We also underline the importance of social protection mechanisms being grounded in law and based on the principle of solidarity. The Workers' group recalls in this regard that social protection floors are not a mere minimum but constitute a basis for developing systems that ensure increasingly higher levels of social security, as called for by Recommendation No. 202. The conclusions adopted highlight the importance of having inclusive protection systems in order to incorporate informal sector workers.
- 230.** We have also stressed the importance of ensuring financing based on solidarity and the fact that this represents the very heart of social security. This should not be seen as a cost to be reduced but as an investment in human potential. It is also important to underline the fact that protection comes in the first instance under the responsibility of the State. Our conclusions contain important reflections on the underlying principles such as the importance of non-discrimination and the promotion of equality.
- 231.** Lastly, we ask the Office to give its support to the tripartite constituents. Among other things, this requires the development of technical cooperation and assistance and support for the ratification of instruments. Moreover, it is essential that the ILO participates more extensively in developing cohesion in the field of social protection by conducting a dialogue with the other international institutions that are actors in this sphere. The ILO must play a leading role in this respect. Finally, the conclusions invite the ILO, in the discharge of its mandate, to take account of the General Survey and of our Committee's discussions and conclusions.
- 232. Employer members:** The Employer members are pleased with the constructive discussions that took place on this year's General Survey report on the social protection floors, Recommendation No. 202. We believe that the focus on a single instrument was beneficial as it allowed the Committee a thorough and in-depth examination of all the provisions and a proper consideration of the various issues covered by this instrument. The survey was very useful in shedding light on stand-alone Recommendations as a particular form of ILO standard. While they cannot be ratified, stand-alone Recommendations can provide relevant and comprehensive guidance and can therefore have a significant impact on ILO member States. Stand-alone Recommendations can also be more easily and quickly replaced and updated as necessary to ensure relevance.
- 233.** We would like to take the opportunity to reiterate some important points made in the discussion that are reflected in our comments and the report.
- 234.** The importance must be emphasized of policies that are conducive to enterprise sustainability, skills development and employment generation. Poverty and vulnerability can only be sustainably reduced by productive and sustainable employment. Moreover, the effectiveness of social protection floor systems depends on the capacity of economies to provide the necessary resources.

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- 235.** Second, social security systems should be an integral part of national sustainable development planning structured for the needs and means of the country and should incentivize growth employment and sustainable enterprises.
- 236.** Third, Recommendation No. 202 sets out examples of the types of benefits and funding schemes that may be provided for the social floors but does not express any preference or provide any limitation to innovation and development in this area as long as the schemes are delivered efficiently and effectively in the national context.
- 237.** Fourth, in order to achieve the objectives of social protection floors as set out in Paragraph 2 of Recommendation No. 202, namely the prevention of alleviation of poverty, vulnerability and social exclusion, priority attention needs to be given to the measures recommended in paragraph 10. In particular, the promotion of productive economic activity and formal employment is imperative.
- 238.** Fifth, although we agree with the importance of broad social dialogue on the establishment of social protection floors, we must nevertheless emphasize the need for reasonable balance in the dialogue between representatives between those who are to be protected on the one hand, and representatives of those who are supposed to finance the protection on the other. This balance is critical.
- 239.** Sixth, concerning austerity measures and policies of fiscal consolidation, with reference to paragraphs 646 and 647, we disagree with the experts' view that fiscal consolidation policies cannot be compatible with the objectives of Recommendation No. 202 on social protection floors. The definition of a social protection floor must also take into account the economic circumstances in a country.
- 240.** Furthermore, regarding paragraph 624 of the General Survey, we disagree with the negative assessment by the experts with regards to the defined contribution schemes based on individual savings or notional accounts, and the positive statement with regard to the trend in a number of countries to scale back privatization and strengthen public schemes.
- 241.** Finally, we stress that while much progress has been achieved, gaps exist and need to be gradually filled following the guidance of Recommendation No. 202 in member States. Moreover, while the aim remains full coverage of social protection, government policies should set the right conditions and incentives to promote private initiatives and commitments to make sure that as many people as possible can participate and contribute to the creation of social protection and those social protection floors.
- 242.** The outcome of the General Survey discussion is a topic I would like to just briefly address. We wish to highlight in particular some important points in this regard.
- 243.** First, national social protection floor policies and systems should be designed to promote productive economic activity and the growth of formal employment as well as education, vocational training, productive skills and employability. In the design and the implementation of effective social protection floors it is important to combine preventative, promotional and active measures benefits and social services.
- 244.** Second, financing mechanisms based on solidarity are at the heart of social security and prerequisites for achieving universal social protection floors. In order to be effective they need to be accompanied by measures that enhance income generation, entrepreneurship and sustainable enterprises to reduce poverty and inequality in a sustainable manner.
- 245.** Third, there must be common commitment among the tripartite constituents for the formulation of comprehensive social protection policies coordinated and coherent with other

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social policies, notably policies with respect to education and health as well as those that deal with economic, vocational training and employment promotion policies.

- 246.** Fourth, the Committee also noted the strong commitment to strengthen effective social dialogue and participatory processes as fundamental elements of policy formulation and implementation and the prerequisites for good governance, sustainability and effectiveness of social protection systems.
- 247.** The conclusions also encouraged the ILO to foster the exchange of good practices in the implementation of the recommendation between and among member States.
- 248.** Finally, the Committee requested the Office, as noted in the conclusions, to take into account the General Survey on social protection floors, the detailed views of the discussion that followed and the outcome of its discussion in relevant ILO work and technical assistance services.
- 249.** The Employer members support the adoption of the outcome of the discussion on the General Survey. We trust that the Office will consider the constructive discussions that took place, the detailed views expressed by the participants, as well as the content of the outcome document in carrying out its work.

### **Outcome of the discussion of the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202)**

- 250.** The Committee approved the outcome of its discussion, which is reproduced below.

#### ***Introduction***

- 251.** The Committee welcomed the opportunity, in its examination of the General Survey on the Social Protection Floors Recommendation, 2012 (No. 202), to discuss its core and topical issue in the context of the ILO's Centenary.
- 252.** It recalled that the extension of social protection systems to all in need is at the core of the ILO's mandate and a primary concern of the Organization, as reflected in its Constitution and reaffirmed in the 1944 Declaration of Philadelphia. As such, social protection constitutes one of the four strategic objectives of the Decent Work Agenda.
- 253.** The Committee recalled that social protection is a powerful tool against poverty, inequality, and social exclusion and key in furthering human dignity, social justice and social cohesion. Investments in social protection floors stimulate economic growth and stability and the performance of national economies.
- 254.** Moreover, the Committee noted that social protection floors address some of the major development objectives established by the 2030 Agenda to achieve the Sustainable Development Goals, and notably that of ending poverty in all its forms everywhere.

#### ***Needs of member States and reality on the ground***

- 255.** Looking at the implementation of the Recommendation in member States and at progress made in achieving universal social protection, the Committee observed that significant gaps and disparities in access to essential healthcare and basic income security guarantees throughout the life cycle remained.

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- 256.** Considerable progress has been achieved in many parts of the world as regards the establishment of social protection floors and of schemes and benefits providing higher levels of protection. This resulted in improvements in coverage, both in terms of persons and of contingencies, and in increased effectiveness of social security systems. It recognized that the most effective and efficient combination of contributory and non-contributory benefits and schemes were implemented through approaches tailored to national circumstances. The Committee recalled the need for effective schemes and benefits to be anchored in law, based on social solidarity and on the other principles set out in the Recommendation. In this connection, it observed that national social protection floors policies, setting out tangible, measurable and time-bound objectives played an important role in extension strategies.
- 257.** The Committee noted, in particular, the innovative measures taken by certain countries to overcome some of the obstacles they face in achieving universal social protection. In this regard, it noted the particular challenges related to protecting those in the informal economy and those in non-standard forms of employment. It further observed that the expansion of new forms of work have brought new opportunities but also new challenges, including in terms of access to, adequacy and sustainability of social protection systems. In this context and in accordance with the Recommendation, it stressed the need for national social protection floors policies and systems to be conceived so as to promote productive economic activity and the growth of formal employment as well as education, vocational training, productive skills and employability. In the designing and the implementation of effective social protection floors, it was also important to combine preventive promotional and active measures, benefits and social services. In this respect, the role of public services is fundamental. In addition, the Committee considered that the new technological, demographic and environmental contexts raised additional opportunities and challenges for social protection systems globally which needed to be given careful consideration.
- 258.** The Committee also observed that the large social protection deficits were closely related to the lack of sufficient funding. The Committee further noted that financing mechanisms based on solidarity were at the heart of social security and prerequisites for achieving universal social protection floors. They needed to be accompanied by measures that enhance income generation, entrepreneurship and sustainable enterprises to reduce poverty and inequality in a sustainable manner. Social protection must be considered an investment in the human potential.

### ***Common commitments***

- 259.** The Committee noted the shared commitment among the tripartite constituents to strengthen efforts towards the achievement of universal social protection floors, through a diversity of means and approaches, based notably on equality, non-discrimination, social solidarity and promotion of productive economic activity. It is the primary and overall responsibility of the State to deliver social protection.
- 260.** The Committee further noted the commitment among tripartite constituents to move upwards in extending social protection to ensure that social protection floors do not become a ceiling but a stepping stone towards sustainable social security systems guaranteeing effective levels of protection, to as many people as possible.
- 261.** The Committee welcomed the common commitment among the tripartite constituents for the formulation of comprehensive social protection policies, coordinated and coherent with other social policies notably education and health, as well as with economic, education and vocational training, and employment policies. It further noted the commitment on the need for an integrated and holistic approach to social protection, in the context of economic and social development.



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**262.** It also noted the strong commitment to strengthen effective social dialogue and participatory processes as fundamental elements of policy formulation and implementation on – and as prerequisites for the good governance, the sustainability and the effectiveness – of social protection floors systems.

### ***ILO means of action***

#### **1. Standards-related action**

**263.** The Committee considered that the full promotion of the Recommendation played a significant role in enhancing its application and furthering social protection in member States and urged the ILO to enhance its promotion activities to this objective.

#### **2. Development cooperation and technical assistance**

**264.** The Committee underlined the high value of ILO technical assistance in the effective implementation of the Recommendation and called upon the ILO to continue providing support to constituents in the establishment of comprehensive social protection systems, including social protection floors, and in the formulation and implementation of related policies and strategies. The Committee also highlighted the importance of supporting national dialogue processes, including the participation of social partners. It also underlined that the ILO should provide assistance to member States in developing tools for data collection and analysis to measure progress and gaps.

**265.** The Committee called upon the ILO to continue its efforts aimed at reinforcing the capacities of tripartite constituents and national administrations. The Committee also encouraged the ILO to foster the exchange of good practices in the implementation of the Recommendation between and among member States.

**266.** The Committee also stressed the importance of increasing coherence between international development partners in the field of social protection and called upon the ILO to continue playing a prominent role in this respect.

**267.** The Committee requested the Office to take into account the General Survey on Social Protection Floors, the discussion that followed and the outcome of its discussion, in relevant ILO work.

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## **E. Compliance with specific obligations**

### **1. Cases of serious failure by member States to respect their reporting and other standards-related obligations**

**268.** During a dedicated sitting, the Committee examined the cases of serious failure by member States to respect their reporting and other standards-related obligations.<sup>5</sup> As explained in document D.1, part V, the following criteria are applied: failure to supply the reports due for the past two years or more on the application of ratified Conventions; failure to supply first

<sup>5</sup> Detailed information on the examination of these cases is contained in section B of Part Two of this report.

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reports on the application of ratified Conventions for at least two years; failure to supply information in reply to all or most of the comments made by the Committee of Experts; failure to supply the reports due for the past five years on unratified Conventions and Recommendations; failure to submit the instruments adopted for at least seven sessions to the competent authorities; and failure during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated. The Chairperson explained the working methods of the Committee for the discussion of these cases.

- 269. Employer members:** The ILO supervisory system relies primarily on the information provided by governments in their reports to conduct its work. Therefore, compliance with reporting obligations is absolutely fundamental to ensure we have an effective supervision of ILO standards.
- 270.** Concerning governments' compliance with reporting obligations, we regret to see that there is a decrease of reports received by 1 September 2018 deadline, only 35.4 per cent, compared to 38.2 per cent last year. We are disappointed that, despite all efforts made so far, we have not been able to see any visible improvement of this concerning situation. Government reports and replies provide the necessary primary information we need to ensure the standards supervision can be carried out properly.
- 271.** Submissions by workers and employers can complement the factual basics and provide a real assessment of the facts, but they simply cannot replace the government reports. We understand that the Office has limited finance and human resources. It should nevertheless continue its efforts to provide assistance and to encourage governments to meet their reporting obligations. Ultimately, governments hold a primary responsibility to fulfil their reporting obligations as they have committed themselves to do so when they ratify the Conventions.
- 272.** We note with real concern that, according to paragraph 57, none of the reports due have been sent for the past two or more years from the following 13 countries: Brunei Darussalam, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Malaysia – Sabah, Saint Lucia, Sierra Leone, Somalia, South Sudan, Timor-Leste, and Trinidad and Tobago. In terms of first reports, we note that like last year, only 61 of the 95 first reports due were received by the time the Committee's session ended. According to paragraph 58, 11 member States have failed to supply a first report for two or more years, namely: Chad, Congo, Equatorial Guinea, Gabon, Kiribati, Republic of Maldives, Netherlands – Curaçao, Nicaragua, Romania, Saint Vincent and the Grenadines, and Somalia. From these 11 member States listed in paragraph 58, we are particularly concerned with the serious failure of the following countries: Equatorial Guinea – no reporting on the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), since 1998; Republic of Maldives – no reporting on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the MLC, 2006, since 2016; Saint Vincent and the Grenadines – no reporting on the MLC, 2006, since 2014; and Somalia – no reporting on Convention No. 87, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and Convention No. 182 since 2016.
- 273.** First reports are vital to provide a basis for a timely dialogue between the Committee of Experts and ILO member States on the application of ratified Conventions. We highly encourage the governments concerned to request technical assistance from the Office if necessary and to provide the experts with the first reports due without further delay.
- 274.** According to paragraph 63, we note with concern that the number of comments by the experts to which replies have not been received remains significantly high. We would like

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to understand from the governments concerned the reasons why they are not responding to the Committee of Experts' comments. We are aware that following the discussion of the Conference Committee in May–June 2018, the Office had sent specific letters to member States with cases of failure. We are pleased to see in the Committee of Experts' report under paragraph 66 that, as a result, 13 of those member States have fulfilled at least part of their reporting obligations since the end of the session of the Conference. We encourage the Office to continue this effort and for member States to be more proactive in their reporting.

- 275.** We welcome the decision taken by the Committee of Experts to follow the Employers' proposal to institute a new practice of urgent appeals for cases meeting certain criteria of serious reporting failure that requires the Committee's attention. This enables the governments concerned to be called before the Committee and for the Committee of Experts to examine the substance of the matter at its next session, even in the absence of a report.
- 276.** Concerning reports under article 19 of the Constitution, paragraphs 116–118 of the Report, we express concern that 32 countries have not sent reports on unratified Conventions and Recommendations for the past five years. These reports are indispensable for General Surveys to be as comprehensive as possible.
- 277.** As part of their obligations under the ILO Constitution, member States have an obligation to communicate copies of their reports to representative employers' and workers' organizations. Compliance with this obligation is necessary to ensure proper implementation of tripartism at the national level. We note in paragraph 60 that two countries – Fiji and Rwanda – have failed to indicate for the past three years the representative organizations of employers and workers to which copies of the report and information supplied to the Office have been communicated. According to paragraph 103, we observe that social partners only submitted 745 comments to the experts this year. A significant drop, compared to 1,325 last year, 173 of which, compared to 330 last year, were communicated by employers' organizations and 699, compared to 995 last year, were communicated by workers' organizations. We trust the Office will continue to provide technical assistance as well as capacity building to social partners to send comments to the Committee of Experts.
- 278.** From our side, employers' organizations are working with the invaluable support of the International Organisation of Employers to contribute to the supervisory system in a more effective manner. We are doing this through submitting up-to-date and relevant information to the Committee of Experts on how member States are applying ratified Conventions in law and in practice, communicating not only shortcomings in application, but most importantly, any progress made and alternative ways to implement ILO instruments.
- 279.** We would like to highlight that an effective regular ILO supervisory system needs two essential elements to function: first, government reports and second, social partners' comments. Without them, we cannot properly supervise the implementation of ILO legal standards. We hope that our present efforts to streamline reporting and extend the possibility for e-reporting will help to facilitate government reporting and increase the number of reports we receive in the future. In our view, more efforts can be made to improve this area. In particular, a significant consolidation, concentration and simplification of ILO standards would be a good approach. We hope that the work of the Standards Review Mechanism will identify more areas where a consolidated approach will help us move forward.
- 280. Workers members:** As usual, our Committee is holding a special session on cases of serious failure regarding reporting obligations and other obligations related to standards, which highlights the high number of countries not respecting their constitutional obligations. We repeatedly emphasize: failures to meet these obligations undermine the proper functioning of the Organization's supervisory system as well as other initiatives, particularly standards-related, of the ILO. It is therefore fundamental to address this issue and to invite the countries

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which do not respect their obligations to comply. We see again this year that the reporting obligations have been observed less and less by member States in recent years. This is a worrying trend that must be remedied. Since we are drawing attention to the reporting obligations on ratified Conventions, we should also note that member States are less rigorous than in the past.

- 281.** The Committee of Experts' report shows that, of all the government reports required, only 35 per cent were received in time, i.e. by 1 September. And, as the Employer members have already highlighted, governments have been less punctual than last year as 38 per cent of the reports were received in time last year. There has therefore been a decline. Last year we already recorded a decline in the submission of reports by the deadline. This trend is worrying and must be reversed. It is crucial that governments deliver their reports in time in order to prevent disruption to the proper functioning of our Organization's supervisory system. The decline with respect to last year can be confirmed as the number of reports received during the previous session of the Committee of Experts was no more than 62.7 per cent, compared with 67.8 per cent in the previous meeting, i.e. 5.1 per cent less. This is a worrying and significant decline. Furthermore, 14 countries have not provided reports for two or more years and 11 countries have not provided a first report for two or more years. First reports are those due following the ratification of a Convention by a member State. These first reports are vitally important as they enable an initial evaluation of the implementation of the relevant Conventions in the member States.
- 282.** Our Organization's Constitution also obliges member States to indicate the representative employers' and workers' organizations to which copies of the reports on ratified Conventions are communicated. The Committee of Experts' report indicates that two countries have not respected this obligation for three years: Fiji and Rwanda. We remind these two States that tripartism is the cornerstone of the ILO. It is therefore essential that the social partners are involved in the supervision of the application of international labour standards in their country. Forwarding the reports communicated to the ILO to these organizations enables them to enrich the evaluation of the conformity of national law and practice with international labour Conventions. Rwanda was last year already among the two countries not meeting this obligation. We regret that Rwanda is listed again this year and invite it to comply promptly. We welcome the fact that the Plurinational State of Bolivia is no longer failing to comply in this area. We hope that a truly tripartite dynamic is harnessed to ensure this formality is given effect.
- 283.** The Committee of Experts each year formulates the observations and direct requests to which countries are invited to reply. This year, 46 countries have not replied, compared with 43 last year, hence an increasing number. As emphasized by the Committee of Experts, the number of comments without a reply remains very high. This negligence has a negative impact on the work of the supervisory bodies. We join the Committee of Experts in inviting non-compliant governments to provide all the information requested. In the light of the figures that are lower than last year's, and recalling that the main responsibility lies with the member States, we express our concern and request that the positive initiatives, already taken by the Office, be again significantly strengthened to reverse the negative trend that we are seeing again this year. A more efficient follow-up of countries which seriously fail to meet their constitutional obligations must be ensured.
- 284.** The Committee of Experts has also put in place a new positive initiative in this regard. I am thinking here of the urgent appeals procedure through which the Committee of Experts will examine the application of the relevant Convention, in terms of the substance, on the basis of information accessible to the public, even if the government has not sent a report. This will be done in cases where member States have not sent annual reports on ratified Conventions for three consecutive years. This procedure guarantees the examination of the application of ratified Conventions at least once during the reporting cycle. In this regard,

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eight member States are likely to have the substance of their case examined next year by the Committee of Experts on the basis of publicly accessible information. We firmly hope that this initiative of the Committee of Experts will yield results and that its actions, together with the Office's, will make it possible to reverse this trend.

- 285.** Yesterday, we discussed the General Survey, which this year focuses on social security. The development of the General Surveys is based mainly on the reports provided by our Organization's member States. It is therefore important that member States transmit their reports to enable us to benefit from an overview of the application in law and in practice of ILO instruments, even in countries which have not ratified the Conventions being studied. We saw yesterday during the discussion on the General Survey that this instrument is very rich and enables us to hold extremely interesting debates. Many General Surveys published in the past are still used today to shed light on the interpretation that can be made of ILO Conventions and Recommendations. We must nevertheless note that 32 countries have not provided any information for the last five years to contribute to the last five General Surveys drafted by the Committee of Experts. This is regrettable since these States would have usefully enriched the overview offered by the General Survey.
- 286.** Turning to the cases of serious failure to submit, these are cases in which governments have not submitted the instruments adopted by the Conference to the competent authorities for at least seven sessions. This obligation is essential in order to, at the national level, appropriately publicize a possible ratification of ILO normative initiatives by the member State. Thirty-nine countries this year constitute cases of serious failure to submit, compared with 31 last year. Unfortunately, this is as many missed opportunities to promote international labour standards adopted by the ILO.
- 287.** We can only invite all the member States at this meeting to take full note of the serious failures to meet their constitutional obligations that they are accused of and to rectify them as soon as possible. We therefore insist that the Office firmly requires the replies and reports that the States must provide based on their obligations, and actively drives forward the dynamic necessary for dialogue between the supervisory bodies and the member States; a dialogue which, yesterday, like today and tomorrow, is an essential exercise for the effective application of the standards.

### **1.1. *Failure to submit Conventions, Protocols and Recommendations to the competent authorities***

- 288.** In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19(5), (6) and (7) of the ILO Constitution. These provisions required member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.
- 289.** The Committee noted that, in order to facilitate its discussions, the report of the Committee of Experts mentioned only the governments which had not provided any information on the submission to the competent authorities of instruments adopted by the Conference for at least seven sessions (from the 96th Session (2007) to the 106th Session (2017), because the Conference did not adopt any Conventions and Recommendations during the 97th (2008), 98th (2009), 102nd (2013) or 105th (2016) Sessions). This time frame was deemed long enough to warrant inviting Government delegations to the dedicated sitting of the Committee so that they may explain the delays in submission.

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290. The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. It noted the specific difficulties mentioned by certain delegates in complying with this constitutional obligation, and in particular the intention to submit shortly to competent authorities the instruments adopted by the International Labour Conference. Some governments have requested the assistance of the ILO to clarify how to proceed and to complete the process of submission to national parliaments in consultation with the social partners.
291. The Committee expressed **deep concern** at the failure to respect the obligation to submit Conventions, Protocols and Recommendations to national parliaments. It recalled that compliance with the obligation to submit Conventions, Protocols and Recommendations to national competent authorities was a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. It also recalled that governments could request technical assistance from the Office to overcome their difficulties in this respect.
292. The Committee noted that the following countries were still concerned with the serious failure to submit the instruments adopted by the Conference to the competent authorities: **Azerbaijan, Bahamas, Bahrain, Belize, Brunei Darussalam, Chile, Comoros, Congo, Croatia, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Grenada, Guinea-Bissau, Haiti, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Malaysia, Malta, Pakistan, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Vanuatu.** The Committee expressed the firm hope that appropriate measures would be taken by the Governments concerned to comply with their constitutional obligation to submit.

## **1.2. Failure to supply reports and information on the application of ratified Conventions**

293. The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. Some governments have requested the assistance of the ILO. The Committee recalled that the submission of reports on the application of ratified Conventions was a fundamental constitutional obligation and the basis of the system of supervision. It also recalled the particular importance of the submission of first reports on the application of ratified Conventions. It stressed the importance of respecting the deadlines for such submission. Furthermore, it underlined the fundamental importance of clear and complete information in response to the comments of the Committee of Experts to permit a continued dialogue with the Governments concerned. In this respect, the Committee expressed **deep concern** at the failure to respect these obligations and recalled that the ILO could provide technical assistance to contribute to compliance in this respect.
294. The Committee noted that, by the end of the 2018 meeting of the Committee of Experts, the percentage of reports received (article 22 of the ILO Constitution) was **61.7** per cent (66.5 per cent for the 2017 meeting). Since then, further reports had been received, bringing the figure to **70.9** per cent (as compared with 74.1 per cent in June 2018).
295. The Committee noted that no reports on ratified Conventions had been supplied for the past two years or more by the following States: **Brunei Darussalam, Dominica, Equatorial Guinea, Gambia, Grenada, Malaysia – Sabah, Saint Lucia, Sierra Leone, Somalia and South Sudan.**
296. The Committee also noted that first reports due on ratified Conventions had not been supplied by the following countries for at least two years: **Chad, Congo, Equatorial**

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**Guinea, Gabon, Republic of Maldives, Netherlands – Curaçao, Romania, Saint Vincent and the Grenadines and Somalia.**

297. The Committee noted that no information had yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2018 from the following countries: **Afghanistan, Barbados, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Kyrgyzstan, Lesotho, Lebanon, Malaysia – Sabah, Republic of Maldives, Malta, Mauritius, Netherlands – Aruba, Papua New Guinea, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Sierra Leone, Somalia, South Africa, South Sudan, Tajikistan and Uganda.**

### **1.3. Urgent appeals**

298. Following the decision of the Committee of Experts to institute a new practice of launching urgent appeals for cases corresponding to countries which had failed to send a first report for at least three years and to draw the attention of the Committee on the Application of Standards to those cases, the Committee invited the countries concerned to provide information during the examination of cases of serious failure to fulfil reporting obligations, and expressed the hope that the Governments of **Congo, Equatorial Guinea, Gabon, Republic of Maldives, Saint Vincent and the Grenadines, and Somalia** would supply their first reports due as soon as possible.

299. The Committee brought to the attention of these Governments that the Committee of Experts had decided to examine in substance, at its next session, the application of the Conventions concerned on the basis of publicly available information, even if the Government had not sent the corresponding first report. The Committee also brought to the attention of all Governments that, as of its next session, the Committee of Experts will generalize this practice of issuing urgent appeals in all cases where article 22 reports have not been received for three consecutive years.

### **1.4. Supply of reports on unratified Conventions and Recommendations**

300. The Committee stressed the importance it attached to the constitutional obligation to supply reports on unratified Conventions and Recommendations. In effect, these reports permitted a better evaluation of the situation in the context of the General Surveys of the Committee of Experts. In this respect, the Committee expressed **deep concern** at the failure to respect this obligation and recalled that the ILO could provide technical assistance to contribute to compliance in this respect.

301. The Committee noted that over the past five years none of the reports on unratified Conventions and Recommendations, requested under article 19 of the Constitution, had been supplied by: **Angola, Belize, Botswana, Chad, Congo, Dominica, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Republic of Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste, Tonga, Tuvalu, Vanuatu and Yemen.**

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## **1.5. Communication of copies of reports to employers' and workers' organizations**

302. The Committee noted that no information had yet been received from **Fiji** or **Rwanda** concerning the names of the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated for the last three years. The Committee pointed out that the fulfilment by governments of their obligation to communicate reports and information to the organizations of employers and workers was a vital prerequisite for ensuring the participation of those organizations in the ILO supervisory system.

## **2. Application of ratified Conventions**

303. The Committee noted with **interest** the information provided by the Committee of Experts in paragraph 54 of its report, which listed new cases in which that Committee had expressed its satisfaction at the measures taken by governments following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. In addition, the Committee of Experts had listed in paragraph 57 of its report cases in which measures ensuring better application of ratified Conventions had been noted with interest. These results were tangible proof of the effectiveness of the supervisory system.

304. At its present session, the Committee examined 24 individual cases relating to the application of various Conventions.<sup>6</sup>

### **2.1. Specific cases**

305. The Committee considered it appropriate to draw the attention of the Conference to the discussions it had held regarding the case of the application by **Kazakhstan** of the **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**. The conclusions reached by the Committee and the statement made by the Government following their adoption, are presented in section F of Part One of this report.<sup>7</sup> The full record of the discussion regarding this case is contained in Part Two of the report.

### **2.2. Continued failure to implement**

306. The Committee recalled that its working methods provide for the listing of cases of continued failure over several years to eliminate serious deficiencies, previously discussed, in the application of ratified Conventions. This year the Committee made no mention in this respect.

<sup>6</sup> A summary of the information submitted by governments, the discussion and conclusions of the examination of the individual cases are contained in section C of Part Two of this report.

<sup>7</sup> See Paragraphs 407–417.



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### 3. Participation in the work of the Committee

307. The Committee wished to express its appreciation to the **43** governments which had collaborated by providing information on the situation in their countries and participating in the discussion of their cases.
308. The Committee **regretted** that the Governments of the following States failed to take part in the discussions concerning their country and the fulfilment of their reporting and other standards-related obligations: **Afghanistan, Albania, Azerbaijan, Bahamas, Bahrain, Chad, Comoros, Djibouti, Gabon, Gambia, Guyana, Kiribati, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Republic of Maldives, Malta, Mauritius, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Sao Tome and Principe, Seychelles, Sierra Leone, South Africa, Syrian Arab Republic, Timor-Leste, Tonga, Uganda and Vanuatu.**
309. The Committee noted with **regret** that the Governments of the following member States which were not represented at the Conference could not participate in the discussion concerning their countries regarding fulfilment of their reporting and other standards-related obligations: **Belize, Brunei Darussalam, Dominica, Grenada, Guinea-Bissau, Marshall Islands, Saint-Vincent and the Grenadines, Solomon Islands, Tajikistan and Tuvalu.**
310. Overall, the Committee expresses its **deep concern** at the large number of cases of serious failure by member States to respect their reporting and other standards-related obligations. The Committee recalls that governments may request technical assistance from the Office to overcome their difficulties in this regard.
311. **Worker members:** Sixty-six member States were invited to speak before our Committee and, of them, 21 have taken the floor. We have taken note of the practical difficulties encountered by some member States, particularly in terms of translating reports. We have also noted that there is still a need for specific training in this area. We welcome the statement by the representative of the Director-General reaffirming that the training courses provided by the Turin Centre remain an ILO flagship programme for training its constituents. We therefore request the Office to continue its efforts and maintain investment in such training programmes. The establishment of specific courses accessible to those who request them will enable them to improve fulfilment of their constitutional obligations on a lasting basis.
312. We regret that not all of the member States invited to speak have taken the floor. Nevertheless, we take note of the information provided by the 21 member States present and encourage them to work diligently to respect their constitutional obligations in the future. At the same time, we reiterate our request to the Office to ensure continued and attentive action alongside governments, providing them with all of the necessary assistance to respect their constitutional obligations. Once again, we welcome the new urgent appeals procedure established by the Committee of Experts, which will lead to the examination of the substance of a case after three consecutive years without the submission of reports. This procedure has the advantage of giving non-compliant States the time to put things in order while guaranteeing the examination of the substance of a case despite the absence of the submission of reports. This procedure sends a clear signal to member States that serious failure to report does not allow them to escape the ILO supervisory mechanisms.
313. We nevertheless thank the Government representatives who have provided additional information with respect to their obligations. Their presence is already a sign of their willingness to comply. We expect consistent follow-up to the commitments made during the current special session. We once again call on all governments, and particularly those not present before the Committee, to put an end to the serious failures for which they are responsible as soon as possible. We request that mention is made in the report of the member

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States that have not appeared before our Committee despite having been invited to come to this special session dedicated to serious failures.

- 314.** Lastly, the Worker members are open to discussions aimed at promoting greater compliance by member States with their standards-related constitutional obligations. However, it seems to us that this objective will never be able to be reached by an approach that seeks to consolidate or simplify standards.
- 315. Employer members:** We take note of the remarks made by the governments. We would like to reiterate that one of the essential components of an effective ILO supervisory system is represented by the government reports. We sincerely hope that our present efforts to streamline reporting and extend the possibility for e-reporting will help to facilitate government reporting and increase the number of reports we receive in the future by the 1 September deadline.

## **F. Conclusions adopted following the examination of the individual cases**

- 316.** During the informal tripartite consultations on the working methods of the Committee from November 2018 to March 2019, it was decided to present the conclusions adopted following the examination of the individual cases in Part One of the report. The conclusions adopted this year are presented below.

### **Algeria (ratification: 1962)**

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

- 317.** The Committee took note of the oral statements made by the Government and the discussion that followed.
- 318.** The Committee noted positively that the Government had accepted a high-level mission in May 2019. The Committee expressed concern over the persistence of restrictions on the right of workers to join and establish trade union organizations, federations and confederations of their own choosing and noted with concern the continued absence of tangible progress to bring the legislation into compliance with the Convention.
- 319.** Taking into account the Government's submission and the discussion that followed, the Committee urges the Government to:
- ensure that the registration of trade unions in law and in practice is in compliance with Convention No. 87;
  - process pending applications for the registration of free and independent trade unions, which have met the requirements set out by law, and allow the free formation and functioning of trade unions;
  - review the decision to dissolve the SNATEGS trade union;
  - systematically and promptly provide trade union organizations with all necessary and detailed information to enable them to take corrective action or complete additional formalities for their registration;

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- amend section 4 of Act No. 90-14 in order to remove obstacles to the establishment by workers of organizations, federations and confederations of their own choosing, irrespective of the sector to which they belong;
  - amend section 6 of Act No. 90-14 in order to recognize the right of all workers, without distinction whatsoever, to establish trade unions;
  - take all appropriate measures to guarantee that, irrespective of trade union affiliation, the right to freedom of association can be exercised in normal conditions with respect for civil liberties and in a climate free of violence, pressure and threats;
  - ensure impartial investigation and due process rights in order to guarantee the rule of law;
  - reinstate employees of the Government terminated based on anti-union discrimination, where appropriate; and
  - ensure that the new draft Labour Code is adopted with no further delay and is in compliance with the text of Convention No. 87.

320. Taking note of the recent ILO high-level mission that visited the country, the Committee urges the Government to fully implement the recommendations issued and to report on progress achieved to the Committee of Experts before its next session in November 2019.

321. **Government representative:** My delegation takes note of the Committee's conclusions. It reiterates its commitment to act upon the recommendations of the Committee of Experts. Progress has been made, and the Government will continue its work in this regard. Schedules will be drawn up to provide the necessary transparency regarding actions to be undertaken in the short term, and those for which steps should be taken towards broad consultations with all the social partners, as noted during the discussions. The implementation of the conclusions of the high-level mission, and the progress and achievements will be reported to the Committee before November 2019, as reflected in the conclusions.

**Belarus** (ratification: 1956)

***Forced Labour Convention, 1930 (No. 29)***

322. The Committee noted the information provided by the Government and the discussion that followed.

323. The Committee noted the Government's amendment in 2018 of Decree No. 3 and noted that the articles regarding administrative penalties, levies or compulsory work have been deleted and, instead, focuses on employment promotion. However, the Committee noted with concern the possible exaction of forced labour as a result of the operation of the other Presidential Decrees, which have not been amended.

324. The Committee recalled that the Government must take all necessary measures to suppress the exaction of forced labour.

325. The Committee noted that the Law of 2010 authorizes courts to require a citizen to participate in a rehabilitation programme in a medical centre. This may require citizens to participate in vocational skills training and compulsory work.

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- 326. In relation to the application of the Law of 2010, the Committee calls on the Government to ensure that no excessive penalties are imposed on citizens in order to oblige them to perform work.**
- 327. The Committee requests that the Government provide information regarding the implementation of the Law of 2010 in relation to circumstances of compulsory work that may be required by citizens.**
- 328. The Committee calls on the Government to continue to accept technical assistance to guarantee the full compliance of national law and practice with the Convention.**
- 329. The Committee requests that the Government provide information on the legislative framework to the Committee of Experts in the course of the regular reporting cycle.**
- 330. Government representative:** I would like to take this opportunity to thank all the participants in the discussion relating to Belarus on Convention No. 29 including the social partners, representatives of the Government, governmental and non-governmental organizations and others who are interested in the course of the discussions.
- 331. In our view the discussion was a constructive exchange of views between experts at different levels and we are satisfied with the conclusions of the Committee so it is with satisfaction that we note that in the report of the Committee of Experts and in the conclusions of the CAS there is no direct mention that the legal documents of the country of Belarus are in violation of the Convention. However, we will closely analyse the comments of all participants in the discussion and the conclusions of the Committee. All constructive proposals and comments will be given due consideration in our future work. We will continue to inform the ILO of the developments in legislation and practice relating to the comments made by the Committee of Experts. Belarus is going to continue to be an advocate of observing its commitments arising from membership of the International Labour Organization.**

## **Plurinational State of Bolivia (ratification: 1977)**

### ***Minimum Wage Fixing Convention, 1970 (No. 131)***

- 332. The Committee took note of the information provided by the Government representative and the discussion that followed.**
- 333. The Committee recalled the importance of full consultation with the most representative organizations of employers and workers, as well as the elements to be taken into consideration in determining the level of minimum wages as set forth in Article 3 of the Convention.**
- 334. The Committee regretted that the Government has not responded to all of the Committee's conclusions in 2018, specifically the failure to accept a direct contacts mission.**
- 335. The Committee therefore, once again, urges the Government to:**
- **carry out full consultations in good faith with the most representative employers' and workers' organizations with regard to minimum wage setting;**
  - **take into account when determining the level of the minimum wage the needs of workers and their families as well as economic factors as set out in Article 3 of the Convention; and**

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- avail itself without delay of ILO technical assistance to ensure compliance with the Convention in law and practice.

**336.** The Committee requests the Government to elaborate in consultation with the most representative workers' and employers' organizations and submit a detailed report to the Committee of Experts by 1 September 2019 on the progress made in implementing these recommendations.

**337.** The Committee once again urges the Government to accept an ILO direct contacts mission before the 109th Session of the International Labour Conference.

**338. Government representative:** Firstly, the Government of the Plurinational State of Bolivia takes due note of the conclusions presented by the Committee and will undertake the appropriate analysis of the conclusions.

**339.** In addition, we are bound to regret the fact that the conclusions do not necessarily reflect the discussion within the Committee. They do not cover certain topics raised and highlighted by the speakers, such as the achievements and advances in the wage policy implemented by the Plurinational State of Bolivia, in relation to the purpose of minimum wage fixing established by the Convention itself.

**340.** In addition, the analysis conducted in the discussion did not focus on non-compliance; no views were expressed indicating that the Government of the Plurinational State of Bolivia has failed to comply with the recommendations.

**341.** We also notice that the conclusions do not cover aspects referred to by the various countries and others that made statements. The wage policy and economic policy that have enabled the fixing of the minimum wage in the Plurinational State of Bolivia for these last 14 years have been a success, and it was the actual speakers in the discussion who highlighted the fact that it is other organizations that recognize this progress.

**342.** So we reiterate that the purpose of the Convention is the fixing of the minimum wage in relation to the Convention itself with a view to establishing decent wages for workers in situations of inequality. Our policy will remain the same in relation to our democratic calling: to govern while listening to the people.

**Brazil** (ratification: 1952)

***Right to Organise and Collective Bargaining  
Convention, 1949 (No. 98)***

**343.** The Committee took note of the information provided by the Government representative and the discussion that followed.

**344.** Taking into account the discussion that followed, the Committee requests the Government to:

- continue to examine, in cooperation and consultation with the most representative employers' and workers' organizations, the impact of the reforms and to decide if appropriate adaptations are needed;
- prepare, in consultation with the most representative employers' and workers' organizations, a report to be submitted to the Committee of Experts in accordance with the regular reporting cycle.

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- 345. Government representative:** After the conclusions pertaining to Brazil have been adopted. Once again, in concrete terms, we have witnessed how urgently and thoroughly the supervisory system needs to be reformed. Under the very roof of this tripartite Organization, two parties of the so-called International Labour Organization tripartism, just made public their conclusions on the debate we had last Saturday, without the participation of the third party concerned. No other system, supervisory or otherwise, of the UN family of international organizations is so out of touch with the reality of this one. Due process of law has yet to be observed.
- 346.** Throughout all chapters of this supervisory system, only two of the three parties take the decisions. In the house of tripartism, only two parties list, expose and conclude. Brazil aligns itself with all governments and social partners who have joined us in our call for a comprehensive reform of the supervisory system, both at the Committee of Application of Standards and elsewhere during this Conference.
- 347.** This supervisory system is not democratic, transparent, impartial or inclusive. It has all the ingredients of a robust system, what it does lack, is due process of law and right of defence. This system is too important to be left unguarded against political buy-ins and lack of transparency. We have confidence that the ILO constituency can seek consensus towards building an effective, truly tripartite, and universal mechanism for standards supervision.
- 348.** We have presented concrete facts and evidence that Brazil was in full compliance with Convention No. 98. Based on economic research institutions, like the University of San Paulo and international organizations, such as the World Bank, the Organisation for Economic Co-operation and Development (OECD), and the International Monetary Fund (IMF). Brazil's position was formally supported by more than 30 governments and employers' organizations, for which we are very grateful. Less than half of that supported all the points of view.
- 349.** These are strong words, because strong words are needed to be voiced against all sorts of injustice. A Committee of Experts that, despite the eminence of their components, does not offer solid technical work, a Committee that operates as a tribunal, receives denunciations as a tribunal, but does not investigate cases and view cases as a tribunal, arguing that solely because there are no formal punishments, a strong case is not required to be made.
- 350.** This supervisory system does not speak in favour of multilateralism when the values and principles which are the very pillars of the multilateral system are precisely those that are missing here today, and every day, in the ILO supervisory system. Brazil has engaged in good faith and constructive spirit with the ILO, however, there is a limit to our ability or willingness, to continue in that engagement, if a dialogue cannot be established and responses are biased and unfounded. Should this undesirable situation remain unchanged, Brazil reserves the right to consider all available options. Having said that, as we see, the position of the Committee reflects the views of the negotiations between employers and employees and does not reflect ILO's vision.
- 351.** Brazil would like to thank the Chair for the wise and serene conduction of the proceedings. We also recognize the Committee's ability to take into account information provided by Brazil and moderate its conclusions. Certainly, an evolution with regards to the last three years. Brazil will remain committed and compliant with the Organization's Conventions, with the creation of more jobs, to lifelong learning strategies and to addressing the challenges of the future of work.

***Worst Forms of Child Labour Convention,  
1999 (No. 182)***

352. The Committee took note of the oral statements made by the Government representative and the discussion that followed.
353. The Committee noted with satisfaction the developments in the legislative framework with regard to the amendment of the Penal Code by Legislative Decree No. 4/2015 of 11 November 2015, ensuring that the use of minors under 18 years of age for purposes of prostitution and sexual exploitation is criminalized.
354. Taking into account the importance of applying the legislation effectively in practice, the Committee requests the Government to provide information on:
- the application of sections 145A, 148, 149 and 150 of the Penal Code in practice, including the number of investigations, prosecutions and convictions, as well as
  - sanctions imposed with regard to the use, procuring or offering of a child under the age of 18 years for prostitution, for the production of pornography or for pornographic performances.
355. The Committee invites the Government to continue to report in the regular reporting cycle on progress made in the implementation of the Convention in law and practice in consultation with the most representative employers' and workers' organizations.
356. **Government representative:** The Government of Cabo Verde would like to thank the Committee for their conclusions. We fully agree with these conclusions, but with your permission, as a conclusion, we would like to reiterate the effort that the Government has made in this area. We are continuing to fight for the elimination of child labour. The official data on this show that progress has been made. We have disaggregated data based on the use of children for prostitution and sexual exploitation. We modified the Criminal Code in 2015 and we can see that this has resulted in a positive trend in those statistics. Along similar lines, the Government is continuing to fight the sexual exploitation of young people. We have a special committee that looks at human rights and a number of other related issues, and which is looking at elaborating a particular law on the abuse and sexual exploitation of children. We are also engaging in social dialogue, and this is extremely important to us. It is something that we have already implemented in Cabo Verde, and it is being practically implemented through a number of means. We are continually strengthening our laws and rules and we can see that in the adoption of a National Plan to Eliminate Child Labour. This has led to a number of other measures and that has been widely publicized in the country. For any legislative change that we have in the country, we also have wide-ranging social dialogue; workers and employers are involved in the adoption of those measures. We have taken a number of measures, as I have already said, and we would like to reiterate our Government's commitment to the process that we have witnessed here and to the process of fighting to eradicate the worst forms of child labour.

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**Egypt** (ratification: 1957)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

**357.** The Committee took note of the oral statements made by the Government representative and the discussion that followed.

**358.** The Committee noted that despite the adoption of the Trade Union Law and Ministerial Decree No. 35, a number of long-standing discrepancies between the national legislation and the provisions of the Convention continued to persist.

**359.** The Committee expressed concern over the persistence of restrictions on the right of workers to join and establish trade union organizations, federations and confederations of their own choosing and ongoing government interference in the trade union elections and activities.

**360.** Taking into account the discussion, the Committee calls upon the Government to:

- ensure that there are no obstacles to the registration of trade unions, in law and practice, in conformity with the Convention;
- act expeditiously to process pending applications for trade union registration;
- ensure that all trade unions are able to exercise their activities and elect their officers in full freedom, in law and in practice, in accordance with the Convention;
- amend the Trade Union Law to ensure that:
  - the level of minimum membership required at the enterprise level, as well as for those forming general unions and confederations, does not impede the right of workers to form and join free and independent trade union organizations of their own choosing;
  - workers are not penalized with imprisonment for exercising their rights under the Convention; and
- transmit copies of the draft Labour Code to the Committee of Experts before its next session in November 2019.

**361.** The Committee invites the Government to accept ILO technical assistance to assist in implementing these recommendations. The Committee urges the Government to submit a report on its progress to the Committee of Experts before its November 2019 session.

**362. Government representative:** We have taken note of the conclusions of the Committee and we thank all those who participated in the discussion. We would like to welcome the conclusions and to reassure the Committee that the Government of Egypt had made amendments to the law as explained thoroughly by the Minister during the case discussion, and I note that the amendments proposed in the conclusions are really reflected in the amendments that we had presented to the Parliament and are currently being discussed for adoption. Definitely, copies of this new law will be presented to the ILO secretariat.



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**363.** The Government is also working on solving the problems of the trade union organizations that wish to regulate their status by providing them technical support and has requested the participation of the ILO office in Cairo in this process.

**El Salvador** (ratification: 1995)

***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)***

**364.** The Committee took note of the oral statements made by the Government representative and the discussion that followed.

**365.** Taking into account the Government's submissions and the discussion, the Committee calls upon the Government to:

- refrain from interfering with the constitution of workers' and employers' organizations and to facilitate, in accordance with national law, the proper representation of legitimate employers' and workers' organizations by issuing appropriate credentials;
- develop, in consultation with the most representative employers' and workers' organizations, clear, objective, predictable and legally binding rules for the reactivation and full functioning of the Higher Labour Council;
- reactivate, without delay, the Higher Labour Council and other tripartite entities, respecting the autonomy of the most representative organizations of workers and employers and through social dialogue in order to ensure its full functioning without any interference; and
- continue to avail itself without delay of ILO technical assistance.

**366.** The Committee requests the Government to elaborate in consultation with the most representative employers' and workers' organizations and submit a detailed report to the Committee of Experts before its next session in November 2019 on the application of the Convention in law and practice.

**367.** The Committee urges the Government to accept a direct contacts mission of the ILO before the 109th session of the International Labour Conference.

**368. Government representative:** I give thanks to the Chairperson of the Committee on the Application of Standards, our friends from GRULAC and the European Union for the full support offered to our country, and particularly for the message of faith and confidence in the new Government, as all these denunciations and reports correspond to a previous Government, and not to ours as from 1 June.

**369.** We have taken the decision with the President of the Republic, in my capacity as Minister, that all today's conclusions form part of a list of priorities for our Government. In the presence here of Workers and Employers, this further commitment, from the limited viewpoint of our country, is a commitment that we are assuming before the world and each and every one of you at this time. This is in accordance with the spirit and the conclusions of our bilateral meetings, for which we give direct thanks to the Director-General, Guy Ryder, who received us. We also met Dr Kalula and various ILO bodies, in which we indicated and maintained our first intervention in plenary, indicating our willingness as a Government to fully resolve all the conclusions.

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370. We feel totally satisfied with the conclusions reached by the Committee on the Application of Standards, as this means that they not only correspond to a new vision by our Government, but also that the technical assistance and direct contacts mission guarantee us not only collaboration and technical support, but also the guarantee of the supervision and verification of compliance with all the conclusions, which we totally welcome as the Government.
371. Finally, we wish to indicate, in the presence of the whole world, that we are not and will not dwell on assessments of past practices, but will adopt a positive approach, from now on, to build more democratic pillars and the cement that is required by a country such as ours.
372. We are fully convinced that the tripartite approach is the one that will ensure that we take in hand and lead our country forward. Moreover, Chairperson, we undertake to build all the institutions that are required at any particular time for tripartite consensus, including with other actors, in order to take forward the national agenda and also ensure the minimization of bureaucratic obstacles, as indicated in the present forum, so that we can address clearly many of our problems in full collaboration in El Salvador.
373. We reiterate our gratitude to GRULAC, the European Union and the countries which individually expressed total support for us and confidence. We wish to tell them that we will not fail.

**Ethiopia** (ratification: 2002)

***Minimum Age Convention, 1973 (No. 138)***

374. **The Committee took note of the comprehensive information provided by the Government representative on the developments achieved so far, and on the remaining challenges and the discussion that followed.**
375. **Taking into account the Government submissions and the discussion that followed, the Committee urges the Government to:**
- **address gaps in the Labour Law and align the legal framework in consultation with workers' and employers' organizations, so as to ensure that the protection afforded by the Convention, covers all children under the age of 14 engaged in employment or work;**
  - **strengthen the capacity of the labour inspectorate and competent services, including in terms of human, material and technical resources and training, particularly in the informal economy, with a view to ensuring effective protection and compliance with legislation;**
  - **introduce legislative measures to provide free public and compulsory education up to the minimum age of admission to employment of 14 years, and ensure its effective implementation in practice without delay;**
  - **improve the functioning of the educational system through measures that aim to increase school enrolment rates and to decrease drop-out rates;**
  - **ensure the expeditious revision of the decree of the Minister of Labour and Social Affairs, of 2 September, 1997, in order to expand its application to children engaged in professional education in vocational centres. The Government is invited to avail itself of International Labour Organization (ILO) technical assistance in developing a plan to promote life-long skills training, quality**

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apprenticeship and smooth transition from school to work for its youth population;

- take all necessary measures to ensure that in practice, children under 18 years of age, are not engaged in hazardous work in urban and rural areas, including the periodic update and review of the national list of hazardous work prohibited for all children;
- promote partnerships with employers' and workers' organizations and other relevant stakeholders, to eliminate and prohibit child labour through social dialogue and strong cooperation; and
- develop a time bound action plan in consultation with the social partners, in order to progressively increase the age of admission to employment and compulsory education to 16 years.

376. The Committee encourages the Government to avail itself of ILO technical assistance to ensure the full and effective application of this fundamental Convention, and to report on the measures taken, to the Committee of Experts for examination at its next session in 2019.

377. **Government representative:** Allow me to thank once again the social partners and governments for their constructive and forward-looking discussion on our case. While attaching high values to the outcomes of the discussion, I would like to re-affirm the commitment of my Government to take all possible measures towards the full implementation of the Convention with the aim to reduce and eliminate child labour in all its forms. In light of the above, we have taken note of the conclusion of the Committee and we request the Committee to give us a reasonable sufficient time to address child labour issues in Ethiopia which indeed are complex and require support of various development partners including ILO.

**Fiji** (ratification: 2002)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

378. The Committee took note of the information provided by the Government representative and the discussion that followed.

379. The Committee observed serious allegations concerning the violation of basic civil liberties, including arrests, detentions and assaults and restrictions of freedom of association. The Committee noted with regret the Government's failure to complete the process under the Joint Implementation Report.

380. Taking into account the discussion, the Committee calls upon the Government to:

- refrain from interfering in the designation of the representatives of the social partners on tripartite bodies;
- reconvene the Employment Relations Advisory Board (ERAB) without delay in order to start a legislative reform process;
- complete without further delay the full legislative reform process as agreed under the JIR, the Joint Implementation Report;

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- refrain from anti-union practices, including arrests, detentions, violence, intimidation and harassment and interference;
  - ensure that workers' and employers' organizations are able to exercise their rights to freedom of association, freedom of assembly and speech without undue interference by the public authorities; and
  - ensure that normal judicial procedures and due process are guaranteed to workers' and employers' organizations and their members.

381. The Committee requests that the Government report on progress made towards the implementation of the Joint Implementation Report in consultation with the social partners by November 2019.

382. The Committee calls on the Government to accept a direct contacts mission to assess progress made before the 109th Session of the International Labour Conference.

383. **Government representative:** We welcome the report of the Committee and thank the Committee for giving us an opportunity to share Fiji's priorities and concerns in relation to the methods being considered before this Committee. We appreciated the honest, forthright and constructive nature of the dialogue with our partners and we can assure the Committee of Fiji's respect for its obligations on core ILO Conventions ratified. We undertake to further the social dialogue with our partners and we reiterate our commitment under the Joint Implementation Report and we will provide progress made as required by the Committee.

**Honduras** (ratification: 1956)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

384. The Committee took note of the oral statement made by the Government and the discussion that followed.

385. The Committee noted with serious concern the allegations of acts of anti-union violence, including the allegations of physical aggression and murders, and the prevalent climate of impunity.

386. In addition, the Committee noted the ILO direct contacts mission that took place in May 2019 and the resulting Tripartite Agreement.

387. The Committee calls for the Government to apply the Tripartite Agreement, including with respect to the:

- establishment of a national-level committee by June 2019 to combat anti-union violence;
- establishment of a direct line of communication between trade unions and relevant public authorities;
- provision of prompt and effective protection to at-risk trade union leaders and members;
- prompt investigation of anti-union violence with a view to arresting and charging those responsible, including the instigators;

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- transparency of the complaints received through biannual reporting;
  - need for awareness-raising in relation to protective measures available to trade unionists and human rights defenders;
  - reform of the legislative framework, and in particular the Labour Code and the Penal Code, in order to ensure compliance with the Convention; and finally
  - adoption of the operating regulations of the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT) without prejudice to the complainants' right to file complaints with the ILO supervisory bodies.

**388.** Taking note of the commitments under the Tripartite Agreement, the Committee calls on the Government to avail itself of ILO technical assistance in order to implement the Agreement in collaboration with the ILO, and to elaborate a report in consultation with the most representative employers' and workers' organizations on progress achieved in the implementation of Convention No. 87 in law and practice to the Committee of Experts before its next sitting in November 2019.

**389. Government representative:** The Government of Honduras has noted the conclusions in our case and reiterates its political will and commitment to give effect to them, and particularly the tripartite agreement, for which we will request ILO technical assistance.

**India** (ratification: 1949)

***Labour Inspection Convention, 1947 (No. 81)***

**390.** The Committee took note of the information provided by the Government representative and the discussion that followed.

**391.** Taking into account the discussion, The Committee calls upon the Government to:

- ensure that the draft legislation, in particular the Code on Wages, and the OSH and Working Conditions Act, is in compliance with Convention No. 81;
- ensure that effective labour inspections are conducted in all workplaces, including the informal economy and in all SEZs;
- promote the collaboration between officials of the labour inspectorate and employers and workers, or their organizations, in particular when it comes to the implementation of inspection reports;
- increase the resources at the disposal of the central and state government inspectorates;
- ensure that labour inspectors have full powers to undertake routine and unannounced visits and to initiate legal proceedings;
- pursue its efforts towards the establishment of registers of workplaces at the central and state levels;
- provide detailed information on the progress made with respect to measures taken to improve the data collection system, enabling the registration of data in all sectors;

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- ensure that the operation of the self-certification scheme does not impede or interfere with the powers in functions of labour inspectors to carry out regular and unannounced visits in any way, as this is only a complementary tool; and
  - submit its annual report on labour inspection to the ILO.
- 392.** Taking into account the importance of applying the legislation effectively in practice, the Committee requests the Government to provide information on the number of routine and unannounced visits, as well as on the dissuasive sanctions imposed against infractions to guarantee the enforcement of labour protections in practice.
- 393.** The Committee invites the Government to accept a Direct Contact Mission before the next International Labour Conference and to elaborate a report in consultation with the most representative employers' and workers' organizations on progress made in the implementation of the Convention in law and practice to the Committee of Experts by the 1 September 2019.
- 394. Government representative:** I wish to thank you for giving us the floor to make the remarks on the conclusions made without any consultations with the Government members. It is surprising that the International Labour Organization which stands for social justice, inclusion and equal rights for all but follows the procedures mechanisms and supervisory system which is undemocratic, non-inclusive, non-transparent, biased and being presented with a fait accompli. We have already raised the procedural lapses of the system and are still awaiting information from the Office. Our delegation cannot be a part of non-transparent, non-inclusive process that does not accurately represent the discussions in the CAS.
- 395.** The conclusions are neither reflective of the discussions and deliberations held in that Committee nor is the so-called consensus as per agreed working methods. The governments and employers had clearly expressed that the case be dropped as pointed out by the employers.
- 396.** In the first instance, the case should not have been admitted on the basis of frivolous complaint of this nature. It may be worth emphasizing that this is also not a double footnoted case or a case of serious failure by a member State. To respect its reporting or other standards related obligations. The contents of the proposed conclusions are thus unduly disproportionate.
- 397.** India is a large country with immense development priorities and challenges. Over the past four years, we have taken several steps after extensive consultations with the social partners to ensure the rights of our workers, their welfare is the first and the foremost our responsibility as they are the citizens of India who have recently participated in an electoral exercise that was the largest in the history of mankind. The information we have shared on a voluntary basis over the past four years was in the spirit of cooperation, further detailed statistics and explanation on each point raised by the Committee provided was supplemented by a detailed oral reply by the Government. It was also highlighted in the statistics that there has been increase in the number of inspections, inspectors and unannounced inspections. There has also been increase in number of prosecutions and penalties imposed. It is reiterated that the Government of India is committed to implement the Convention No. 81 which has not been violated in any manner. In view of this we fail to understand the reasonableness or constructiveness of the conclusions. It appears that there is other issues raised in the complaint, other extraneous factors were taken into consideration while deciding the conclusions of the case. In addition to being an outcome of an incorrect biased, non-transparent and unfair process.

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398. We have also come to know that the recommendations from the Employers' group have not been developed through consensus as required by established procedures and that the Chair of this Committee has been informed in writing about the same. The conclusions are not reflective of the viewpoints expressed by the two constituents, Government and the Employers of the tripartite pillars. The general consensus is being ignored in the Committee. The stand of the country was supported by all representatives of the Government who participated in the deliberations.
399. The Committee on the Application of Standards which stands for tripartism has not taken into the view of the Government which is the ultimate policy making and implementing agency before the conclusions are arrived. Further, the copy of the conclusions is not given well in advance to the member countries. In this regard, we had requested to furnish the copy of conclusions in advance to India. In their statement made on 18 June 2019 as at Committee.
400. In view of the above, the Government delegation is not in a position to accept the conclusions of the Committee. In its 100th year, the ILO needs to reform its structures and processes especially the supervisory systems to make it genuinely more representative, transparent, consensual and inclusive of all tripartite constituents including the governments. This is vital to ensure its credibility and acceptability. We see no merit in further participating in a deeply flawed and non-constructive process that needs to be urgently remedied in the Centenary year of the Organization. India takes this opportunity to reaffirm its strongest commitment to international labour standards and to its application in law and practice in accordance with our specific context.

Iraq (ratification: 2001)

***Worst Forms of Child Labour Convention,  
1999 (No. 182)***

401. The Committee took note of the information provided by the Government representative and the discussion that followed.
402. The Committee deplored the absence of information provided by the Government and the lack of progress in the country.
403. While acknowledging the complexity of the situation and the presence of armed groups and armed conflict in the country, the Committee deplored the current situation where children are being recruited and used by armed groups as combatants and in support roles, including as sexual slaves.
404. Taking into account the discussion of the case, the Committee urges the Government to provide an immediate and effective response for the elimination of the worst forms of child labour, including the following:
- take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children into armed forces and armed groups;
  - adopt legislative measures to prohibit the recruitment of children under 18 years of age for use in armed conflict;
  - take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict

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are carried out and sufficiently effective and dissuasive penalties are imposed in practice;

- collecting and making available without delay information and statistics on investigations, prosecutions and penalties relating to the worst forms of child labour according to national enforcement mechanisms;
- develop policies and programs aimed at ensuring equal access to free public and compulsory education for all children by taking steps to give immediate effect to its previous commitment to introduce laws that prohibit the recruitment of children for armed conflict and dissuasively penalize those who breach this law;
- supplement without delay the UNESCO “Teach a Child” project and other projects with such other measures as are necessary to afford access to basic education to all children of school age, particularly in rural areas and areas affected by war;
- take effective measures without delay to ensure that children who often unwillingly have been associated with armed groups are not unfairly treated simply because of that association, and that all are afforded appropriate means of integration back into stable civil society; and finally
- take effective measures to identify and support children, without delay, who have been sexually exploited and abused through such means of sexual enslavement.

405. The Committee encourages the Government to avail itself of ILO technical assistance to progress towards the full eradication of the worst forms of child labour in accordance with Convention No. 182.

406. The Committee calls on the Government to report in detail on the measures taken to implement these recommendations to the next meeting of the Committee of Experts in November 2019.

**Kazakhstan** (ratification: 2000)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

407. The Committee took note of the written information and oral statements made by the Government representative and the discussion that followed.

408. The Committee regretted the persistent lack of progress since the last discussion of the case, in particular with regard to the serious obstacles to the establishment of trade unions without previous authorization in law and in practice and the continued interference with the freedom of association of employers’ organizations.

409. The Committee took note of the ILO high-level tripartite mission that took place in May 2018 and the resulting road map.

410. Taking into account the discussion, the Committee calls upon the Government to:

- amend the provisions of the Law on Trade Unions consistent with the Convention, on issues concerning excessive limitations on the structure of trade unions which limit the right of workers to form and join trade unions of their own choosing;



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- refrain from imposing restrictions on the right to hold elected positions in trade unions and the right to freedom of movement for engaging in legitimate trade union activities;
  - ensure that the allegations of violence against trade union members are investigated, and where appropriate, impose dissuasive sanctions;
  - review, in consultation with the social partners, the existing law and practice regarding re-registration of trade unions with a view to overcoming the existing obstacles;
  - amend, in consultation with the most representative, free and independent employers' organizations, the provisions of the Law on the National Chamber of Entrepreneurs, and related regulations, in a manner that would ensure the full autonomy and independence of free and independent employers' organizations, without any further delay. In particular remove the provisions on the broad mandate of the NCE to represent employers and accredit employers' organizations by the NCE;
  - ensure that the KNPRK and its affiliates enjoy the full autonomy and independence of a free and independent workers' organization, without any further delay, and are given the autonomy and independence needed to fulfil their mandate and to represent their constituents;
  - confirm the amendment to legislation to permit judges, firefighters and prison staff, who do not occupy a military rank, to form and join a workers' organization;
  - adopt legislation to ensure that national workers' and employers' organizations are not prevented from receiving financial assistance or other assistance by international organizations. In this regard, provide information on the legal status and contents of its recommendation regarding the authorization of workers' and employers' organizations to receive financial assistance from international organizations; and
  - implement the 2018 road map in consultation with the social partners as a matter of urgency.

**411. The Committee invites the Government to pursue ILO technical assistance to address these matters and to report on progress to the Committee of Experts by 1 September 2019.**

**412. The Committee decides to include its conclusions in a special paragraph of the report.**

**413. Government representative:** I would like to take this opportunity to thank all the participants in the discussion on Kazakhstan, including social partners, government representatives and non-governmental organizations. We take note of the conclusions. We will continue to work with the social partners and the ILO on legislation and practice related to the implementation of Convention No. 87 in Kazakhstan. Kazakhstan is committed to fully respecting and implementing its obligations under the ILO.

**414.** However, while the first line of the conclusions indicate that the Committee took note of the written information and oral statements made by the government representatives and the discussions that followed, paragraph one, mentioning the necessity to amend the provision of the Law of Trade Unions, and paragraph eight, referring to the adoption of legislation to ensure that national workers' and employers' organizations are not prevented from receiving financial assistance, are drafted as if nothing has been said by the Government representative

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and nothing has been heard by the Committee. It is a highly unusual situation to adopt a document, received ten minutes previously, before the government representative has expressed his or her opinion on it. But we can live with that.

- 415.** Furthermore, regarding the paragraph regarding the requirement to ensure that the KNPRK, a dissolved former trade union, has to be given full autonomy and independence. This trade union, as the government report indicates, attempted to re-register under a different name. What happens if they choose a different name? How are we going to follow this recommendation of the Committee? Do we need to force them to adopt the same name as you mentioned in this document or would you allow it to register under a different name? Because it is up to trade union members and trade union activists to do that.
- 416.** Finally, you would suggest that the Committee includes its conclusions in a special paragraph of the report. I kindly request the secretariat to give us further information on what this implies for us and why Kazakhstan has been singled out in this case. We notice that out of 26 speakers on the Kazakhstan case, only two or three delegates mentioned this special paragraph but you support it. We therefore need further clarification and explanation from the secretariat.
- 417.** And we fully share India's remarks regarding the need for increased transparency of the Committee

## **Lao People's Democratic Republic (ratification: 1956)**

### ***Worst Forms of Child Labour Convention, 1999 (No. 182)***

- 418.** The Committee took note of the information provided by the Government representative and the discussion that followed.
- 419.** While acknowledging the complexity of the situation, the Committee deplored the current situation.
- 420.** Taking into account the discussion of the case, the Committee urges the Government to provide an immediate and effective response for the elimination of the worst forms of child labour, including:
- continue to formulate and thereafter carry out specific measures targeted at eliminating the worst forms of child labour, including trafficking and commercial sexual exploitation of children, in consultation with the social partners;
  - take measures as a matter of urgency to strengthen the capacity of the law enforcement authorities including the judiciary;
  - establish a monitoring mechanism, including the participation of the social partners, in order to follow up on complaints filed, investigations carried out as well as to ensure an impartial process of prosecuting cases that takes into account the special requirements of child victims, such as protecting their identity and the ability to give evidence behind closed doors;
  - take immediate and time bound measures – together with the social partners – to protect children from falling victim to commercial sexual exploitation. This should include:

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- (a) implementing programmes to educate vulnerable children and communities about the dangers of trafficking and exploitation, with a focus on preventing children from being trafficked and being subject to commercial sexual exploitation; and
  - (b) establishing centres to rehabilitate child victims and reintegrate them into society.

421. The Committee encourages the Government to seek further technical assistance from the ILO and incorporate the strategy as proposed above in a continuing National Plan of Action, including the ILO Decent Work Country Programme.

422. The Committee encourages the Government to elaborate in full consultation with the most representative worker and employer organizations and submit a report on the above matters by 1 September 2019.

423. **Government representative:** We take note of the conclusions and recommendation made by the Committee. I would like to express our appreciation to the ILO and the member countries who support Lao PDR in its endeavour to eliminate the worst forms of child labour. I would like to confirm Laos' commitment to eliminate the worst forms of child labour and take the necessary measures to combat trafficking in persons as well as ensuring that the investigation and prosecution are carried out for persons who engage and are involved in the trafficking in persons under 18 years of age. Lastly, we would like to thank the Committee for its encouragement and we request the ILO for further technical support to Lao PDR to fulfil its efforts on the application of ILO Convention No. 182.

**Libya** (ratification: 1961)

***Discrimination (Employment and Occupation)  
Convention, 1958 (No. 111)***

424. The Committee took note of the information provided by the Government representative and the following discussion.

425. The Committee deplored that persons from sub-Saharan countries are being sold in slave markets and that they are subjected to racial discrimination.

426. The Committee took note of the Government's commitment to ensure compliance with Convention No. 111. Taking into account the discussion, the Committee calls on the Government to:

- take concrete actions to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice;
- ensure that legislation covers, directly or indirectly, all the recognized prohibited grounds for discrimination set out in Article 1, paragraph 1(a) of the Convention, and take measures to prohibit discrimination in employment and occupation in law and in practice;
- include a definition of the term "discrimination" in the 2010 Labour Relations Act;
- ensure that migrant workers are protected from ethnic and racial discrimination and from forced labour;

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- educate and promote equal employment and opportunities for all;
  - take immediate action to address the situation of racial and ethnic discrimination against migrant workers from sub-Saharan Africa (including women migrant workers) and, in particular, to put an end to forced labour practices; and
  - conduct studies and surveys to examine the situation of vulnerable groups, including migrant workers, in order to identify their problems and possible solutions.

427. In this respect, the Committee invites the Government to continue to engage and actively participate in ILO technical assistance in order to promote equitable and effective labour migration policies.

428. The Committee asks the Government to provide detailed information on the concrete measures taken to implement these recommendations at the next meeting of the Committee of Experts.

429. **Government representative:** We have taken due note of these conclusions and we commit ourselves to transmitting regular reports to you. We will certainly spare no effort in the near future in seeking to give effect to these conclusions. Allow me, while I have the floor, to thank all of those who were involved in elaborating the conclusions. Thanks also go to all of those who participated in the discussion and to the delegation of Libya.

## **Myanmar (ratification: 1955)**

### ***Forced Labour Convention, 1930 (No. 29)***

430. The Committee took note of the oral information provided by the Government representative and the discussion that followed.

431. The Committee took note of the Government's stated efforts in eliminating forced labour, welcomed these efforts, and urged the Government to continue them. However, the Committee expressed concern over the persistent use of forced labour.

432. Taking into account the discussion of the case, the Committee urges the Government to:

- take all necessary measures to ensure that, in practice, forced labour is no longer imposed by the military or civilian authorities; strictly enforce the Ward or Village Tract Administration Act of 2012 and the Penal Code to assure that those responsible for perpetrating forced labour be effectively investigated and prosecuted and receive and serve sentences that are commensurate with the crime in all cases;
- ensure that the victims of forced labour have access to effective remedies and comprehensive victim support without fear of retaliation;
- refrain from imposing any punishment against those who have spoken out against or reported incidents of forced labour;
- increase the visibility of awareness-building and capacity-building activities for the general public and administrative authorities to deter the use of forced labour;

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- provide detailed information on the progress made in the Decent Work Country Programme; and finally
  - intensify its cooperation with the ILO through the development of a time-bound action plan for the establishment of, and transition to, an effective complaints handling procedure.

433. In this regard, the Committee encourages the Government to avail itself of ILO technical assistance to address these recommendations.

434. **Government representative:** We take note of the recommendation made by the Committee. I would like to express our appreciation to the International Labour Organization (ILO), and the countries support for Myanmar with its endeavours to eliminate forced labour. I would like to reaffirm our commitment for the elimination of forced labour. I would like to request the ILO and the member States, to continue their assistance to Myanmar for the elimination of forced labour

**Nicaragua** (ratification: 1981)

***Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)***

435. The Committee took note of the information provided by the Government representative and of the discussion that followed.

436. Taking into account the information presented by the Government and the discussion, the Committee calls on the Government to urgently:

- ensure that labour market policies are carried out in consultation with the most representative, free and independent workers' and employers' organizations in order to help achieve the principles of the Convention No. 117, drawing on ILO technical assistance;
- ensure that migrant workers and families are adequately protected against discrimination; and
- develop and implement sound and sustainable economic and labour market policies, in consultation with the most representative, free and independent workers' and employers' organizations.

437. The Committee encourages the Government to avail itself of ILO Technical Assistance. The Committee requests the Government to provide further information to the Committee of Experts, for consideration at its November 2019 meeting, on measures taken to comply with Convention No. 117.

438. **Government representative:** We thank the Governments and social partners for their constructive comments on our case. We reaffirm our commitment as a country and as the Government of Reconciliation and National Unity, to adopt all possible recommendations. In this light, we take note of the Committee's conclusions and will be reporting back as soon as possible.

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Philippines (ratification: 1953)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

439. The Committee took note of the information provided by the Government representative and the discussion that followed.
440. The Committee noted with concern the numerous allegations of murders of trade unionists and anti-union violence as well as the allegations regarding the lack of investigation in relation to these allegations.
441. The Committee noted that the Government has introduced legislative reforms to address some of the issues but regretted that these reforms were not adopted and urged the Government to bring the law into compliance with the Convention.
442. Taking into account the discussion of the case, the Committee requests the Government to:
- take effective measures to prevent violence in relation to the exercise of workers' and employers' organizations legitimate activities;
  - immediately and effectively undertake investigations into the allegations of violence in relation to members of workers' organizations with a view to establishing the facts, determining culpability and punishing the perpetrators;
  - operationalize the monitoring bodies, including by providing adequate resources, and provide regular information on these mechanisms and on progress on the cases assigned to them; and
  - ensure that all workers without distinction are able to form and join organizations of their choosing in accordance with Article 2 of the Convention.
443. The Committee calls on the Government to accept a high-level tripartite mission before the next International Labour Conference and to elaborate in consultation with the most representative workers' and employers' organizations, a report on progress made for the transmission to the Committee of Experts by 1 September 2019.
444. **Government representative:** Once again, the Philippine Government appreciates this space given to us, not only to report on the progress of our tripartite undertaking, but also to clarify points raised and dispute recourse and new unfounded allegations heard.
445. Let me reiterate there are no new 43 reported cases of death in my country. We therefore note with reservation the conclusions reached by the Committee. It is quite surprising in view of the works done by the Philippine social partners in pursuance of the tripartite agreed national action plan.
446. At any rate, we continue to undertake that at the national level no social partner shall be left out, in as much as in the international level, no country, worker or employer shall be left behind to ensure decent work based on social justice in a brighter future. We will respectfully inform this Committee on the official response of the capital on this matter.

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**Serbia** (ratification: 2000)

***Labour Inspection Convention, 1947 (No. 81)***

***Labour Inspection (Agriculture) Convention, 1969 (No. 129)***

447. The Committee took note of the oral statements made by the Government representative and the discussion that followed.
448. The Committee noted with concern that the national legislation placed a number of restrictions on the powers of labour inspectors.
449. Taking into account the Government's submissions and the discussion that followed, the Committee urges the Government to:
- amend sections 16, 17, 49 and 60 of the Law on Inspection Oversight No. 36/15 without delay so as to ensure that labour inspectors are empowered to enter freely and without previous notice workplaces in order to guarantee adequate and effective supervision in conformity with Convention No. 81 and Convention No. 129; and also
  - undertake the legislative reforms in consultation with the social partners as well as to ensure effective collaboration between the labour inspectorate and the social partners.
450. The Committee calls on the Government to avail itself of ILO technical assistance in relation to these recommendations.
451. The Committee requests that the Government report in detail on the measures taken to implement these recommendations by 1 September 2019.
452. **Government representative:** The Government of the Republic of Serbia wishes to give thanks to the Committee and to all groups and individuals that took part in the discussion yesterday. We read the conclusions and we are of the opinion that conclusions should also refer to labour practices in Serbia and not only to the national legislation, but anyway, the Government said yesterday that we will ask for technical assistance of the ILO in order to remedy this situation and in this, we will work together with other ministries in the Government and with our social partners and we will send to the ILO the information by 1 September this year.

**Tajikistan** (ratification: 1993)

***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)***

453. The Committee took note of the oral statement made by the Government representative and the discussion that followed.
454. The Committee took note of the Government's statement to ensure compliance with Convention No. 111.
455. Taking into account the discussion, the Committee calls upon the Government to:

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- report on the concrete measures taken to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice; and
  - provide without delay information on the implementation in practice of the framework law on state guarantees of equal rights for men and women and equal opportunities in the exercise of such rights, No. 89 of 1 March 2005.

456. The Committee requests the Government to elaborate in consultation with the most representative workers' and employers' organizations and submit a report to the Committee of Experts by 1 September 2019.

457. **Government representative:** I would like to express my appreciation to all the participants who intervened before this Committee to clarify the situation and look forward to further fruitful cooperation.

**Turkey** (ratification: 1993)

***Freedom of Association and Collective Bargaining Convention, 1948 (No. 87)***

458. The Committee took note of the information provided by the Government representative and the discussion that followed.

459. The Committee recalled that the respect for civil liberties was an essential prerequisite for freedom of association. The Committee noted with concern the allegations of restrictions placed on workers' organizations to form, join and function.

460. Taking into account the discussion, the Committee calls on the Government to:

- take all appropriate measure to guarantee that irrespective of trade union affiliation, the right to freedom of association can be exercised in normal conditions with respect for civil liberties and in a climate free of violence, pressure and threats;
- ensure that normal, judicial procedure and due process are guaranteed to workers' and employers' organizations and their members;
- review Act No. 4688, in consultation with the most representative workers' and employers' organizations, in order to allow that all workers without any distinction, including public sector workers, freedom of association in accordance with the Convention in law and practice;
- revise Presidential Decree No. 5 to exclude workers' and employers' organizations from the scope; and
- ensure that the dissolution of trade unions follows a judicial decision and that the rights of defence in due process are fully guaranteed through an independent judiciary.

461. The Committee requests that the Government report on progress made on the above-mentioned recommendations to the Committee of Experts for its meeting in November 2019.



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**462. Government representative:** We thank those countries and the social partners who approached the case constructively during the discussions and acknowledged the positive developments and progress made in Turkey relating to the subject matter. We will continue to work with our social partners at national and international level to respond to their concerns and we will inform the Committee of Experts on the issues raised in their reports in on our next report.

**Uruguay** (ratification: 1954)

***Right to Organise and Collective Bargaining  
Convention, 1949 (No. 98)***

**463. The Committee took note of the information provided by the Government representative and the discussion that followed.**

**464. Taking into account the discussion that followed, the Committee urges the Government to:**

- **initiate legislative measures by 1 November 2019, after full consultation with the most representative employers' and workers' organizations, considering recommendation of ILO supervisory bodies, to guarantee the full compliance of national law and practice with the Convention; and**
- **prepare, in consultation with the most representative employers' and workers' organizations a report to be submitted to the Committee of Experts before 1 September 2019, informing in detail on actions undertaken to progress in the full application of the Convention in law and practice.**

**465. Government representative:** The Government of Uruguay would like to thank the social partners for the rich and interesting discussion held in this room in relation to our case. In this regard, we would like to highlight three main points. Firstly, at the moment, a pre-election process is under way in our country, which entails certain restrictions regarding the dates proposed by Parliament. During the proposed election period, Parliament is on recess. There may be, therefore, although it remains to be seen, some complications concerning the dates being mentioned and requested as, as I said, during the election process, national Parliament is on recess, which makes this a complex issue to resolve.

**466.** Secondly, we would like to inform the Committee that we have already convened a first meeting, to continue the social dialogue, for 26 June. We have invited partners from both sides. Lastly, we thank the Committee for the outcome.

**Yemen** (ratification: 2000)

***Worst Forms of Child Labour Convention,  
1999 (No. 182)***

**467. The Committee took note of information provided by the Government representative and the discussion that followed.**

**468. The Committee urges the Government to:**

- **implement the Plan of Action that was adopted in 2014;**

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- ensure that Government involved with arms groups, irrespective of affiliation, are treated fairly and implement measures to ensure that these children are reintegrated into society with adequate rehabilitation;
  - prepare a report including information and statistics relating to the number of children engaged in armed conflict, the number of those liberated and sent for rehabilitation and reintegration, as well as the investigation and prosecution of those accountable for recruiting children into armed conflict; and
  - take all necessary measures to ensure equal access to free basic education for all children of school age.

469. The Committee encourages the Government to avail itself of ILO technical assistance to ensure full compliance of law and practice aligned with Convention No. 182. The Committee requests that the Government report regarding the measures taken to implement the above recommendations before the next meeting of the Committee of Experts in 2019.

470. **Government representative:** We wish to thank the distinguished Committee. Meanwhile we take note of the Conclusions. We wish to reiterate that Yemen lives in devastating conflict since 2015 which has its impact on every single aspect, including the capacities of the Government institutions. Therefore, we wish the distinguished Committee would take into consideration this aspect in its future report. Meanwhile, we do hope that the ILO, together with the related donor institutions, could support the Yemeni Government in its efforts to protect children and implement its 2019–26 Plan.

**Zimbabwe** (ratification: 2003)

***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)***

471. The Committee took note of the information provided by the Government representative and the discussion that followed.

472. The Committee noted concern regarding the Government's failure to implement specific elements of the recommendations of the 2009 Commission of Inquiry. The Committee noted persisting failure issues of non-compliance with the Convention, including allegations of violations of the rights of the freedom of assembly of workers' organizations. The Committee also noted the Government's stated commitment to ensure compliance with its obligations under the Convention and to the process of social dialogue, including through the framework for Tripartite Negotiating Forum (TNF).

473. Taking into account the discussion, the Committee calls upon the Government to:

- refrain from the arrest, detention or engagement in violence, intimidation or harassment of trade union members conducting lawful trade union activities;
- ensure that the allegations of violence against trade union members are investigated, and where appropriate, impose dissuasive sanctions;
- repeal the Public Order and Security Act (POSA), as it has committed to do so, and to ensure that the replacement legislation regarding public order does not violate workers' and employers' freedom of association in law and practice;

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- **revise or repeal the Public Service Act and, as necessary, the Health Services Act, to allow public sector workers freedom of association in consultation with the social partners;**
  - **amend the Labour Act, in consultation with workers' and employers' organizations, to come into compliance with the Convention; and finally**
  - **to continue to engage in social dialogue with the workers' and employers' organizations in connection with the framework of the TNF.**

**474. The Committee urges the Government to accept a direct contacts mission of the ILO to assess progress before the next International Labour Conference.**

**475. Government representative:** I want to thank you for giving me the floor to make some remarks on behalf of my Government, following the presentation of the conclusions on the case of Zimbabwe. Regrettably, my Government does not accept the Direct Contacts Mission, which your Committee has recommended. The non-acceptance of the mission is based on the following:

**476.** My delegation is convinced that Zimbabwe has made remarkable progress in addressing the legislative and other concerns of the Committee of Experts. The Government of Zimbabwe is committed to strengthening social dialogue, working with social partners. It is apparent that a fact finding mission to courts of Zimbabwe will disturb the momentum that is already there following the Commission of the Tripartite Negotiating Forum.

**477.** The Government and social partners have affirmed their commitment to social dialogue. Zimbabweans are looking forward to the results of the engagements, not yet another inquiry by the International Labour Organization.

**478.** The call for the high-level tripartite mission does not take into account submissions made by African governments and Cuba, which acknowledged the progress made by Zimbabwe. They also asked the office to provide technical assistance to Zimbabwe. The European Union was inclined to give social dialogue a chance, by making reference to its formal re-engagement with the Zimbabwean Government, only this month. The Employers' group also took note of the progress made in Zimbabwe and expressed the need for technical assistance.

**479.** In conclusion, let me inform this Committee that, notwithstanding the foregoing, the Government of Zimbabwe shall provide regular updates, through reports to be submitted to the Committee of Experts, in accordance to article 22 of the ILO Constitution.

## **G. Adoption of the report and closing remarks**

**480.** The Committee's report was adopted, as amended.

**481. Government member of Brazil, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC):** The Group of Latin American and Caribbean Countries (GRULAC) of the International Labour Organization notes the draft report of the Committee on the Application of Standards submitted for our consideration. We acknowledge the work of all Governments and the social partners, with the technical support of the Office, in this Committee. At the same time, we wish to reiterate our position, expressed on numerous occasions at the Conference and in the Governing Body concerning the need to review the working methods of the Committee and the Committee of Experts.

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- 482.** We regret that, in the same way as on previous occasions, the same numerous problems have persisted in this historic Centenary Conference to which we have been drawing attention for some time. In our intervention in the opening session of this Committee on the Application of Standards, GRULAC emphasized non-consensual elements which distance us from a transparent, predictable, effective, perfectible and fully tripartite mechanism.
- 483.** Among the elements of greatest concern to us, GRULAC wishes to emphasize the following: (i) we are not in favour of breaking up regular cycles, which does not contribute to the legal security of existing procedures; (ii) we call for a better balance in the situations examined, based on the level of development of the countries included in the preliminary and final lists of cases for examination by the Committee on the Application of Standards; (iii) we propose greater consideration of the specific features of the legal systems in our region; we reiterate that the recommendations must be based on the legal framework and the characteristics of the relevant jurisdictions, and not on outside standards that our countries have not participated in developing; (iv) the final list of individual cases under examination by the Committee should be released as early as possible, and in any case before the beginning of the Conference, to enable governments, which are not authorized to participate in any way in the selection of cases, adequate time to prepare a high quality response; (v) we consider that the most serious cases, based on technical and objective criteria, should have priority for examination by the Committee; (vi) regarding the drafting of the conclusions of the Committee on country cases, the Chairperson of the Committee could also play a role in identifying recommendations that are as near as possible to tripartite consensus; (vii) the governments concerned should also be informed of the conclusions in their respective cases sufficiently well in advance so that they can forward all the relevant information to their competent authorities for internal coordination so that they can respond appropriately; (viii) better parliamentary practice should be followed in the Committee on the Application of Standards when adopting conclusions on the cases. The Government concerned should be allowed to take the floor, if it so wishes, prior to the adoption of the conclusions in plenary. Thus the Government concerned would have the opportunity, which does not exist today, to express its views on the conclusions. A small change in this regard could significantly improve the perception of respect for and the right of participation of governments.
- 484.** As they are today, these elements do not contribute to building trust and the credibility of the system. We deeply regret that the position of GRULAC is still not reflected in document D.1, although the first steps are being seen in the right direction, such as the verbatim publication of the minutes of all the sections of the Committee's discussion and a discussion of a case of progress. In welcoming the examination by the Committee of a case of progress, GRULAC hopes that our region will also be considered each year with the examination of at least one case of progress from Latin America and the Caribbean.
- 485.** In light of the Centenary of the Organization, GRULAC defends effective tripartism, which takes into account the important views of governments and which is in accordance with seeking consensus, a characteristic that should be central for the ILO. As we have been indicating throughout the work of this Committee, this supervisory system is far from adopting the best practices in the multilateral system. It is not transparent. It is neither impartial nor objective. It is not tripartite in the home of tripartism. It does not promote social dialogue, in the home of social dialogue.
- 486.** We also emphasize the importance of governments having adequate time to prepare their reports and accordingly to make an even greater contribution to the analysis of the Committee of Experts and to ensure that the discussions in the Conference Committee are based on incontrovertibly high quality information. This issue is of particular relevance in cases in which the reporting cycle is interrupted by the Committee of Experts or when it requests information early. It is not realistic to expect that governments will be in a position to follow up the requests of the Committee of Experts and the conclusions of the Committee

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on the Application of Standards and to report on their implementation in the few months between the end of the work of the Committee on the Application of Standards and the deadline of 1 September, particularly in cases where those requests or conclusions involve adjustments to public policies or national legislation.

- 487.** It is our intention, as GRULAC, to make a proposal in the most appropriate context and time on the establishment of a new deadline for the submission of annual reports.
- 488.** Lasting and substantive progress will not be possible without greater attention being paid by the social partners to the matters raised by governments in good faith and for the purposes of social dialogue, especially those which participate the most in the supervisory system, in view of their commitment to decent work and the ILO, as illustrated by their high rate of ratifications.
- 489.** We also call on other governments to strengthen their constructive involvement in the discussions on the working methods of the Conference Committee and the standards supervisory system as a whole.
- 490. Government member, speaking on behalf of the Group of Industrialized Market Economy Countries (IMEC):** IMEC's members are pleased with the work of the Committee on the Application of Standards this year, which has again fully discharged its duties. This Committee undertakes the critically important work of supervising countries in the application of the core international labour standards, as well as the international labour standards that they have ratified and agreed to meet in both law and practice. The ILO supervisory system, including this Committee is unique and an essential cornerstone of the Organization's mandate and mission, and is critical to the credibility of the Organization's work as a whole.
- 491.** IMEC has full confidence in, and remains strongly committed to, the ILO supervisory system, stands firm against any efforts to weaken the CAS in its supervisory function and supports the independence and impartiality of the Committee of Experts.
- 492.** We invite all constituents to maintain a constructive approach and respect the ILO's supervisory mechanisms. IMEC is open to reflecting on the working methods of the CAS in a positive collaborative manner to ensure the Committee's work retains the confidence of the tripartite constituents and, at the same time, contributes to creating and maintaining decent work and social justice.
- 493.** Lastly, we thank the Chairperson, interpreters and all staff members and who participated in the smooth running of this Committee over these past two weeks.
- 494. Government member of Romania, speaking on behalf of the European Union, its Member States and Norway:** At the outset, we would like to thank you Chair for your excellent handling of this session and for your efficiency. We would also like to thank the Rapporteur and the Office for its dedication and perseverance in making this Conference a success.
- 495.** The Committee is a unique mechanism that enables all constituents to discuss the implementation of ILO Conventions in a constructive and tripartite manner. In most cases, it enables and fosters progress. In this respect, we welcome that the Committee conclusions are more action oriented and provide guidance to identify key recommendations and necessary actions for each case and situation in order to actively support progress. We encourage ILO member States to comply with the conclusions to the greatest extent possible where appropriate with the support of ILO's technical assistance.

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496. The Committee, this year, held many interesting and important discussions on a wide range of issues and diverse country situations reflecting the extent of global challenges in implementation of ILO fundamental Conventions. We regret that a lack of freedom of association and collective bargaining remains a major concern in many parts of the world.
497. We would like to thank the spokespersons of the Workers and Employers for their constructive engagement. The Committee is a true essence of tripartism. We welcome the engagement of Governments and appreciate the constructive approach put forward by most of them. We strongly believe that commitment to improve the implementation of the conventions should remain a priority for all constituents.
498. However, we also took note of criticism expressed on the ILO supervisory system. In our view, the need for improvement and further evaluation of the system does not justify questioning the system as a whole. We cannot accept any attempt to weaken or undermine the effectiveness of the Committee or the Committee of Experts, but we remain open to reflection on possible ways of improvement, constructive suggestions and are ready to discuss these issues further, including the Committee working methods.
499. We fully trust the independence and impartiality of the experts. We always respect the selection made with regard to the long and short list. That said, we want to mention that we see some contradiction in a situation where, during the plenary, social partners criticized the fact that a country is on the short list when the short list is the result of bipartite negotiation between social partners, except for double-footnoted cases. We believe that the key criterion for the selection should be the seriousness and persistence of shortcomings in the application of ILO Conventions.
500. The ILO supervisory system is one of the most valuable examples of the multilateral rules based order. We believe multilateralism, especially further strengthened through the tripartite system ILO operating is now needed more than ever. This cooperative approach remains the most efficient way to serve our collective interests as decision taking is a multilateral framework by bipartite constituents have proven to be more democratic, inclusive, strong and sustainable.
501. Let me conclude by reiterating the full support by the EU and its member States to the supervisory system.
502. **Employer members:** On behalf of the Employer members, I would like to endorse fully the report of the Committee and recommend its adoption. This year, which is special as it marks the ILO's Centenary, the Committee's work once again took place for the most part in a constructive and open atmosphere. Differences in opinion were voiced in a spirit of mutual respect. The effort to find consensus was strong and the work of this Committee focused on respectful and constructive dialogue.
503. The Committee was able to successfully conclude its work on time, thanks to the effective time management of the Chairperson and the full cooperation of delegates. The Committee thus once again demonstrated its ability to lead a meaningful and results-oriented tripartite dialogue, in which all of the social partners took the floor if they wished, and expressed their opinions on cases regarding the implementation of Conventions in law and in practice in member States.
504. The Committee once again adopted clear, consensual and straightforward conclusions. More precisely, the Committee adopted conclusions on the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202), as well as on 24 individual cases.

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- 505.** These conclusions focused on action-oriented recommendations to encourage progress in member States towards full compliance with international labour standards obligations. We discussed a variety of technical, fundamental and governance Conventions, and we discussed these cases across the regions
- 506.** With respect to the individual cases, we are pleased to note that governments reported that they are already taking remedial action or intend to do so in the near future. We also note positively that the majority of governments, upon the adoption of conclusions, indicated a commitment to engage constructively in the Committee's process and expressed a clear and firm commitment to engage with the supervisory system, as well as a commitment to progress towards compliance with their obligations under the Conventions, in accordance with the conclusions, and in consultation with social partners at national level. We find this constructive engagement very positive.
- 507.** We also note certain concerns expressed by a number of governments regarding the functioning of the ILO's standard supervisory system more generally. These concerns related to both the Committee's working methods and the work of the experts. We were somewhat surprised by these interventions, as the discussion of the process in our view is better suited to other forums such as the Working Group on Working Methods, in which these discussions have already taken place.
- 508.** We note that in the context of the Working Group on Working Methods, we stand ready to continue to discuss good faith proposals aimed at strengthening the supervisory system and increasing its transparency, efficiency and effectiveness.
- 509.** It is of the utmost importance that the facts form the basis for assessments by the Committee of Experts. After all, the credibility of the Committee of Experts' observations depend on a reasonably solid factual basis. Establishing the facts can be a difficult process requiring time and resources. As part of this, the Governments, in respect of their reporting obligations, must commit to providing updated and detailed information to the Committee of Experts to ensure this fact-based foundation. We have also on various occasions called for the Committee of Experts to take into account the views of the tripartite partners in its observations regarding the application of Conventions.
- 510.** As to the determination of the list and the drafting of the Committee's conclusions, we consider that a viable and fair procedure has been applied this year, as it has in past years, based on objective and transparent criteria. The conclusions are clear, concise and consensual, based on the technical aspects of the case, the observations of the Committee of Experts and the facts that are included in that report.
- 511.** We welcome the positive reaction to the action-oriented conclusions which are designed to encourage progress in member States. Clearly, the process of formulating conclusions does not include consultation with governments at that stage, for obvious reasons. This process is carried out on a constructive and good-faith basis, taking into account the objective criteria in document D.1.
- 512.** That said, within the framework of the working methods group we stand ready to continue to discuss possible improvements to criteria and consider that further discussion is always possible when these proposals are being made in good faith, aimed at strengthening the supervisory system.
- 513.** We would like to take this opportunity, this important anniversary, to encourage the Committee members, the Committee of Experts and the Office to continue towards increasing the transparency, efficiency, relevance and tripartite governance in a good faith and constructive manner. We stand ready to participate in this process.

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- 514.** In this regard, in terms of the Employer members' view of some of the measures in which we can continue to improve the working methods, we have made proposals to improve the readability of the report of the Committee of Experts, including presenting the observations by country, which could be helpful. The users of the report need clear and up-to-date presentations of the issues. Recommendations for remedial action should be straightforward, concrete and verifiable. In respect of double-footnoted cases, we take this opportunity to encourage the experts to elaborate on the reasons for a double-footnoted case to help the constituents better understand this process.
- 515.** In terms of practical recommendations, we believe that in the electronic version of the Committee of Experts' comments, hyperlinks related to their earlier comments and Committee discussions could be made available. Also, it would be helpful if the submissions by the employers' and workers' organizations to the experts were available via a hyperlink in the electronic version, and on the NORMLEX website.
- 516.** Also, as we stated previously, reports of follow-up missions regarding the Committee's conclusions, or summaries of the non-confidential and concrete results of the mission could also be published on the Committee web page or in the NORMLEX database within a reasonable period of time after the completion of the mission.
- 517.** In addition, we trust that the Committee's web page, which is a central portal for information relevant to the Committee, will be further expanded and upgraded as necessary.
- 518.** We are also pleased that we have had an opportunity to discuss a number of cases in which the Committee has encouraged progress in member States within the context of the fulfilment of their obligations under the Convention. In that regard, the discussion of the case of Cabo Verde provided us with an important opportunity to highlight the progress made by that country towards the application of ratified Conventions in law and practice.
- 519.** This allows us the opportunity to showcase best practices and progress being made in member States, and commend and encourage on a tripartite basis governments' efforts to improve their progress towards compliance with ratified Convention.
- 520.** This is an important aspect for the Employer members and we will continue to encourage the discussion of cases of progress going forward. In addition, we would like to emphasize the importance of follow-up to the Committee's conclusions. The conclusions represent the consensus on compliance issues within the Committee and therefore provide guidance regarding the technical assistance and follow-up missions of the Office.
- 521.** In this spirit we encourage the Office to engage ACT/EMP and ACTRAV specialists to support in follow-up action in order to specifically assist employers' and workers' organizations from the respective countries in contributing to the solution of compliance issues, taking into account specific needs.
- 522.** These proposals can work towards further improving the transparency, relevance, efficiency and governance of the ILO standards supervisory system and we stand ready to continue discussing these proposals in a constructive manner at the forthcoming working methods group meeting of the Committee.
- 523.** In conclusion, the Employer members note with satisfaction the smooth operation of this year's Committee. Rich and diverse discussions were held representing views of the tripartite constituents. We remain committed to the authority and relevance of the supervisory system.



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524. The ILO Centenary has been an excellent opportunity for the Committee participants to reflect on and work towards a commitment to ensuring the relevance and authority of the work of the Committee, and to strengthening the overall effectiveness of the standards supervisory system as a whole, as we move forward into the next century of the ILO's operation.
525. I would like to conclude with words of thanks, first to Ms Corinne Vargha and her team, who worked tirelessly to support our work. We very much appreciate all of this support, assistance and feedback. Also a special thanks goes to our Chairperson for the fair parliamentary running of the Committee's meetings and very effective time management. Furthermore, we thank our Rapporteur, who this year ensured that the Committee's work was properly recorded. I also thank the Employer members' for their support and assistance in preparing and presenting the individual cases and the General Survey. I would finally like to express my extreme gratitude for the work of the IOE and ACT/EMP. Last, but not least I thank my friend, Marc Leemans and his team, for its constructive collaboration. I also thank the Government representatives who participated to ensure that our discussion was rich and valuable. Lastly, I express my sincere thanks to the interpreters. Without their commitment and professionalism, we literally would not be able to understand one another.
526. **Worker members:** We are coming to the end of our session this year, which was marked by the celebration of the Centenary of our Organization. It was an important opportunity for the Workers to remind us where the ILO came from and, above all, where we want to take it.
527. It is essential to recall that the ILO was an answer to the question raised by the objective of social justice. This question is still relevant today. Our presence here, the examination of the General Survey and discussion of the cases are all compelling evidence of this relevance. However, social justice is not a fixed concept. It will evolve, preserving its enduring principles and integrating unfolding concepts.
528. Enduring principles include, for example, the fact that work is not a commodity, that freedom of association and collective bargaining are fundamental rights, and that society must not serve the market, it is rather the market that must serve society.
529. It is also necessary to embrace elements of change. In this respect, we often hear that the world of work is changing and that we have no choice but to adapt to it. We do not share this fatalism. Any change must be evaluated in terms of its impact on employment and on workers. Some changes are welcome and contribute to rendering work less restrictive. Others, however, restrict workers and as such must be regulated or even rejected.
530. Our Committee began its work by holding a general discussion on, inter alia, the links between our Committee and the Committee of Experts. Some delegates mistakenly said that the Committee was the highest-ranking ILO supervisory body. In reality, the Committee of Experts and our Committee are independent and complementary bodies. Each works within its mandate, without the possibility of exercising control over the work of the other, let alone imposing restrictions. This independence does not prevent the two Committees from engaging in dialogue in order to exchange views and improve the functioning of the supervisory mechanisms. This dialogue must be conducted without animosity and with mutual respect.
531. In this regard, we regret that some delegates took the liberty of rejecting the experts' analysis of some of the cases examined. No one in this Committee is entitled to reject the point of view expressed by the Committee of Experts for the simple reason that we do not have the competence and authority to do so. We would like to recall that the Committee of Experts' mandate clearly establishes its responsibility for examining the legal scope, content and

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meaning of the Conventions. On the other hand, it is of course quite acceptable to discuss an opinion or respectfully disagree.

- 532.** With regard to the dialogue between our two Committees, some suggestions were made by both the Employer members and ourselves. We consider it important to continue the debate to allow the observations communicated to the Committee to be usefully reflected in the report. This will certainly require the allocation of further resources for the Office to cope with the additional workload involved.
- 533.** Similarly, further discussion will be needed on the change in the status of certain Conventions, which, given their importance, should be considered fundamental.
- 534.** In addition, although we support all steps to improve the accessibility of the Committee of Experts' report, we believe that these steps should under no circumstances lead to a reduction in its length or the important information it contains. Indeed, the report is not a holiday guide intended to entertain. It is a document reporting on the application of ILO standards and should seek to provide the most comprehensive overview possible in this regard.
- 535.** We appreciated the presence of the Chairperson of the Committee on Freedom of Association at our first session. This initiative should be repeated in order to pursue an exchange of views and dialogue with this important Committee.
- 536.** During the general discussion, the Employers' group reiterated its position regarding the right to strike. Allow me to reiterate the position of the Worker members. The right to strike is a fundamental right guaranteed by Convention No. 87. This is the very essence of trade unions' freedom of action. Formulating a programme necessarily implies taking action to achieve it, and this includes a coordinated work stoppage. The fact that the term "strike" is not used explicitly in the Convention is irrelevant in this regard.
- 537.** The interpretation that includes this right in the Convention was not challenged by the Employers until 1993. The fact is that the Worker members, the Government members in their 2015 statement, the Committee of Experts and the Committee on Freedom of Association concur on this reading. I recall that the 2015 Government group statement contained the following passage: "The Government group specifically recognizes that the right to strike is linked to freedom of association which is a fundamental principle and right at work of the ILO ... Without protecting a right to strike, freedom of association ... cannot be fully realized". In addition, the legislation of most member States and also international jurisdictions and institutions follow the same line.
- 538.** It is therefore clear that the Employer members' position is isolated not only at the ILO but in the world outside.
- 539.** We cannot examine the work of our Committee without considering the role played by the ILO. This is the lynchpin of the whole Organization and its role is crucial in all tasks that are undertaken. In this regard, we regret the fact that certain delegates supported the view that the Office should not act to promote the ratification of instruments. This is like asking publishers not to publish their books. On the contrary, the Office plays a key role in the application of ILO standards and this obviously includes the need to encourage ratification.
- 540.** We have also had the opportunity to consider the General Survey dedicated this year to social protection. This was the opportunity to evaluate the efforts made on this question and above all to review the many challenges still to be faced, which I referred to in my previous statement.

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- 541.** I would now like to return to the question of the cases of serious failure to meet reporting obligations. This is a recurring problem that we have repeatedly denounced for a number of years. We note in particular that the Office is endeavouring to find solutions to this problem by identifying the underlying causes. We note with satisfaction the various initiatives taken or due to be taken in this regard, and those which will aim more generally to facilitate the reporting task of States. This is an essential point since these reports represent the very basis of the supervisory bodies' work.
- 542.** After these many exchanges, our Committee dealt with the work which is at the core of its mandate: the examination of individual cases. To this end, a list of 24 cases was drawn up on the basis of consensus. I stress the consensual nature of this list since we were astonished to note that in the examination of certain cases, a number of Employers' delegates took the liberty of criticizing the list. Let us recall that the list is the subject of public adoption at the start of our Committee's work and that the criticisms made in this respect are totally inappropriate.
- 543.** The cases examined related solely to cases of failure. The fact that some progress was observed during the examination of a given case makes no difference to the fact that persistent failures continue to be deplored in all cases discussed.
- 544.** Some States on the list also persisted with their criticisms of the methods for drawing up the list. However, the criteria are clear and are the subject of a special explanatory meeting for answering all questions. In these circumstances, it is difficult to claim that there is a lack of transparency. Some have called for greater tripartism in the context of this procedure.
- 545.** Even though they are full constituents, Governments have responsibilities that do not fall to other constituents. Indeed, the obligation to apply and implement standards ultimately falls to States. It is therefore logical that they give account of this obligation at the instigation of the other constituents.
- 546.** During the examination of a case, the government's role is not negligible as it is its responsibility to demonstrate the extent of its respect of ILO standards. We see clearly therefore that the States are heavily involved as they ratify Conventions, prepare reports, communicate information to the Committee and intervene in that regard. At this stage, the only step to be taken would be to request States whether they wish to be included in the list. And, as no State wishes to be on a list of failures, the Committee would have no *raison d'être* apart from dealing out compliments to the States. As we see, this approach leads to a stalemate and is not credible.
- 547.** It is clear that what is unsettling is not the method of determining the list but the very idea of supervision. For the Worker members, the aspects discussed in the tripartite meetings are largely sufficient. We must no longer allow ourselves to be distracted by these delaying tactics.
- 548.** During the examination of the cases, we noted that States' participation varied. Certain among them continued to work in an alliance of recalcitrant countries, regrettably perpetuating an unfavourable union among some States. Everyone is obviously free to use their speaking time as they see fit but it is nevertheless shocking to note that many interventions either did no more than support the State concerned or attacked the supervisory mechanisms. The work of the Committee is not a popularity competition where we vie for the biggest show of support like on social media. It is rather a discussion based on the examination of facts and an exchange of arguments.
- 549.** Some participants claimed that the conclusions did not reflect the discussions. In this respect, we should note that many interventions merely congratulated the Chairperson on his

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nomination and expressed support for the State in question without qualification or explanation. The conclusions contain only aspects previously discussed before the Committee. Likewise, we do not accept that certain participants take advantage of the discussion of an individual case to criticize the supervisory mechanisms while it is absolutely not the subject of the discussion.

- 550.** It should be emphasized, however, that other States have also intervened to show things from a different angle. In this regard, we would particularly like to congratulate the intervention of the European Union, which expressed support for the supervisory mechanisms. The representative recalled the importance of these mechanisms, stating the European Union's firm defence against any attempt to weaken or undermine them.
- 551.** Many things were said regarding the nature of the Committee's work. I recall that the ILO supervisory mechanisms are not a court. Their objective is not to determine whether a State is guilty based on evidence. Their objective is much more modest but perhaps more efficient. It is a space for tripartite dialogue and examination of the compatibility of Members' law and practice with ILO standards. The recommendations that it issues following these discussions are not binding but lead to a permanent and, in many cases, fruitful exchange.
- 552.** The fact that certain cases frequently come before the Committee, the display of persistent cases of failure, and the scope of the challenges and issues facing us can sometimes stir up in some people a form of hopelessness. But as Jean Jaurès said, "History teaches humanity the difficulty of great tasks and the slow nature of achievements, but it also justifies our invincible hope". The history of our Organization and its achievements are a perfect illustration of the truth of this statement. There is no place for hopelessness in an Organization whose mission is as great and noble as that of the realization of social justice.
- 553.** A new session of our Committee is coming to an end and, once again, we have carried out significant work. This work could not be accomplished without the full commitment of various stakeholders. I would like to warmly thank the Chairperson of the Committee, the Rapporteur and the representative of the Secretary-General. I also thank the Office for its excellent collaboration, the secretariat, which does a colossal job; the interpreters and the omnipresent Conference management; the governments for their contributions; and the employers, particularly their spokesperson, Sonia Regenbogen. Of course, I thank my group for its active participation and solidarity, and all those who collaborated directly with me from CSC, CSI and ACTRAV.
- 554.** On behalf of the Worker members, I would like to see this high quality work continue in 2020 in order to confront new challenges by further strengthening the leadership role of the Committee.
- 555. Chairperson** – Before concluding the official business of this Committee, I will make a few very short remarks of my own. First of all, I would like to thank my groups, because Ireland is a member of the Western European Group, the EU and IMEC, for nominating me and for supporting me in this role. I would like to thank in particular my own delegation because while I have been here in my regal surroundings of the Chair, the rest of the Irish delegation has had to cover a lot of work. One of the great pleasures of doing this job is getting to know a lot of other constituents, Workers and Employers, people from the different Government groups and different regions. That has been a real learning experience for me and I hope we can take that forward in terms of that engagement.
- 556.** At the start of my opening remarks to this Committee, I mentioned that I mean it was an Irishman, Professor O'Rahilly who came up with the idea of this Committee, so I mean it was an enormous privilege and honour for Ireland to step up and chair the Committee for the first time. So that is something we deeply appreciate. We took it very seriously. We hope

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we have delivered for you. There is a huge amount of work that goes on behind the scenes, so I think we should all acknowledge that with a short round of applause to the secretariat because I think it is something we underestimate. The Vice-Chairs have been very easy to work with, very professional, very approachable so that has made my job a lot easier.

**557.** The Committee functioned very well this year in spite of a formidable amount of work to get through in such a short period of time. It really has put pressure on all of us. There is a fantastic structure in the Committee. It needs to be tweaked. Not everyone agrees with the process at the moment. There is no doubt it needs to improve, but there are parts of the Committee where I can see have worked very well and could be adopted elsewhere, for example at the Governing Body. A lot of the group statements and the social partners this evening have referenced that. The Committee, which is 94 years old, needs to be nurtured. It needs to evolve and as we have a saying in Irish too, *Tús maith leath na hoibre* – good start is half the work. So we have 94 years of service. We are half way there. You can take that as you needed to take it, but we are almost there.

**558.** I would like to conclude the 94th Session of the Committee on the Application of Standards. Thank you very much.

Geneva, 20 June 2019

*(Signed)* Mr Patrick Rochford  
Chairperson

Ms Corine Elsa Angonemane Mvondo  
Reporter

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## Annex 1

INTERNATIONAL LABOUR CONFERENCE  
108th Session, Geneva, June 2019

C.App./D.1

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### Committee on the Application of Standards

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## Work of the Committee

### I. Introduction

This document (D.1) sets out the manner in which the work of the Committee on the Application of Standards (CAS) is carried out. It is submitted to the Committee for adoption when it begins its work at each session of the Conference.<sup>1</sup> This document reflects the results of the discussions and informal tripartite consultations that have taken place, since 2002, on the working methods of the Committee, including on the following issues: the elaboration of the list of individual cases to be discussed by the Committee; the preparation and adoption of the conclusions relating to these individual cases; time management and respect for parliamentary rules of decorum.

This document takes into account the results of the last informal tripartite consultations on the working methods of the CAS held on 3 November 2018 and on 23 March 2019.

### II. Terms of reference and composition of the Committee, voting procedure and report to the Conference

Under its terms of reference as defined in article 7, paragraph 1, of the Standing Orders of the Conference, the Committee is called upon to consider:

- (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
- (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (c) the measures taken by Members in accordance with article 35 of the Constitution.

In accordance with article 7, paragraph 2, of the Standing Orders of the Conference, the Committee submits a report to the Conference. Since 2007, in response to the wishes expressed by ILO constituents, the report of the Committee has been published both in the

<sup>1</sup> Since 2010, the document is appended to the General Report of the Committee.

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*Record of Proceedings* of the Conference and as a separate publication, to improve the visibility of the Committee's work.

Questions related to the composition of the Committee, the right to participate in its work and the voting procedure are regulated by section H of Part II of the Standing Orders of the Conference.

Each year, the Committee elects its Officers: its Chairperson and Vice-Chairpersons, as well as its Reporter.

### **III. Working documents**

#### **A. Report of the Committee of Experts**

The basic working document of the Committee is the report of the Committee of Experts on the Application of Conventions and Recommendations (Report III (Parts A and B)), printed in two volumes.

Report III (Part A) contains, in Part One, the General Report of the Committee of Experts, and in Part Two, the observations of the Committee of Experts concerning the sending of reports, the application of ratified Conventions and the obligation to submit the Conventions and Recommendations to the competent authorities in member States. At the beginning of the report there is an index of comments by Convention and by country. In addition to the observations contained in its report, the Committee of Experts has, as in previous years, made direct requests which are communicated to governments by the Office on the Committee's behalf.<sup>2</sup>

Report III (Part B) contains the General Survey prepared by the Committee of Experts on a group of Conventions and Recommendations decided upon by the Governing Body.

#### **B. Summaries of reports**

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification of the arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 19, 22 and 35 of the Constitution.<sup>3</sup> Requests for consultation or copies of reports may be addressed to the secretariat of the CAS.

<sup>2</sup> See para. 71 of the General Report of the Committee of Experts. A list of direct requests can be found in Appendix VII of Report III (Part A).

<sup>3</sup> See report of the Committee of Experts, Report III (Part A), Appendices I, II, IV, V and VI; and Report III (Part B), Appendix III.

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## C. Other information

The secretariat prepares documents (which are referred to, and referenced, as “D documents”) which are made available<sup>4</sup> during the course of the work of the Committee through its web page to provide the following information:

- (i) reports and information which have reached the International Labour Office since the last meeting of the Committee of Experts; based on this information, the list of governments which are invited to supply information to the Conference Committee due to serious failure to respect their reporting and other standards-related obligations is updated;<sup>5</sup>
- (ii) written information supplied by governments to the Conference Committee in reply to the observations made by the Committee of Experts, when these governments are on the preliminary list of cases or on the list of individual cases adopted by the Conference Committee.<sup>6</sup>

## IV. General discussion

In accordance with its usual practice, the Committee begins its work with the consideration of its working methods on the basis of this document. The Committee then holds a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution, which is primarily based on the General Report of the Committee of Experts.

It also holds a discussion on the General Survey, entitled *Universal social protection for human dignity, social justice and sustainable development*. The General Survey concerns the Social Protection Floors Recommendation, 2012 (No. 202).<sup>7</sup>

## V. Cases of serious failure by member States to respect their reporting and other standards-related obligations<sup>8</sup>

<sup>4</sup> D documents will be made available online on the [Committee’s dedicated web page](#) (hard copies will be made available to delegates upon request).

<sup>5</sup> See below Part V.

<sup>6</sup> See below Part VI (supply of information).

<sup>7</sup> It should be recalled that the subjects of General Surveys have been aligned with the strategic objectives that are examined in the context of the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization (2008). The discussion of General Surveys by the Committee will continue to be held one year in advance of the recurrent discussion under the new five-year cycle of recurrent discussions adopted by the Governing Body in November 2016. The full synchronization of General Surveys and their discussion by the Committee will be re-established under the new cycle in the context of the recurrent discussion on social protection (social security) to be held by the Conference in 2020 (see GB.328/INS/5/2 and GB.328/PV (paras 25 and 102)).

<sup>8</sup> Formerly known as “automatic” cases (see *Provisional Record* No. 22, International Labour Conference, 93rd Session, June 2005, para. 69).



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Governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods. These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting will not be called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.

The Committee identifies the cases on the basis of criteria which are as follows:<sup>9</sup>

- None of the reports on ratified Conventions have been supplied during the past two years or more.
- First reports on ratified Conventions have not been supplied for at least two years.
- None of the reports on unratified Conventions and Recommendations requested under article 19, paragraphs 5, 6 and 7, of the Constitution have been supplied during the past five years.
- No indication is available on whether steps have been taken to submit the instruments adopted during the last seven sessions of the Conference to the competent authorities, in accordance with article 19 of the Constitution.<sup>10</sup>
- No information has been received as regards all or most of the observations and direct requests of the Committee of Experts to which a reply was requested for the period under consideration.
- The government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of reports and information supplied to the Office have been communicated.

At its 88th Session (November–December 2017), the Committee of Experts decided to institute a new practice of launching “urgent appeals” on cases corresponding to certain criteria of serious reporting failure<sup>11</sup> and to draw the attention of the Committee on the Application of Standards to these cases, so that governments can be called before the Conference Committee and thus advised that, in the absence of a report, the Committee of Experts might examine the substance of the matter at its next session. Thus, at its session of November–December 2018, the Committee of Experts issued urgent appeals to eight countries which had failed to send a first report for at least three years.<sup>12</sup> In addition, the Committee of Experts decided that, as of its next session, it would generalize this practice by issuing urgent appeals in all cases where article 22 reports have not been received for

<sup>9</sup> These criteria were last examined by the Committee in 1980 (see *Provisional Record* No. 37, International Labour Conference, 66th Session, 1980, para. 30).

<sup>10</sup> This time frame begins at the 96th Session (2007) and concludes at the 106th Session (2017) of the International Labour Conference, bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009), 102nd (2013) and 105th (2016) Sessions.

<sup>11</sup> See paragraphs 9 and 10 of the General Report of the Committee of Experts (Report III (Part A), International Labour Conference, 107th Session, 2018).

<sup>12</sup> See para. 59 of the General Report of the Committee of Experts – Report III (Part A), ILC, 108th Session, 2019.

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three consecutive years.<sup>13</sup> The eight countries to which urgent appeals have been addressed will be invited to provide information to the Committee during the examination of cases of serious failure to comply with reporting obligations.

## VI. Individual cases

The Committee considers cases relating to the application of ratified Conventions. These cases are selected on the basis of the observations published in the report of the Committee of Experts.

*Preliminary list.* Since 2006, an early communication to governments of a preliminary list of individual cases for possible discussion by the Committee concerning the application of ratified Conventions has been instituted. Since 2015, the preliminary list of cases has been made available 30 days before the opening of the International Labour Conference. The preliminary list is a response to the requests from governments for early notification, so that they may better prepare themselves for a possible intervention before the Committee. It may not in any way be considered definitive, **as the adoption of a final list is a function that only the Committee itself can assume**. During the informal tripartite consultations of March 2019, it was decided to provide the opportunity for governments appearing on the preliminary list of cases to provide, if they so wished, written information to the Committee. This information provided, on a purely voluntary basis, should concern only new developments not yet examined by the Committee of Experts. They must be transmitted in one of the three working languages of the Office at least two weeks before the beginning of the opening of the session of the Conference and shall not exceed **three pages**.

*Establishment of the list of cases.* The list of individual cases is submitted to the Committee for adoption, after the Employers' and Workers' groups have met to discuss and adopt it. The final list should be adopted at the beginning of the Committee's work, ideally no later than its second sitting.

<sup>13</sup> As a result, repetitions of previous comments will be limited to a maximum of three years, following which the Convention's application will be examined in substance by the Committee on the basis of publicly available information, even if the government has not sent a report (see para. 10 of the General Report of the Committee of Experts – Report III (Part A), ILC, 108th Session, 2019).

As of the revision in 2015 of the criteria for the selection of cases, the selection should take into consideration, on balance, the following elements:

- the nature of the comments of the Committee of Experts, in particular the existence of a footnote; \*
- the quality and scope of responses provided by the government or the absence of a response on its part;
- the seriousness and persistence of shortcomings in the application of the Convention;
- the urgency of a specific situation;
- comments received by employers' and workers' organizations;
- the nature of a specific situation (if it raises a hitherto undiscussed question, or if the case presents an interesting approach to solving questions of application);
- the discussions and conclusions of the Conference Committee of previous sessions and, in particular, the existence of a special paragraph;
- the likelihood that discussing the case would have a tangible impact;
- balance between fundamental, governance and technical Conventions;
- geographical balance; and
- balance between developed and developing countries.

\* See paras 75–80 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for footnotes are also reproduced in Appendix I of this document.

There is also the possibility of examining one case of progress as was done in 2006, 2007, 2008 and 2013.<sup>14</sup>

Since 2007, it has been the practice to follow the adoption of the list of individual cases with an informal information session for governments, hosted by the Employer and Worker Vice-Chairpersons, to explain the criteria used for the selection of individual cases.

*Automatic registration.* Since 2010, cases included in the final list have been automatically registered and scheduled by the Office, on the basis of a rotating alphabetical system, following the French alphabetical order; the “A+5” model has been chosen to ensure a genuine rotation of countries on the list. This year, the registration will begin with countries with the letter “T”. Cases will be divided into two groups: the first group of countries to be registered following the above alphabetical order will consist of those cases in which the Committee of Experts requested governments to submit full particulars to the Conference (“double-footnoted cases”).<sup>15</sup> Since 2012, the Committee begins its discussion of individual cases with these cases. The other cases on the final list are then registered by the Office also following the above-mentioned alphabetical order.

<sup>14</sup> See paras 83–89 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for identifying cases of progress are also reproduced in Appendix II of this document.

<sup>15</sup> See para. 80 of the General Report of the Committee of Experts.

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Information on the agenda of the Committee and the date on which cases may be heard is available:

- (a) through the *Daily Bulletin* and the Committee's dedicated web page;
- (b) by means of a D document containing the list of individual cases and the working schedule for the examination of these cases, which is made available to the Committee as soon as possible after the adoption of the list of cases.<sup>16</sup>

*Supply of information.* Prior to their oral intervention before the Conference Committee, governments may submit written information that will be summarized by the Office and made available to the Committee.<sup>17</sup> These written replies are to be provided to the Office at least **two days** before the discussion of the case. They serve to complement the oral reply that will be provided by the government. They may not duplicate the oral reply nor any other information already provided by the government. The total number of pages is not to exceed **five pages**.

*Adoption of conclusions.* The conclusions regarding individual cases are proposed by the Vice-Chairpersons and submitted by the Chairperson to the Committee for adoption. The conclusions should take due account of the elements raised in the discussion and information provided in writing by the government. The conclusions should be short, clear and specify the action expected of governments. They may also include reference to the technical assistance to be provided by the Office. The conclusions should reflect consensus recommendations. Divergent views can be reflected in the Committee's record of proceedings.

Conclusions on the cases discussed will be adopted at dedicated sittings. The government representatives concerned will be informed of the sitting for the adoption of the conclusions concerning their country by the secretariat through the *Daily Bulletin* and the web page of the Committee. The conclusions are made visible on a screen and at the same time a hard copy of these conclusions is provided to the government representative concerned in one of the three working languages, chosen by the government. The government representatives may take the floor after the Chairperson has announced the adoption of the conclusions.

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As per the Committee's decision in 1980,<sup>18</sup> Part One of its report will contain a section entitled "Application of ratified Conventions", in which the Committee draws the attention of the Conference to: (i) cases of progress, where governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee; (ii) certain special cases, which are mentioned in special paragraphs of the report; and (iii) cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed – including "urgent appeals" (see section V).

<sup>16</sup> Since 2010, this document is appended to the General Report of the Committee.

<sup>17</sup> See above Part III(C)(ii).

<sup>18</sup> See footnote 9 above.

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## VII. Participation in the work of the Committee

As regards failure by a government to take part in the discussion concerning its country, despite repeated invitations by the Committee, the following measures will be applied, in conformity with the decision taken by the Committee at the 73rd Session of the Conference (1987), as amended at the 97th Session of the Conference (2008),<sup>19</sup> and mention will be made in the relevant part of the Committee's report:

- In accordance with the usual practice, after having established the list of cases regarding which Government delegates might be invited to supply information to the Committee, the Committee shall invite the governments of the countries concerned in writing, and the *Daily Bulletin* shall regularly mention these countries.
- Three days before the end of the discussion of individual cases, the Chairperson of the Committee shall request the Clerk of the Conference to announce every day the names of the countries whose representatives have not yet responded to the Committee's invitation, urging them to do so as soon as possible.
- On the last day of the discussion of individual cases, the Committee shall deal with the cases in which governments have not responded to the invitation. Given the importance of the Committee's mandate, assigned to it in 1926, to provide a tripartite forum for dialogue on outstanding issues relating to the application of ratified international labour Conventions, a refusal by a government to participate in the work of the Committee is a significant obstacle to the attainment of the core objectives of the International Labour Organization. For this reason, the Committee may discuss the substance of the cases concerning governments which are registered and present at the Conference, but which have chosen not to be present before the Committee. The debate which ensues in such cases will be reflected in the appropriate part of the report, concerning both individual cases and participation in the work of the Committee. In the case of governments that are not present at the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised.<sup>20</sup> In both situations, a particular emphasis will be put on steps to be taken to resume the dialogue.

## VIII. Minutes of the sittings – Verbatim

In the context of the informal tripartite consultations on the working methods of the Committee of November 2018 and March 2019, it was decided that the general discussion, the discussion of the General Survey, as well as the discussion of cases of serious failure to respect reporting or other standards-related obligations ("automatic" cases) and the discussion of cases in which governments are invited to respond to the comments of the Committee of Experts ("individual" cases) will be produced in the form of verbatim transcripts. Each intervention will be reproduced *in extenso* in the language of work in which it has been delivered, or failing that, chosen by the government – English, French or Spanish

<sup>19</sup> See *Provisional Record* No. 24, International Labour Conference, 73rd Session, 1987, para. 33; and *Provisional Record* No. 19, International Labour Conference, 97th Session, 2008, para. 174.

<sup>20</sup> In the case of a government which is not accredited or registered to the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised. It was considered that no country should use inclusion on the preliminary list of individual cases as a reason for failing to ensure that it was accredited to the Conference. If a country on the preliminary list registered after the final list was approved, it should be asked to provide explanations (see *Provisional Record* No. 18, International Labour Conference, 100th Session, 2011, Part I/54).

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– and the verbatim draft minutes will be made available online on the Committee’s dedicated web page.<sup>21</sup> It is the Committee’s practice to accept amendments to the verbatim draft minutes of previous sittings prior to their adoption by the Committee. The time available to delegates to submit amendments to the verbatim draft minutes will be clearly indicated by the Chairperson when they are made available to the Committee. The amendments should be clearly highlighted and submitted either electronically or in hard copy. Please refer to Appendix III or contact the secretariat in relation to the procedure for amendments to draft minutes and their electronic submission. In order to avoid delays in the preparation of the Committee’s report, no amendments may be accepted once the draft minutes have been approved. To the extent that the discussions are reproduced *in extenso* in the form of verbatim draft minutes, their amendments will be limited exclusively to the elimination of transcription errors.

Following the informal tripartite consultations, it was also decided to reorganize the two parts of the Committee’s report. The first part of the report of the Committee will contain the verbatim minutes of the General Discussion, the outcome of the discussions on the General Survey, the conclusions adopted following the examination of the “automatic” cases and the examination of the “individual” cases – including, where appropriate, the special paragraphs, – as well as the verbatim minutes of the discussion on the adoption of the report and the closing remarks. This first part of the report will be produced in the form of a consolidated document and will be translated into the three languages for adoption by the Conference in plenary session.

The second part of the report of the Committee will consist of trilingual (patchwork) verbatim minutes of the discussion of the General Survey, the discussion of “automatic” cases and the discussion of “individual” cases. These verbatim minutes will be available online on the Committee’s web page as they are adopted. The second part of the report of the Committee will be submitted to the plenary sitting of the Conference for adoption only in electronic format.

The full report (first and second parts) translated into the three languages will be made available online 30 days after its adoption by the plenary sitting of the Conference.

## **IX. Time management**

- Every effort will be made so that sessions start on time and the schedule is respected.
- Maximum speaking time during the examination of individual cases will be as follows:
  - fifteen minutes for the government whose case is being discussed, as well as the spokespersons of the Workers’ and the Employers’ groups;
  - ten minutes for the Employer and Worker members, respectively, from the country concerned to be divided between the different speakers of each group;
  - ten minutes for Government groups;
  - five minutes for the other members;

<sup>21</sup> These new modalities result from the informal tripartite consultations of March 2016. Delegates who will be intervening in a language other than English, French or Spanish will be able to indicate to the Secretariat in which of these three working languages their intervention should be reflected in the verbatim draft minutes.

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- concluding remarks are limited to ten minutes for the government whose case is being discussed, as well as spokespersons of the Workers' and the Employers' groups.
  - Maximum speaking time will also apply to the discussion of the General Survey, as follows: <sup>22</sup>
    - fifteen minutes for the spokespersons of the Workers' and the Employers' groups;
    - ten minutes for Government groups;
    - five minutes for the other members;
    - concluding remarks are limited to ten minutes for spokespersons of the Workers' and the Employers' groups.
  - However, the Chairperson, in consultation with the other Officers of the Committee, could decide on reduced time limits where the situation of a case would warrant it, for instance, where there was a very long list of speakers.
  - These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.
  - During interventions, a screen located behind the Chairperson and visible by all speakers will indicate the remaining time available to speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.
  - The list of speakers will be visible on screens in the room. Early registration on that list of delegates intending to take the floor is encouraged. <sup>23</sup>
  - In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case. <sup>24</sup>

## **X. Respect of rules of decorum and role of the Chairperson**

All delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters.

It is the role and task of the Chairperson to maintain order and to ensure that the Committee does not deviate from its fundamental purpose to provide an international tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

<sup>22</sup> These new modalities result from the informal tripartite consultations of March 2016.

<sup>23</sup> These new arrangements result from the informal tripartite consultations of March 2016.

<sup>24</sup> See Part VI above.

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## Appendix I

### Criteria developed by the Committee of Experts for footnotes

#### *Excerpts of the General Report of the Committee of Experts (108/III(A))*

75. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2019.

76. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a “single footnote”, as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a “double footnote”. The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to “double footnotes” in deference to the Conference Committee’s decisions as to the cases it wishes to discuss.

77. The criteria to which the Committee has regard are the following:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

78. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

79. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.



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## Appendix II

### Criteria developed by the Committee of Experts for identifying cases of progress

#### *Excerpts of the General Report of the Committee of Experts (108/III(A))*

83. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its *satisfaction* or *interest* at the progress achieved in the application of the respective Conventions.

84. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.
- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

85. Since first identifying cases of satisfaction in its report in 1964, the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

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88. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979. In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The

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paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
- consultations within the government and with the social partners;
- new policies;
- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

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## Appendix III

### Procedure for amendments to verbatim draft minutes

This note provides information on the new procedure for amendments to verbatim draft minutes referred to in Part VIII of document C.App./D.1. It should be noted that each intervention is reflected *in extenso* in the verbatim draft minute only in the working language used or chosen by the delegate for this purpose (English, French or Spanish).<sup>1</sup> The verbatim draft minutes will be made available online on the Committee's dedicated web page.

It is recalled that the Committee's practice is to accept amendments to the draft verbatim minutes of previous sittings **prior to their adoption by the Committee**. The time available to delegates to submit amendments to the draft PVs will be clearly indicated by the Chairperson when the draft PVs are made available to the Committee.

To the extent that the discussions are reproduced *in extenso* in the form of draft verbatim minutes, the amendments will be limited exclusively to the elimination of transcription errors.

Delegates are encouraged to submit their amendments to the secretariat **electronically** in "track changes" via the following email address: [AMEND-PVCAS@ilo.org](mailto:AMEND-PVCAS@ilo.org). In order to make amendments directly in track changes, delegates are invited to request the "Word version" of the verbatim minutes by sending an email to the address above.

Amendments will be received **only if they are sent from the email address** which will have been provided by the delegate concerned when requesting the floor. The secretariat will acknowledge receipt of the amendment and may contact the delegate concerned when the request does not fulfil the requirements contained in document C.App./D.1. Delegates should specify the verbatim draft minute concerned and make clearly visible the changes they wish to make.

Delegates who wish to submit hard copies of their amendments will still be able to do so from 1.30 p.m. to 2.30 p.m. each day, in Office No. 6-66. The secretariat will verify that the request fulfils the requirements reproduced above. Delegates will therefore need to show their identification badge.

<sup>1</sup> When filling in a request for the floor, delegates will be requested to indicate in which working language (English, French or Spanish) their intervention should be reflected in the verbatim draft minute, if this intervention is not in one of these three languages. They will also be requested to provide an email address and a phone number.

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## Annex 2

INTERNATIONAL LABOUR CONFERENCE  
108th Session, Geneva, June 2019

C.App./D.4

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### Committee on the Application of Standards

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**CASES REGARDING WHICH GOVERNMENTS  
ARE INVITED TO SUPPLY INFORMATION  
TO THE COMMITTEE**

The list of the individual cases on the application of ratified Conventions  
appears in the present document.

The text of the corresponding observations concerning these cases will be found in  
document C.App./D.4/Add.1.

**INDEX OF OBSERVATIONS REGARDING WHICH  
GOVERNMENTS ARE INVITED  
TO SUPPLY INFORMATION TO THE COMMITTEE**

REPORT OF THE COMMITTEE OF EXPERTS  
(Report III (PART A), ILC, 108th Session, 2019)

CASE NO.	COUNTRY	CONVENTION NUMBER (The page numbers in parentheses refer to the English version of the Report of the Committee of Experts)
1	Turkey**	87 (page 164)
2	Ethiopia**	138 (page 269)
3	Iraq**	182 (page 291)
4	Libya**	111 (page 415)
5	Myanmar**	29 (page 232)
6	Nicaragua**	117 (page 585)
7	Tajikistan	111 (page 446)
8	Uruguay	98 (page 179)
9	Yemen	182 (page 351)
10	Zimbabwe	87 (page 184)
11	Algeria	87 (page 49)
12	Belarus	29 (page 194)
13	Plurinational State of Bolivia	131 (page 549)
14	Brazil	98 (page 58)
15	Cabo Verde	182 (page 259)
16	Egypt	87 (page 68)
17	El Salvador	144 (page 461)
18	Fiji	87 (page 77)
19	Honduras	87 (page 88)

<b>CASE NO.</b>	<b>COUNTRY</b>	<b>CONVENTION NUMBER</b> (The page numbers in parentheses refer to the English version of the Report of the Committee of Experts)
20	India	81 (page 479)
21	Kazakhstan	87 (page 95)
22	Lao People's Democratic Republic	182 (page 302)
23	Philippines	87 (page 131)
24	Serbia	81/129 (page 497)

\*\* Double footnoted case