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5 B

PART TWO

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Report of the Committee on the Application of Standards

PART TWO

OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES

Contents

A. Discussion of the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202)

Chairperson – I now invite the Committee to examine the General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202), entitled *Universal social protection for human dignity, social justice and sustainable development*.

Worker members – It is no accident that this year's General Survey, devoted to social protection, coincides with the Centenary of our Organization. The need to promote universal social protection has always been a central concern of the ILO. It is included in the Constitution, which makes several references to aspects relating to social protection. It has also been translated into the formulation of several important standards.

The General Survey examined by the present session concerns Recommendation No. 202. It contains pointed analysis and valuable information. In this regard, on behalf of the Workers' group, I convey my most heartfelt and sincere thanks to the Committee of Experts for the work undertaken.

Allow me to share with you certain reflections on the General Survey. First, it is important to review the principles. The Recommendation is an instrument that is the only one of its type, as it is the only one that provides a definition of social protection floors. Moreover, it does not confine itself to setting out the results to be achieved, but also provides guidance for member States on the formulation of their policies. This text is also important as it is the first international instrument intended to define the basic social security guarantees designed to ensure that each human being can live in dignity and good health. The Recommendation is based on two principles: the development of social protection floors which are to be achieved, on the one hand, primarily through rights set out in law and, on the other, on the basis of solidarity. The two dimensions of law and solidarity are the basis for the distinction between social security and charity.

The General Survey rightly emphasizes the links that exist between economic and social development and social protection. Indeed, it is still too frequently the case that States endeavour to reduce social expenditure and public investment in skills development. That may sometimes offer a short-term competitive advantage, but it is to the detriment of long-term economic and social development. It also prevents an improvement in the quality of the workforce and an increase in skills levels. Similarly, the Recommendation implies that States must extend their coverage and improve the level of social protection.

The concept of a floor does not only signify "minimum coverage", but particularly that the floor is a basis for building more complex systems. Sadly, we have to note that in periods of crisis or budgetary austerity, States begin firstly by reducing the budgets allocated to social security, even though this should only be envisaged as a last resort. Moreover, budgetary restrictions must be limited in time, and to what is strictly necessary to preserve the long-term financing of the system. Unfortunately, the measures observed in several countries go beyond these limits.

One of the essential aspects of the Recommendation is its universal scope. It is designed to ensure that everyone has access, throughout their life, to essential healthcare, that they can benefit from basic income security and an increased level of protection. The objective of universality can only be achieved if the social security system respects the principle of non-discrimination and equality between men and women.

The General Survey finds many shortcomings in relation to this aspect in several countries, despite the adoption of legislation to combat discrimination. We also observe that inequalities of coverage and access persist. Such inequalities may be based, among other factors, on gender, disability, ethnic origin and type of employment, particularly in the case of atypical forms of employment. This sad reality is not confined to low-income countries, but is also found in middle-income and high-income countries.

In addition to the principles which must provide a framework for social protection, it is also necessary to review their implementation. Although substantial efforts have been made to give effect to the Recommendation, it has to be admitted that certain findings are alarming. For example, in relation to healthcare, the General Survey indicates that only 61 per cent of the world's population benefits from compulsory health coverage, and that over 50 per cent do not have access to essential and adequate healthcare. The causes of these shortcomings are clearly identified. They consist of the under-financing of healthcare, the shortage of healthcare personnel and the high levels of cost sharing, or in other words the proportion that the patient has to pay after the intervention of the public health system.

These are aspects that are found in almost all countries, but at a more serious level in Africa, Asia and the Pacific. Consequently, a significant improvement in this situation requires solutions that address the roots of the problem, by ensuring adequate financing, coverage that includes all the regions of the country, both rural and urban, accompanied by the allocation of an adequate number of healthcare personnel.

Worrying aspects also need to be emphasized concerning the guarantee of basic income security. Indeed, fewer than 60 per cent of governments report the existence of schemes and benefits guaranteeing income security for children. Moreover, only 68 per cent of people who have reached the retirement age are in receipt of a pension, and this proportion falls to under 20 per cent in low-income countries.

The Russian author Dostoevsky wrote that the level of civilization of a society can be measured by the state of its prisons. I am tempted to paraphrase him and to say that the level of civilization of a country can be measured by the care that it provides to its members, and to its most vulnerable members, particularly children and the oldest.

Raising our societies to higher levels of civilization requires not only guaranteeing adequate income, but also ensuring its adequacy through transparent procedures and dialogue with the representatives of the persons concerned.

I also wish to dwell for a moment on the subject of the elderly. There has been a refrain in recent years that it is necessary to raise the age of access to pensions to ensure the viability of retirement schemes. This is based on the idea that, as we are living longer, we should work longer. And yet, this claim is not backed up by the evidence that it claims.

On the one hand, the increase in life expectancy is a figure based on an average, and an average does not say anything about the disparities that exist between the various categories of workers. Moreover, an increase in life expectancy in itself is not relevant, and it is better to refer to life expectancy in good health. The two indicators are not developing in the same way, and the latter is even tending to stagnate. Moreover, the lengthening of careers is only one of the levers that can be used by States to address the challenge of the ageing of the population. Other levers are available, such as increasing contribution levels, supplementary financing, or even a more dynamic migration policy. In brief, as is often the case, it comes down to a political choice. Instead of insisting on raising the retirement age, it would be wiser to introduce measures to allow workers to continue working up to the age currently required for retirement. You will agree with me that the objective of

pensions is not to support workers over a short lapse of time between work and their deathbed. The intention is more to allow them to have time for other activities and to rest at the end of their careers. Pension schemes must ensure this objective, while at the same time guaranteeing decent benefits.

In terms of the means of achieving these objectives, we emphasize that although contributory and non-contributory schemes are complementary, it cannot be denied that contributory schemes tend to provide higher levels of security and income. Non-contributory schemes play a major role for persons who are not covered by contributory schemes. With regard to the implementation of protection floors, it is important to place emphasis on the importance of a national social protection policy. Drawn up in a holistic manner, it must set the objectives and envisage follow-up action. By taking this approach, coordination can be improved within social protection systems, as well as with other areas of public policy.

A central element at the formulation stage is also social dialogue, which offers a guarantee of a viable and sustainable social protection system. The Recommendation refers to it on two occasions. Once in relation to respect for collective bargaining and freedom of association, and again by advocating tripartite participation. It is necessary to give importance to social dialogue not only in view of the need to take into account the interests of all stakeholders, but also due to the fact that employers and workers provide a significant proportion of the financing for contributory schemes.

One of the major challenges faced by social protection in several countries is the informal economy. In this regard, the General Survey offers a very stimulating approach to resolving the problem through transitions from the informal to the formal economy. It suggests doing so by progressively guaranteeing an elementary level of security, income and healthcare, that is essential for everyone, through a social protection floor defined at the national level. In parallel, the integration of all persons into contributory social security schemes must be facilitated. That can be achieved through the removal of the respective legal, financial and administrative barriers, as well as incentive measures intended to promote the formalization of work relationships. The measures often recommended to improve social protection include those that target benefits on poverty. Despite the praiseworthy nature of the underlying objective, this approach nevertheless gives rise to reservations. On the one hand, it is liable to run counter to the objective of the universality of social protection, as it would only address those considered to be the poorest. Moreover, as indicated in the General Survey, it is often costly, as targeting implies the collection of data and the regular reassessment of the situation of beneficiaries to verify their eligibility.

I still wish to emphasize three points briefly. First, the General Survey observes that the shortcomings related to protection a largely due to the absence of the necessary financing. Responsibility for financing rests in the final analysis with the State. When the social protection system is not able to provide protection or when benefits are lower than national poverty thresholds, that means that the State has not assumed its responsibility. It would even be necessary for an incompressible level of social expenditure to be determined in each country corresponding to what is necessary to guarantee the population a life in dignity.

Secondly, the best guarantee of financial sustainability lies in collective financing. And consequently, all measures for the privatization of social protection which are intended to transfer its financing to the individual to the detriment of public measures are incompatible with this principle. In this respect, we note with interest that the States that went furthest along this path have all made a return towards the basics of collective financing and solidarity.

Finally, in third place, it is not possible to manage situations of which we have no knowledge: measurement is knowledge. It is therefore indispensable to develop tools to gather and analyse data. The statistical guidance provided by the ILO in this context should be further developed.

In closing, I would like to refer to one of the few regrets that we have as the Workers' group in relation to this General Survey. Although it recognizes their great importance, the General Survey devotes little space to employment accidents and occupational diseases. And yet these subjects are of crucial importance and offer productive links with other ILO standards, such as those on workplace prevention and inspections. The Committee of Experts was undoubtedly guided by a Shakespearean wisdom in not biting off more than it could chew.

Recommendation No. 202 is a stimulating tool for the provision and extension of social protection, and to guarantee human dignity. I hope to see this concern guide our discussions and inspire our conclusions.

Employer members – I thank the Committee of Experts and the Office for the General Survey, I intend to comment in some detail on it. The focus on a single instrument enables us a thorough examination of the provisions of Recommendation No. 202 and a proper consideration of the various facets of the issues covered by the instrument.

The Survey is useful in shedding light on stand-alone Recommendations as a particular form of ILO standard. While not ratifiable, stand-alone Recommendations can provide relevant and comprehensive guidance and therefore can have a significant impact on ILO member States. Stand-alone Recommendations can also be easily and quickly replaced and updated. Consideration should be given to practical ways of making available and sharing information on their application, for example, via online databases on good practice.

The topic of social protection floors addresses a major development objective and an essential basis for productive economies and stable societies. While there are significant differences in social protection coverage and levels between developed and developing countries as well as among the individual contingencies of social protection, it is an area that requires constant and due attention in overall policymaking worldwide. The objective and guiding principle for social protection floors should aim at universal coverage without compromising initiative and commitment for private provision. Reliability and trust in social protection floors are essential and require sound planning and a long-term approach. Social security systems should be an integral part of national sustainable development planning structured for the needs and means of the country and it should incentivize growth of formal employment and sustainable enterprises. The Recommendation sets out examples of the types of benefits and funding schemes that may be provided for social protection floors but no preference is expressed and there is no limitation to innovation and development provided they deliver schemes that are efficient and effective in the national context.

We appreciated that 114 governments, 11 employers' and 44 workers' organizations provided submissions on the Recommendation. On these general remarks we look forward to a fruitful tripartite exchange of views this afternoon.

I turn now to my remarks on the individual sections of the General Survey. During this first intervention I will cover off Chapters 1 to 10 and during my concluding intervention I will cover off Chapters 11 to 13. To begin in paragraph 26, the Survey provides an overview of current trends, challenges and opportunities. In this context it deplores the stagnation and decline in poverty reduction and notes that inequality is on the rise. We take a view that this description is unduly negative and does not adequately reflect the significant achievements made in recent decades.

According to the World Bank, for example, 42 per cent of the world population in 1982 was poor. This figure had

fallen significantly to only 10.7 per cent in 2013 and has probably fallen even further in recent years. The ability of social protection floors to reduce inequality is limited given that social protection floors can only ensure a certain minimum subsistence level. Therefore social protection floors can only be one element in the overall settings to ensure the cohesion of societies. Other elements such as the promotion of equal access to quality education and vocational training should be given due attention.

We agree with paragraph 34 that demographic trends, particularly rapid population growth in developing regions, can be a major challenge for the establishment and viability of social protection floors. This challenge can only be addressed through a combination of policies, in particular on promoting education, vocational training and gender equality. Without this suite of policies efforts to reduce poverty by establishing social protection floors are likely to be compromised.

Now let me turn to the individual parts and chapters of the report. Part 1 is "The Social Protection Floors Recommendation, 2012 (No. 202): A guiding framework for the realization of the right to social security and sustainable development". Let me discuss first Chapter 1 which is about objectives, principles and key features. We agree with paragraph 71 on the need for a comprehensive and integrated approach that encourages the implementation of social protection floors as an indispensable part of wider national social protection systems.

However, we would prioritize differently and stress the importance of policies that are conducive to enterprise sustainability, skills development and employment creation. Poverty and vulnerability can only be sustainably reduced by productive employment. Moreover, the effectiveness of social protection floors systems depends on the capacity of economies to provide the necessary resources. The concept of sustainability of these systems is therefore extremely important in this debate.

Let me turn to Chapter 2, and let me turn then to paragraphs 102–109. We agree on the importance of social solidarity but would nevertheless stress that there must be a sound balance between social solidarity on the one hand and private initiative and commitment on the other. The starting point and the basis for social solidarity must be private provision. Social solidarity has a certain connotation to us of voluntariness. Social solidarity must therefore not be overstretched, this may occur where basic social benefits are unduly generous and where the financial burden to pay for basic social protection for the general public is unduly high or perceived to be unduly high. Unfortunately this important aspect is not addressed anywhere in the Survey.

According to paragraph 156, progress realization of the objectives of the Recommendation means that States should not take deliberate retrogressive measures which could lead to a reduction of protection. The Survey goes on to say that retrogressive measures should not go beyond what is strictly necessary to preserve the financial and fiscal sustainability of the system and should not result in a breach of solidarity. We do not entirely agree with this interpretation. In our view, exceptional retrogressive measures can also be justified for reasons other than the financial and fiscal sustainability of the system. For example, where basic financial benefits have turned out to be too generous or too widespread and as a result undermine private initiative and self-responsibility. The progressive realization of social protection floors does not hinder necessary adjustments to establish an adequate balance between social solidarity and private provision including a reduction of benefits if necessary.

Let me turn to Chapter 3 which is about implementing a rights-based social security in the law. Let me turn to paragraphs 190–196, while agreeing on the need for effective enforcement measures including adequate sanctions we would nevertheless point out that non-compliance with relevant legal provisions particularly relating to fraud can also occur in the form of complicit action between employers and workers or can be committed by recipients of social benefits. In order to maintain the functioning of social protection floor systems sanctions must be available for any non-compliance and abuse no matter who commits them.

Let me turn to Part II of the Survey which is about social protection floors securing life and health and dignity through the life cycle and let me turn then to Chapter 4. With regard to paragraphs 219–220 which cover Paragraph 10 of the Recommendation, they recommend that member States in designing and implementing national social protection floors should combine preventative, promotional and active measures. They should promote productive economic activity and formal employment through adequate policies and they should ensure coordination with other policies that, among other things, enhance formal employment and promote entrepreneurship and sustainable enterprises. The Survey considers that these measures can contribute to optimizing the efficiency of social protection systems and their capacity to deliver the desired outcomes. We agree with this assessment, however, we consider that it is impossible to achieve the objectives of social protection floors as set out in Paragraph 2 of the Recommendation, namely the prevention or alleviation of poverty, vulnerability and social exclusion, without giving priority attention to those measures recommended in Paragraph 10, as I have just noted. In particular, the promotion of productive economic activity and formal employment. For these reasons, we feel that Paragraph 10 is of paramount importance within the context of guidance and advice for social protection floors provided in the Recommendation. Unfortunately, the Survey does not provide much explanation and illustration on this provision. It would have been of great interest to know if, and how, member States are dealing with the issues addressed in Paragraph 10. Let me turn to Chapter 5, which relates to essential healthcare; paragraph 283 notes that the levels of essential healthcare coverage have increased over time; that the rise in the number of services is estimated at about 20 per cent between 2000 and 2015. The Paragraph finds that the generation of funds for essential healthcare remains a challenge, particularly for low-income countries and the employers we serve. This shows the progress and the coverage of essential healthcare depends to a large extent on the generation of necessary resources, and thus on the overall economic development of a country. Therefore, isolated attempts towards increasing essential health services will not be sufficient unless they are combined with broad policies that aim at overall economic development. Any technical cooperation on improving essential healthcare should therefore make sure that these are in place. Paragraphs 303–308 refer to "out-of-pocket payments", "copayments" and "user fees" in the context of essential healthcare. It generally considers that such payments tend to result in impoverishment and are an important cause of poverty in many countries, and it concludes that "out-of-pocket payments" impair the accessibility of essential healthcare, and hopes that member States will make efforts to reduce them. We do not fully agree with this analysis and highlight that there is a significant difference between developed and developing countries on this point. As the Survey observes, "out-of-pocket payments" are the highest in low-income countries, with the lowest essential healthcare coverage rates and impoverishment. On the other hand, in many developed countries, "out-of-pocket payments", "copayments" and "user fees" are important means to determine the fair share of the costs of essential healthcare that can, and should, be borne by individuals and not by social solidarity. It is also necessary that this balancing is done on a permanent basis. Owing to increasing life expectancy, ongoing technological progress in healthcare and consequent increases in healthcare costs,

further rises of "out-of-pocket payments" and "copayments" are to be expected in the future. In conclusion, we argue in favour of a more differentiated approach to "out-of-pocket payments" and "copayments", taking into account the concrete national context. While such payments should, of course, not result in impoverishment, they can on the other hand be necessary to maintain the long-term financial viability and quality of essential healthcare services. Let me turn to Chapter 6, which relates to basic income security for children. Paragraphs 339–340 refer to the provision of family benefits, which in some countries is conditional upon school enrolment and regular vaccinations or medical check-ups. Paragraph 353 refers to similar conditionalities for cash benefits for children. The Committee of Experts find that connecting benefits to conditions may have unintended side consequences. For instance, placing an additional burden on women, who are often held responsible for fulfilling these conditions. Those conditionalities are fully in line and supportive of the objectives of the Recommendation, as defined in Paragraph 2. Regular school attendance and medical check-ups are not only an important means to overcome poverty, vulnerability and social exclusion, they are also an integral part of the social protection floor itself. Conditionality in these cases can also help promote gender equality, in so far as they facilitate equal school access and equal healthcare for both boys and girls. While governments should of course make sure that schools and medical services are accessible and of acceptable quality, where this is not necessarily the case of course governments should do that. Further, there is no doubt about the general expediency and usefulness of making cash benefits conditional in such cases. Let me turn to Chapter 7, "Basic income security for persons in active age", on the subsection on unemployment benefits in paragraphs 456–463. The Survey provides the information submitted by constituents on this topic. According to the Government of the Netherlands in paragraph 458, "work is the best and quickest route out of poverty" and "high unemployment benefits can create a disincentive to finding a job". As a consequence, the Government has taken measures to improve job mobility and reduce unemployment benefits. We note the statement by the Dutch Government, with great interest. It shows that unemployment benefits must not only be sufficient in the context of a basic protection floor, but that they must not be set too high either. In doing so, they might discourage people from taking up work. The statement also shows that unemployment benefits, in the same way as other cash benefits, are subject to adjustments including both promotions and reductions. Moreover, paragraphs 470–476 refer to the coordination of social security benefits and education and training policies. We agree with the Committee of Experts that the coordination of unemployment benefits and education, skills development and retraining measures will strengthen employability and a return to employment. In the Employers' view, policy coordination of this kind is of utmost importance for the achievement of the objectives of the Recommendation, the alleviation of poverty, vulnerability and social exclusion. Paragraph 480 stresses that the combination of employment policies and social security benefits should be based on an appropriate balance between activation measures on the one hand and the provision of benefits and services on the other. The Committee of Experts in the Survey warns against the tightening of entitlement conditions or the strengthening of sanctions. It points out that any coercion to perform labour under the menace of the withdrawal of unemployment benefits, in the event of refusal to accept unsuitable work or to participate in an unsuitable labour market programme, is not admissible. We consider, as previously mentioned in the discussion of the General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization in 2011, linking unemployment benefits to activation and motivation measures for the unemployed is fully in line with the concept of social security in ILO standards. What constitutes suitable employment in the sense of the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), can in our view only be determined in the concrete circumstances at a national level. For instance, in times of high unemployment, where unemployment insurance systems are under pressure, a wider interpretation then of this term may be more justified, than in times of full employment. Moreover, unemployed workers who reluctantly take up a job or engage in a labour market programme that they do not consider sufficiently suitable are not hindered by doing that to continue their search for a more suitable job.

Let me turn to Chapter 8, "Basic income security for older persons", paragraphs 509–516, which refer to the issue of increases in the statutory pensionable age. We agree with the Committee of Experts that increases of the statutory pensionable age are justified for various reasons and even unavoidable if the financial equilibrium of pension schemes is to be safeguarded and the reduction of benefits to be avoided. We would however consider that countries in raising the statutory pension age should maintain, as far as possible, a common age threshold for everybody. Too much differentiation in this regard between groups of the population and professions may create new uncertainties and new inequalities. Moreover, when not yet in place, a common statutory pension age for men and women should be introduced. On the other hand, we would argue in support of making possible and encouraging working beyond the statutory pension age, where both workers and employers agree.

Now let me turn to Part III of the Survey, the policymaking process and, in particular, Chapter 9, paragraphs 565–569, which refer to social dialogue. Although we agree on the importance of broad social dialogue on the establishment of social protection floors, we nevertheless emphasize a need for a reasonable balance in this dialogue between representatives of those who are to be protected on the one hand and representatives of those who are supposed to finance the protection on the other. Only with such balance in participation, acceptable and sustainable policy choices can be made. Given the complexity of the social security policy, independent experts and researchers should also be engaged. Chapter 10, regarding the financing of social protection floors and paragraphs 646–647 refer critically to austerity measures The Committee of Experts seems to note and adopt the International Trade Union Confederation's (ITUC) view that austerity measures, as they have a negative impact, should be reversed. We agree that social protection floors, in particular when it comes to monetary benefits, should be designed from the outset in a way that they are, as far as possible, "crisis-proof" and that cuts can be avoided but this requires prudent long-term planning to ensure the sustainability of the level of benefits. To this end, increases of benefits should be handled somewhat restrictively and reserves should be built-up to cushion crisis situations. At the same time, we disagree with the Committee of Experts that fiscal consolidation policies cannot be comparable with the objectives of the Recommendation. We consider that the definition of a social protection floor must also take into account the economic circumstances of a country. We would like to recall in this context the ILO 2013 Oslo Declaration: Restoring confidence in jobs and growth, which states, among other things, that "fiscal consolidation, structural reform and competitiveness. on the one hand, and stimulus packages, investment in the real economy, quality jobs, increased credit for enterprises, on the other, should not be competing paradigms". With regard to paragraph 624, we strongly disagree. With a negative appreciation by the Committee of Experts with regard to "defined contribution schemes based on individual savings or notional accounts" and the positive statements with regard to the "trend in a number of countries to scale back privatization and

strengthen public schemes". We are concerned with the experts' position which is aligned with the ITUC's position expressing concern with the participation of the private sector in delivering statutory social protection because that remains high in many countries including in the pension markets of several Latin American countries. We categorically disagree with the conclusions in paragraph 625. Contrary to what the Committee of Experts concluded, the individually funded private systems have not failed and the reversal observed in some countries, far from demonstrating their failure, is proof that those countries overwhelmed by the debts of their public pay as you go (PAYG) systems were unable to cope with the financial obligations of the transition. It is our view that the individually funded systems have contributed to the improvement of workers' pensions and boost the economic growth of the countries that have adopted them. The evidence shows that the private individually funded pension systems have functioned properly, significantly contributing to the improvement of the pensions of workers who contribute regularly. The amounts of the old-age pensions paid by the individually funded systems are directly related to the income of contributors and the number of contributions paid during their working lives, among other factors. Thus, for example, in Chile, the pensions of those who have contributed for more than 25 years represents 78 per cent of the income of that group, considerably higher than the requirements of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128). In contrast, the pensions self-financed by those who have contributed for less than four years represent only 15 per cent of their income. Despite the critical situation of PAYG systems worldwide, there are other systems that have provided solutions such as the individually funded systems. One recent study on the subject co-authored by the Chairman of the Global Aging Institute acknowledges this fact. Among the studies, basic conclusions are that global ageing will increase the relative advantage of the individually funded pension model, that individually funded pension systems can help emerging economies and in contrast to the PAYG systems, the individually funded systems can contribute to the development agenda by promoting capital markets and freeing fiscal resources to be invested in infrastructure and human capital. We take this opportunity to put on record that the Employers' group is in absolute disagreement with the publication by a number of ILO officials from the ILO Department of Social Protection of the book *Reversing Pension Privatizations: Rebuilding public pension systems in Eastern Europe and Latin America* which, contrary to the opinion of all other international organizations, calls for the termination of individual saving systems and a return to the PAYG systems, notwithstanding their failure and the impossibility of financing pensions through mechanisms in which an ever fewer number of workers have to finance the pensions of an ever larger number of retirees. Other Employer representatives will further elaborate on this critical issue.

Government member, Romania – I speak on behalf of the European Union (EU) and its Member States. The candidate countries, Montenegro and Albania, as well as the Republic of Moldova, align themselves with this statement. We command the general interest of countries covered in the General Survey. Their interest confirms the wide international consensus on the crucial role of social protection in furthering human dignity, social cohesion, equality, social justice, as well as sustainable social and economic development. We share the conclusion that the Recommendation brings States closer to meeting their international human rights obligations in guaranteeing that everybody enjoys a life in health and dignity.

The Survey shows that, since the adoption of the Recommendation, considerable progress has been achieved in many areas of the world, particularly as regards extending social protection and anchoring social security rights in law. Nevertheless, despite continuous efforts, more than half of the world population is not yet covered by social protection, and wide gaps and disparity in protection remain. Moreover, demographic trends such as ageing or development of new forms of work present new challenges to social security schemes. In this context, it is ever more important that member States also continue aiming for higher levels of protection to as many people as possible.

At a European level, the European Pillar of Social Rights provides a compass of social and economic policy of both the EU and its Member States; ten out of 20 principles of the Pillar are covering social protection.

As a follow-up to the European Pillar of Social Rights, EU Member States reached a political agreement on the Recommendation on access to social protection for workers and the self-employed in December 2018. It provides guidance on how to address the gaps in protection faced by people outside standard employment, including new forms of work. The objective is to encourage Member States to allow all workers and the self-employed to avail themselves to social security schemes, and to be adequately and effectively covered by them.

These instruments are also an expression of our firm belief in the principle of social solidarity. As indicated in the Survey, effective and equitable redistribution mechanisms based on solidarity are crucial for achieving universal social protection and more specifically for developing comprehensive social security systems. Furthermore, we acknowledge that social protection acts as an income caution and a stabilizer in times of economic downturn, as well as a vehicle for bringing economies out of crises.

We also support the conclusion of the Survey that contributory schemes and non-contributory schemes are both essential components of national social protection floors, with a view to securing income security for all. At the same time, we also support the Survey's emphasis on the idea of social protection systems as being broader than social protection floors, and welcome the Survey's call for policy coherence between social protection and broader social economic and employment policies.

In this context, we highly value the ILO's technical support to governments in the effective implementation of the Recommendation. We consider that it is essential to continue providing assistance on the formulation and monitoring of national social security extension strategies and policies. Addressing in particular the informal economy, new forms of employment relationships, women and children, as well as people with disabilities, the ILO should be also instrumental in furthering social dialogue for the effective design and implementation of the national schemes.

The EU as well stands available to share its successful practice in the area of social protection. SOCIEUX+ is an EU technical assistance facility which fosters peer-to-peer relationship among EU Member States and partner countries for the design and creation of fair social and employment systems. Since 2013, it offers expert assistance to 138 countries on social insurance (contributory pensions, health, accident and employment protection) and social assistance (cash transfer programmes, income guarantee schemes, old-age benefits, child and disability grants). It has supported health financing reform and the introduction of mandatory health insurance in Azerbaijan, the implementation of an employment injury insurance system for Malawi, different aspects of pension reform and the design of a training plan for the state social security institution in Mexico, just to name a few.

The EU is also an active member of the Social Protection Inter-Agency Cooperation Board, co-chaired by the ILO and the World Bank Group, which supports countries to setting up social protection floors in the framework of the ILO flagship programme.

We reaffirm our commitment to achieving universal social protection as designed in Sustainable Development Goal 1.3, as well as our support to the Global Partnership

for Universal Social Protection. We look forward to a fruitful discussion by the ILO's tripartite constituents of possible further steps that can be taken to enable the Recommendation to achieve its full potential.

Today, at a time where we are taking a look into the future by discussing the Centenary Declaration, it is ever more important to step up the efforts in building comprehensive, universal, adequate and sustainable social protection schemes and ultimately guarantee that every human being enjoys a life in health and dignity.

Worker member, France – The region of the world and the level of development of the country are of little import, as social protection systems are under challenge throughout the world at the very time that inequalities are rising. Europe has often been cited as an example for its social model, and France has often been defined as having one of the most developed social protection systems in the world. Based on the principles of deferred wages, solidarity and joint management by the social partners, it is however today among those that are under challenge due to multiple reforms of unemployment insurance, health, education and even retirement benefits, based on liberal precepts that tend to place responsibility on individuals rather than guaranteeing their collective rights in relation to fundamental rights.

These very precepts are rightly denounced in the General Survey this year and run counter to the principles set out in the Recommendation, which calls for the establishment and extension of social protection to move towards universal access, taking up the elements covered by the recurrent discussion of 2011 on the two dimensional approach to social protection to ensure the broadest possible coverage.

Accordingly, jobs are being suppressed and healthcare institutions closed, while hospital emergency services are overrun to the detriment of the working conditions and users of these services. It is important to recall that it is the responsibility of States to guarantee the access of their citizens to their fundamental rights and that this is a matter of the redistribution of wealth to ensure social cohesion.

Last week, the summit of the G7 Social was held in Paris under the Presidency of the French. It resulted in tripartite conclusions, which is a first for this international forum. With the transversal theme of fighting inequality, its Declaration makes social protection one of its four principal objectives and recalls the need for coherence. The Declaration, in point 7, affirms that, to pursue the objective of reducing inequalities, the members of the G7 and the international social partners, among other measures, call for, and I quote, "strengthening coherence of the international organizations' action and the respect of international labour standards" and, I continue to quote, "extending access to social protection". In point 11, the Declaration affirms, I quote, that social protection systems "contribute to tackling inequalities and reducing labour market insecurity" and that they are also "a factor of inclusive and sustainable growth".

We support the call for greater coherence between international organizations and forums, as well as between the commitments made by States at the international level and their national policy choices. The ILO must take the lead in this international coherence and play the role of the social regulator of globalization.

Government member, Morocco – I thank the Governing Body for having decided to programme the discussion of the application of the provisions of Recommendation No. 202 on the occasion of the Centenary of our Organization.

This year is an important milestone to review the universal vision of social protection with a view to introducing an integrated and participatory universal system that can combat poverty, precarity, inequalities and social exclusion. I also wish to congratulate the Committee of Experts for the quality of the document that it has prepared and the pertinence of its conclusions.

Morocco wishes to emphasize that social dialogue is the pillar for the formulation of integrated social protection policies. This will allow decision makers to establish social protection policies focusing on human capital, the cornerstone for the development of universal economies in the second Centenary of our Organization.

Emphasis should also be placed on the importance of ensuring coordination between social protection policy and other policies, and particularly employment policy, and on ensuring that changes in the approach to the future of work are taken into consideration in the process of the implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and Recommendation No. 202 so that member States adopt the most appropriate and sustainable social protection systems best suited to new employment market trends.

With reference to the situation in Morocco, it should be noted that the documents for the registration of Convention No. 102, which were adopted by Morocco in 2013 by Act No. 47-12, have just been deposited with the competent services of the International Labour Office.

Also, since 2006, Morocco has been working on a national initiative for human development with the aim of the social inclusion of specific categories and to combat social inequality.

Moreover, since 2016, the Kingdom of Morocco has opened the issue of the broadened national social protection policy. In this context, two laws and their implementing texts have been enacted, which are Acts on retirement pension schemes and medical coverage for the self-employed professions and non-salaried workers.

Employer member, Colombia – I wish to refer essentially to paragraphs 624 and 625, because they have connotations that give rise to serious doubts in our view. If we start from the outset from the basis that individual systems administered by the private sector are disqualified and would break with the principle of transparency advocated by Recommendation No. 202, nothing is further from the truth. In many countries they have been implemented and have also been operating in parallel with the pay-as-you-go system. The administration of these funds has made it possible to irrigate the economy leading to the substantial creation and generation of sources of employment and well-being. In addition, they have created securities in the insurance system for those who have built-up savings in these systems so in the end they can have access to a pension. From this viewpoint, we refute the points made there and specifically, based on the vision of Colombia, my country, note that the reference in paragraph 624 to a legislative change in the country is erroneous. There has been no change in the legislation recently. A process is under examination with a view to modifying the pension scheme as currently 16 per cent of the national budget has to be allocated to the pay-as-you-go system.

I also wish to note that, in light of the third Paragraph of the Recommendation, the principles of solidarity are given effect, that is principle (h), as well as the principle of social inclusion with a view to encompassing the informal sector in coverage, that is principle (e), as well as the issue of financing mechanisms and transparency, principle (j).

It has happened that, for reasons of transparency, the need arose well in the past to make adjustments to the system. Today, we have a form of sharing in Colombia which allows the operation of solidarity. Part of every contribution goes to a solidarity fund which provides a guarantee of a minimum pension in the system. This is the situation in Colombia, as well as in all the schemes implemented in countries which have similar solidarity mechanisms. Accordingly, the points made in these paragraphs are not in line with the situation in practice.

I would also like to indicate that in our country a discussion has recently been held on the National Development Plan which is to be implemented over the next four years

and included the coverage of social protection floors to allow coverage of the informal sector of the economy. In my country and in Latin America, the informal economy is very high, and there has been a lack of coverage in that sector, but we seek to foster inclusion, precisely as advocated in the second Part of the Recommendation. Matters relating to essential healthcare and basic income security are being addressed and adequate measures are being taken. I want to give the good news that in my country, through a democratic process established following discussion in Congress, very positive changes are being implemented.

Worker member, Sweden – I am happy and honoured to be able to take the floor to do this intervention on behalf of the Nordic workers. We want to start by expressing our strong solidarity with workers all around the globe who have almost no existing social protection. We know we will hear more about the problems that workers face in different countries from the comrades from different unions who will do interventions here during this afternoon.

As Recommendation No. 202 clearly states, social protection is a human right and all people should have the right to a life in dignity and we know that the Recommendation did bring hope to many people when it was adopted here at the International Labour Conference in 2012.

As you all know, the Nordic countries are famous for our strong social protection systems that, for example, guarantee both affordable healthcare for all and economic protection in case of unemployment or becoming sick, something we have built during the last 100 years and where the ILO has been an important support for us during the history. One very positive thing with this Recommendation is that all countries can use the same instrument whatever the national situation is. One reason for this is that it comprises both the horizontal and the vertical dimensions: extension of social protection floors to as many as possible which is the horizontal dimension, and an ongoing pursuit of a higher level of social protection which is the vertical dimension. We can all use this Recommendation as a justification for our work for a wider coverage of social security schemes and for more enhanced levels of social benefits. Both in developing countries and in countries with a longer history of social security schemes, this Recommendation can foster political courage in all countries to promote the extension of social security to all and we hope that the Nordic countries can serve as a great example that it is possible to build a society where social protection is seen as a right for everyone.

We think that one of the important things when it comes to the point of increasing the coverage of social protection is that we have to find a way to meet the need of coverage for those in new forms of employment. Employers' creative ways to put workers in bogus self-employment or different types of precarious work can never be allowed to leave workers without social protection. Therefore, the statement in the Recommendation that member States should identify gaps in protection and seek to close those gaps is helpful also in countries where we think we already have a good social protection. We also think that the introduction of the Universal Labour Guarantee that the Global Commission proposes in its report on the future of work would be a helpful continuous step forward when it comes to making sure that all workers are covered by social protection.

It is also necessary to take further steps to formalize as much of the informal work as possible. This is also important to build a sustainable financing model of the social protection systems that are built on contributions based on taxes where everyone contributes solidarily and fairly according to the level of their income.

Our conclusion is that there is a lot to be done to provide social protection for everyone. Let us use this Recommendation and the strength of the tripartism of the ILO and social dialogue to make sure to live up to the goal that social protection as a human right becomes available for all workers and people of the world.

Government member, Algeria – Firstly, Algeria would like to express its satisfaction at the General Survey concerning the application in law and practice of Recommendation No. 202. Algeria has always defended and continues to defend participation in social protection which would play a key role in building fairer and more inclusive societies. This is one of the goals of the 2030 Agenda for Sustainable Development.

Social protection is a fundamental mechanism which contributes towards implementing economic and social rights recognized through a set of national and international legal instruments. Nevertheless, the responsibility to guarantee rights rests primarily with States. The State must play a key role in social protection so that the latter is perceived as a right and not as a privilege.

Consequently, Algeria has done everything possible to achieve this goal at the national, regional and international levels. Algeria has been particularly involved in strengthening South–South cooperation mechanisms in order to disseminate social protection floors which are based on recognized standards, particularly standards recognized by the ILO, and Algeria has thereby adopted an effective partnership approach with the principle of sharing good practices and the benefits of economic and social development.

Moreover, the Algerian social protection system today concerns a growing and not insignificant proportion of the population, both through a contributory system and a non-contributory system which seeks to improve the quality of benefits and to modernize them and to preserve the financial balance of social security institutions.

In order to encourage the exchange of experience and views to identify possible tools and solutions that could be usefully implemented for the development of social protection, Algeria has created a higher social security academy in the context of an agreement concluded with the ILO. This institution has the mandate to provide further training and to develop research and studies relating to social security and also to reinforce national, regional and international cooperation.

As regards the General Survey, in view of the strong demand for technical assistance from member States, the actions already carried out by the ILO as part of its Global Flagship Programme on Building Social Protection Floors for All, which was launched in 2016, and the positive adjustments that it has generated in social protection systems in the countries concerned, we consider that this initiative deserves to be shared with all member States, in order to serve as a model which can be duplicated and applied to other social protection systems along the lines of the inclusive measures applied today to specific vulnerable categories of the population or measures applied to persons who work in the informal economy.

We also call on the ILO to share mechanisms for the extension of social coverage so that this coverage can be applied to the new forms of work existing in the digital world.

In conclusion, we think that consideration should be given to the possibility of reproducing the results of action from the reports and outcomes of country evaluations and presenting them through comparative tables, which would enable member States, or countries with similar social protection systems or schemes, to situate themselves and give attention to indicators that would warrant particular interest. We very much hope that these discussions will continue with the intensification of cooperation and dialogue in this field.

Employer member, Denmark – On behalf of the Danish employers I make some remarks on the General Survey. I will comment on one particular point where the General Survey makes reference to Denmark but which also can be relevant to other States and it has also been part of the observations of the Employer spokesperson.

In paragraph 511, the Committee comments on the fact that many countries are increasing this statutory retirement age in response to improved health, longer lives, ageing populations and public finances. In Denmark, the statutory retirement age has already been decided to be 68 in 2030. It will be 69 in 2035 and 70 in 2040 if Parliament follows the scheme of the political agreement. The goal is that the average person enjoys 14.5 years in retirement. The Danish scheme with raising the statutory pension age with an actual living age is crucial to a sufficient labour supply, but also for sound public finances.

The Danish employers support the scheme. However, it is not satisfactory to deal with the changes of society. Therefore, any changes in the conditions should raise the statutory pension age accordingly, and in our view has to be tuned even more. The discussions in connection with the general elections last week in Denmark are giving us reasons to feel that the Danish political system perhaps can make some pragmatic changes. However, the Committee of Experts wants in paragraph 114 to emphasize the need to consider the differences between various groups. We agree of course that workers that are no longer able work, for example due to health reasons, should be covered by an early retirement scheme, but must warn against schemes with different pension ages for different groups on the labour market. One of the reasons is that it is not plausible to establish such a scheme without leaving behind the workers in real need and instead giving privilege to other and often stronger workers in no need. This animates also a kind of weird competition on the labour market of which groups have the worst jobs.

Worker member, Islamic Republic of Iran – I am present in this Conference on behalf of the Trade Union of Iran and the Head of the Iranian Confederation of Workers Association (ICWA), which has been established ten years ago as a result of efforts by the workers' activities, and in cooperation with the Ministry of Cooperatives, Labour and Social Welfare, and based on article 131 of the Labour Code of the Islamic Republic of Iran and also on behalf of the Iranian Merchant Mariners Syndicate (IMMS), an ITF-affiliated union in the Middle East that supports seafarers in this critical area. Also with the aim of fulfilling the Decent Work Agenda and supplying the interests of workers in the area of labour rights and social support and protection.

One of the noticeable actions taken by my affiliated union, paving the way to the implementation of Recommendation No. 202, Social Protection Floor, adopted in 2012, the paper which is distributed to this floor. In this regard, the International Conference of SPF was held in my country in 2016 for further information and knowledge-awareness of workers, with the mention of the Recommendation and the measures which have been taken by the Government and social partners, through the supportive organization and social security organization for deprived people.

In the mentioned Conference, the social partners discussed and reviewed the challenge on social protection. Moreover, there the honourable Ambassadors of Belgium and Mexico put forward the experience of their countries on this issue.

It is worth mentioning that, at present, this supportive role and action in my country has gone beyond the content of this document and more progressive and professional layer of social security and supportive services and the content of ILO international documents are operating.

It is a great honour for me to announce that, despite various challenges and outcomes of unfair government sanctions imposed against my country, the Islamic Republic of Iran has almost provided the content of the ILO Recommendation for the promotion of social justice developing and performing a sought-after service, such as the healthcare family and children advantage, job opportunities, social security and pensions for old and disabled persons. And also young people and the new generation, for instance, an Iranian young seafarer does has not chance to work in the international marine job market; it is not actually due to a lack of skill or professionalism or financial reasons, it happens and is limited only due to unfair sanctions and political reasons.

Finally, I would like to propose that with regard to the fact that the future of work is the key agenda for the ILO in line with the fulfilment of the objective of decent work and sustainable development and is dependent on social protection systems, so all workers through their life should enjoy modern education lifelong and technologies such as artificial intelligence, robotic, autonomous and also comprehensive support to the freedom of association and the right to collective bargaining. Also it is necessary for the workers' and employees' unions, organizations, to find a greater legitimacy through the modern technology with a view to signification of the contribution to achieving the objective of SDG, brighter future of work and action which are based on key action in the ILO Centenary.

Government member, Belgium – I wish to congratulate the ILO on the excellent quality of the work carried out in the context of this General Survey, which will certainly be of great use in our discussions.

The ILO's Centenary is a unique occasion to recall that social protection lies at the heart of its mandate, is one of its main fields of standard setting and is one of the four strategic objectives of the Decent Work Agenda.

An indicator of the importance of this subject lies in the contributions made by 114 member States, as already noted, and the observations provided by 11 employers' organizations and 44 workers' organizations.

We should also recall that, at the time, Recommendation No. 202 received overwhelming support. It calls for populations to be ensured access to essential benefits and healthcare and to basic income security, which constitute national social protection floors.

Following the adoption of the Recommendation, many efforts have been made by States, and I think that we should welcome them. And as Dostoevsky has already been quoted, we can continue to cite him: "People only count their misfortunes: their good luck they take no account of." So let us take the time to welcome this. But clearly, and no one will contest this, of course much effort still needs to be made, and in this respect the General Survey places emphasis on cases of good practice and guidance that can help States to improve social protection, including its extension to a higher level.

Let us therefore continue our efforts, but in a framework of social dialogue. Social protection must be a reality for all of us, and the commitment of my country, Belgium, in the framework of Global Partnership for Universal Social Protection can be reaffirmed.

I would still rapidly like to place emphasis on ten key elements for our country in the context of the forthcoming discussions.

1. The implementation of the Recommendation contributes to the achievement of the objectives of sustainable development.
2. The necessity for a strong commitment by the ILO and its Members to universal social protection.
3. Investment in social protection stimulates economic growth and stability and improves the performance of national economies, and social and economic factors are too frequently placed in opposition, whereas their affinity seems to us to be evident.
4. Social solidarity, including in its financial aspects, lies at the heart of social security, and therefore States which make reform efforts must take that into account, as it is a powerful weapon against poverty and inequality.
5. The necessity to promote social dialogue, is somewhat at the basis of the ILO, as the promotion of tripartism is our DNA.

6. To guarantee income security throughout life, various approaches exist. Well! We consider that there is insurance, there is assistance, and that they must be combined and a balance found.
7. Cleary benefits must be set at a sufficient level to reduce poverty, vulnerability, etc.
8. It is nevertheless important to have effective public services.
9. It is also necessary to work on access to social security. There are people who do not have access, which also implies appeal mechanisms and procedures.
10. The Recommendation also addresses developing countries, and emphasis can be placed on the added value of ILO technical cooperation.

We consider that these are certain principles, certain ideas that can be useful as we continue our work.

Employer member, Chile – We have some serious criticisms of paragraph 624 of the text under consideration. This paragraph comes out categorically opposed, without justification, to pension schemes based on individual capitalization and then sides with countries which have taken action to move away from these systems, among which Chile is erroneously included. Accordingly, we have a double criticism: of the editorial approach of paragraph 624 and the inaccuracies relating to the case of Chile. The editorial approach shows serious prejudice against individual capitalization schemes and applauds the reversal of the privatization of pension systems in a number of countries. This view is not shared by the ILO Employers' group and reflects an unacceptable arbitrary perspective for a document emanating from the home of social dialogue. This document also lacks an objective basis in global data since its uses a whimsical selection of a small number of countries as its foundation.

Secondly, we feel particular concern at the biased information contained in this paragraph, because we recently discovered another ILO publication, from October 2018, *Reversing Pension Privatizations: Rebuilding public pension systems in Eastern Europe and Latin America*, which was presented by the Organization as an official text, despite the fact that there were no consultations on it with the employers represented at the ILO. This obliged us as a group to seek the intervention of the International Organisation of Employers (IOE) in order to inform the Director-General, Mr Ryder, of our deep disquiet at the publication, with specific requests for amendments to its substance and form.

Thirdly, the increase in life expectancy combined with falling birth rates means that PAYG systems are not financially viable, since these phenomena cause the population pyramid to be inverted, with fewer and fewer active workers to finance the pensions of an ever larger number of retirees. This has been the case in a number of European countries which are over-indebted and have had to update parameters by raising the retirement age and increasing contribution rates to stay afloat.

Fourthly, there is confusion between the concepts of solidarity and the PAYG system. The PAYG system, like the individual capitalization system, is a financing option in social security, while solidarity in the pension sphere means support for the most vulnerable groups of retirees. Solidarity can therefore be applied to both PAYG systems and individual capitalization systems. The second major criticism of paragraph 624 concerns inaccuracies with respect to the case of Chile. This paragraph states that the Committee of Experts "also welcomes the efforts made in Chile … to reduce the size of individual account schemes or to introduce public tax-funded components based on the principle of solidarity". Reiterating our earlier comments, we do not share the bias of the Committee of Experts regarding individual capitalization systems, as it is not clear to us what "the efforts made in Chile" to move in that direction would be since the Chilean pension system has undergone very little change for a decade and the individual contribution rate has remained at 10 per cent since its creation. The current administration submitted the pension system reforms to Parliament and the idea of enacting legislation was approved a week ago. This reform does not seek to reduce the individual account system but to strengthen it, and so there are no efforts being made in the direction indicated by the document. Furthermore, the purpose of this reform is to enhance solidarity, increasing the amount of the solidarity-based basic pension and creating special contributions for women and dependent older persons, with a pension increase as the retiree's age increases. This is evidence of the fact that the individual capitalization system and greater solidarity can be combined. We therefore hope that the categorical, biased and unfounded comments in paragraph 624 will be changed and that the reference to Chile will be removed, since Chile has taken steps not to reduce the individual capitalization system but to improve pensions for its nationals through greater solidarity and reinforcement of the existing system.

Worker member, Colombia – The General Confederation of Labour (CGT) of Colombia would like to make some observations on the detailed document of the Committee of Experts, which presents a serious analysis of the important subject of universal protection for human dignity.

Indeed, I am bound to declare that there is nothing more relevant than the validity of a Recommendation for guiding this house and its constituents with regard to the most effective methods for reducing poverty, putting an end to social equality, eliminating social exclusion and establishing social justice all over the world.

On the basis of this outlook, we must be serious enough to recognize that despite the work already done we are still far from the ideal situation in practice of having sufficiently sound protection floors to ensure that the majority of workers and our populations worldwide can say that they are objectively gaining access to decent levels of social protection.

Today, as we celebrate the ILO Centenary, it must be said that in the majority of countries the common denominators are unemployment, the absence of comprehensive social security systems, the outsourcing of labour, informal employment and the impossibility for older persons to have access to decent retirement pensions.

The document that we have had the opportunity to study shows us the concerns of the distinguished members of the Committee of Experts, the relevance of pausing to analyse in depth not only the content of Recommendation No. 202 but also to take account of the context of everything connected with binding standards and social protection floors, such as gender equality, combating the worst forms of child labour, the abolition of forced labour, all the above, in the context of the full applicability of the ILO fundamental Conventions.

This General Survey constitutes an important contribution to the discussions under way regarding the pension system, in particular in developing countries, which, instead of seeking better ways to promote access to the system, are reducing and making more flexible the State's capacity for providing protection for older persons.

The success of our discussions is based on maintaining social dialogue. The Workers' group, unconditionally and specifically, gives full support to paragraph 624 as set out in the General Survey produced by the members of the Committee of Experts.

Worker member, Colombia – On behalf of the workers of Brazil, Uruguay and Colombia, I would like to speak to the Committee regarding the General Survey prepared by the Committee of Experts, whom we thank for their detailed report and also for their conclusions and recommendations.

The workers of the above-mentioned countries consider that social protection floors as described in the text of the Recommendation and as considered by the Committee of Experts cannot be distorted by governments, especially those of developing countries, to become a method for

abandoning social security but must be used as a strategy for ensuring universal social protection, especially for people without incomes and who cannot therefore claim a minimum income or healthcare for themselves. The protection floor must maintain the objective of promoting access to social security and higher levels of social protection. It is unacceptable that certain countries use their high rates of informality as a pretext for limiting the protection of their workers to minimum levels, as has just happened in Colombia with the approval of its ill-named "development plan"; effective measures must be taken to guarantee minimum protection for the most vulnerable population groups, while informal and rural workers must be formalized and encouraged to enter social security systems or, as mentioned by the Committee of Experts, inclusive social insurance should be promoted in order to reduce informality.

The ILO's goal of social justice will not be possible with social protection systems that are exclusive, private and focused exclusively on the individual savings of workers. On the contrary, they must be based on the principle of intergenerational solidarity, collective financing and State contributions, as well as contributions by those with higher incomes, whether natural persons or corporations. The General Survey, seen in conjunction with the working document of the ILO Social Protection Department regarding the reversal of pension privatization, must be the starting point for updating the social protection systems of ILO member States, and also for redesigning systems for social protection in old age, focusing on the effective reversal of individual saving systems, as has already been done by a number of countries, in favour of pay-as-you-go systems together with universal basic income schemes.

Government member, Senegal – Senegal is speaking on behalf of the Africa group, and presents its congratulations regarding the quality of the General Survey.

The originality of this report, focusing for the first time on a single stand-alone Recommendation, reflects the importance of achieving social justice throughout the world and universal social protection to intensify the fight against poverty, inequality and social exclusion, and the need to ensure that populations have a guaranteed minimum income and adequate health coverage.

We urge States that have not yet fulfilled this constitutional obligation to provide their reports containing information on the steps taken by their respective legislations to improve social protection, in accordance with the objectives of the Recommendation.

The Africa group thus remains in step with social protection floors as described by Recommendation No. 202 and is pleased to note that member States are endeavouring to develop policies to implement the various social protection floors referred to in Paragraph 4 of Title II of the Recommendation.

The Recommendation, adopted in June 2012, has been a major watershed in the life of the Organization and in the mission of the tripartite constituents. It has thus been a significant step forward in the definition of basic social rules which must ensure more universal respect for fundamental rights at work, of which social protection constitutes one of the essential pillars.

The Africa group thus welcomes these recommendations made by the General Survey, inviting member States to take full ownership of the relevant analyses made there in order to achieve their objectives of establishing effective and inclusive social protection floors.

It wishes to point out that there are a number of continental frameworks in which member States and the social partners are devising strategies for the extension of social protection.

These are:

– the Constitutive Act of the African Union;
– the 2004 Ouagadougou Declaration on Employment And Poverty Alleviation In Africa, which seeks to give populations the means to support themselves, to create opportunities and social protection for workers by establishing an environment conducive to development and national growth;
– the 2006 Livingstone Call for Action on social protection, which advocated the general establishment of a set of basic social benefits;
– the First Session of the AU Conference of Ministers in Charge of Social Development, which adopted the social policy framework for Africa recommending the adoption of a number of measures to support the implementation of a set of minimum social benefits;
– the First African Decent Work Symposium held in Ouagadougou in December 2009, which highlighted the progress made in establishing a social protection floor in several African countries;
– the 2011 Yaoundé Tripartite Declaration on the implementation of the social protection floor;
– the 2011 social protection programme for the informal economy and rural workers;
– the Addis Ababa Declaration, on the occasion of the 13th African Regional Meeting in 2015, which invited all African countries to adopt coherent national strategies for social security.

The Africa group urges member States to engage with the social partners to promote effective social dialogue in order to formulate the most appropriate national policies and set suitable deadlines for the progressive implementation of social protection floors that take account of the need to promote employment and social and economic development.

The ILO, for its part, should:

– pursue its Global Campaign on Social Security and Coverage for All, using all means at its disposal, and promote the ratification and implementation of updated ILO social security Conventions, in particular Convention No. 102;
– build the capacities of employers' and workers' organizations for participating in the design, governance and implementation of comprehensive and lasting social protection for all;
– promote South–South cooperation through an exchange of experience and expertise.

Lastly, the Africa group reaffirms its attachment to the noble ideals advocated by the Recommendation to promote social protection floors which are essential to achieving the objectives of universal social coverage, and it strongly encourages member States to equip themselves with the necessary means to achieve these priority objectives.

States that have encountered difficulties in establishing effective social protection floors are therefore encouraged to seek technical assistance from the ILO as a matter of urgency to overcome obstacles and strengthen their technical capacities in this sphere.

Employer member, Norway – On behalf of the Norwegian Employers, I read the General Survey with great interest. It deals with topics of importance to all. This intervention, however, concerns the Survey's reference to Norway and to the discussion on user fees for healthcare and its paragraph 235 stating that it is necessary to exclude reliance on out-of-pocket expenditure such as user fees which is the case in Norway among other high-income countries. And it is true that healthcare under the Norwegian Welfare System is accompanied by user fees or patient charges. The Norwegian experience is, however, and I do believe that there is a broad consensus on this domestically, that user fees, as such, is in no contradiction to universal healthcare available to all. Rather than healthcare, with no out-of-pocket expenditure at all, the Norwegian solution is based on a general and transparent threshold on patient charges accompanied with general exceptions for some patient groups. First and foremost, no user fees apply to patients under the age of 16. Correspondingly, no user fees apply for medical treatment or examination during pregnancy.

Other groups do pay user fees amounting to a modest share of actual cost but no user fees apply when the patient has reached a limit of approximately €200 within that calendar year. This means that when an individual's user fees have reached €200, no further patient charges will apply until next year. From that point and on, healthcare is with some important exceptions cost-free for the patient that calendar year. To conclude, the Norwegian employers would say that reliance on out-of-pocket expenditure is not in contradiction to health services available and affordable to all. By excluding the most vulnerable groups and establishing annual limits on each patient's charges, health services available and affordable to all can perfectly well be bridged with user fees.

Government member, Côte d'Ivoire – This 108th Session of the Conference is the appropriate springboard for boosting the combined efforts of the member States to resolve the issues affecting the world of work.

Today, all the tripartite constituents are called upon to reflect on the issues raised by the General Survey concerning universal social protection on the basis of the standard-setting mechanisms of the Organization, with sole reference to Recommendation No. 202, in order to guarantee certainty in the future of work.

There is no inconsistency or discontinuity in my country's commitment. Indeed 2019, decreed the "year of social affairs" by the President of the Republic of Côte d'Ivoire, represents the continuation of a series of initiatives, policies, programmes and actions, all of them inclusive, aimed at finding lasting solutions to issues of social injustice, decent work and the related inequalities. Regarding the various robust measures and actions of the Government, we should place a special focus on what follows, which encompasses the three interconnected themes of human dignity, social justice and sustainable development.

The institutional and legal framework of social security in Côte d'Ivoire is defined by the Constitution of the State of Côte d'Ivoire of 8 November 2016, by two laws concerning social welfare enacted in 1999, by Act No. 2014-131 of 24 March 2014 instituting universal health insurance. This guarantees the non-discriminatory and inclusive character of social security and aims above all to reduce poverty and inequalities in healthcare. Mention should also be made of the fact that the legal framework is supported by various laws ensuring the coverage of employees and civil servants against certain social risks. This declared will of the Government is reflected in the adoption in 2014 of a national social protection strategy, which, after five years, has made significant progress in strengthening the resilience of the most vulnerable population groups, creating opportunities for them and consolidating their means of subsistence. Since the State is the guarantor of the social security system, it defines national social security policy and through a programme agreement makes social security institutions commit to ensuring that their activities are consistent with national policies.

Furthermore, the Government has just adopted the "national strategy programme for financial inclusion 2019–24", which focuses on the inclusion of disadvantaged population groups in the economic structure through the establishment of appropriate financial services offering sustainable conditions for both providers and beneficiaries. More specifically, it seeks to improve access to financial services for vulnerable population groups, to promote digital financing, and to establish a fiscal and political framework conducive to financial inclusion. The implementation of this strategy will enable the rate of financial inclusion to be increased to 60 per cent by 2024 and national savings to be further mobilized to finance the development of the economy, focusing on the rural economy and the most disadvantaged population groups.

With regard to action frameworks targeting the horizontal and vertical extension of social security, the establishment of a social scheme for self-employed workers and the implementation of supplementary retirement schemes based on capital accumulation are planned for 2019 in both the public and private sectors. It should be noted that all these elementary social security guarantees are extended to cover sickness, old age, family benefits, maternity, and occupational accidents and diseases.

With regard to sustainable development, it should be noted that the Government, by a cross-cutting approach based on partnership and inclusivity, has always supported the various public employment and labour policies linked to the country's social security policy.

We all have a part to play in writing a page of our collective history, that of the International Labour Organization on the occasion of its Centenary. We must write this page with all possible determination and with all the energy generated by the hope placed in our respective populations, who only aspire to greater well-being based on work and good health.

With this exhortation to continue considering the vital question of security, health and well-being for all as one of our top priorities, I would like to finish by wishing everyone here present an excellent International Labour Conference.

Government member, El Salvador – I would like to note that, over the last ten years in my country, 10 per cent of the national general budget has been used each year to fund social programmes similar to those proposed in the report that we are considering. Ten per cent of the budget every year for ten years; and do you know what the result has been? That today we have the same number of families in poverty as ten years ago.

US$5 billion over ten years to promote programmes similar to those set out in Recommendation No. 202, and nothing has changed for the poor, even with the technical advice of the Office. However, there have been changes for the country, the tax burden has increased from 14 per cent of GDP to 19 per cent of GDP, a nationwide effort was made to increase tax collection. Moreover, public debt doubled over the last ten years and we will have to pay for this fiscal effort in the coming years. With these additional resources, US$5 billion of funding was made available, which had zero impact on the lives of excluded and marginalized families.

Why is this happening? It is happening because the so-called social programmes proposed in the General Survey, which my Government has implemented, are not social programmes. A social programme permanently transforms the living conditions of excluded and marginalized families, especially children. A social programme must, for example, ensure a better future for children from poor families, using technology-based education, but also teaching children what we call "soft skills": teamwork, empathy, the ability to communicate ideas, leadership and motivation. In my country, money has not been invested in this. On the contrary, it has been invested in populist programmes that guarantee that the poor remain poor. The Office could say, "This is not our responsibility, because it is a decision taken by the governments of each country." But it is a responsibility because the governments of our countries, as is the case for El Salvador, take decisions and justify those decisions on the basis of documents produced by the ILO.

I would also like to say a few words about pensions. There is no doubt that the Office, the staff working in the Office, in 20 or 25 years' time, will have to accept reality. PAYG systems are not sustainable; there are increasingly more retirees than active workers. Paragraphs 33 and 34 of the General Survey refer to the way in which the demographics of our societies are changing. In my country, El Salvador, when the reform took place introducing a system of individual accounts, there were eight active workers for each pensioner. Today, 23 years later, there are fewer than four active workers per pensioner. In 2040 there will be one active worker for every pensioner. So almost all of each worker's salary will have to be taken away in order to

pay the pension of an inactive person. Insisting on PAYG systems is anti-historical, and attacking and seeking to destroy individual capitalization systems will ultimately destroy social protection systems. In this context, we reject the editorial line of the Survey, we reject the content of paragraph 624, and we request the removal of the statement made about El Salvador, in which the Committee of Experts welcomes the efforts made to reduce the size of schemes based on individual accounts. On the contrary, the reform carried out in 2017 is aimed at strengthening schemes based on individual accounts and seeks to correct the irresponsible decisions of the various governments that have forcibly taken workers' savings and only pay them to fund their fiscal deficit and pay an annual interest rate of only 1 per cent. As a result, pensions currently amount to 15 per cent of wages.

The subsequent reform sought to correct this social injustice in my country. For this reason, we urge the correction of the statements in paragraph 624.

Worker member, South Africa – My intervention is made on behalf of the workers and unions from the Southern African Trade Union Coordinating Council. The discussion about social protection deficits will continue to be a recurrent discussion until the rigged global economic system perpetrated and operated by neo-liberal globalization is addressed. Of course, we are not deluded that this would have been on a platter, given that vested interests and the very tiny privileged, but powerful few, who benefit from a rigged elite system are bent on maintaining and fostering the status quo.

A recent Oxford report shows that a mere 1 per cent of the global population owns 87 per cent of the global wealth, while the rest of humanity is left to scramble for the leftovers. This is partly responsible for the bludgeoning of the rank of the working poor. This widening of the inequality gap is clear evidence of the failure of the market, as the so-called "trickle-down effects from the invisible hands" of the market has woefully failed to deliver. In essence, economic growth is not delivering jobs and decent wages.

Yes, we are also witnessing government failures that can be seen in the fact that wealthy systems are collapsing, if not totally and completely eclipsed for market-based alternatives, which are set up solely on affordability capability. People are continuously being pushed and forced to the margins and most States can barely respond appropriately.

We know too well that the migration of people from one clime to another is largely on account of the deep sense of social, economic and political dispossession and misery these people are facing. They are moving, not minding to risk all, including losing their lives in the process because they have concluded that staying and living in the current situation is death itself. Therefore, for Southern African workers, we are of the convinced view that the irreducible minimum that should be done is to take concrete steps to ensure that gainful and decent employment creation is prioritized. It is also important that we take concrete steps to protect wages as a means for advancing social protection. There are workplaces and employers owing workers huge backlogs of months of unpaid wages.

Equally, we continue to witness the scenario where States are pressured to develop labour market policies that provide wages as concession for investment attractions. If you were to genuinely improve the chances of securing social protection provisions in the world of work, then it should be that wages should not continue to be used as a tool for competition. Furthermore the world is witnessing the development of new forms of employment relations and production patterns that harm jobs, wages and reduce the revenue mobilizations of governments. One example is the growing informalization of employment and production. This institution, and I mean the International Labour Organization, through her social partners, recognized the inherent weakness in informality and it so developed the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), as one of the responses to addressing informality. For workers in the informal economy, by the way, most of them, mainly as means of survival, are largely not covered by social protection provisions. It is our considered view that if more deliberate, steady and imaginative efforts are invested into initiatives to formalize the informal economy, everyone – workers, employers and business will indeed be better off.

Government member, Mexico – The Government of Mexico welcomes the comments made by the Committee of Experts in its report on the actions and policies implemented to advance universal social protection coverage. From the perspective of this new Government, we recognize that social protection is one of the main public policy instruments that makes it possible to simultaneously reduce inequality and poverty, while at the same time creating the conditions for inclusive growth. As a result of a policy of austerity in Government spending and combating corruption head-on, the Government of Mexico planned a historic increase in spending on social investment of US$7,891 million, amounting to an increase of 41 per cent in social spending. Currently, social programmes prioritize assistance for the groups identified as the most vulnerable, namely, children, young people, older adults, indigenous communities, rural workers, persons with disabilities and domestic workers. I would like to highlight a few of the new social strategies and programmes aimed at reaching the most vulnerable sectors of the population. The "Youth building the future" programme, which is undoubtedly one of the flagship programmes of this Government, aims to reach 2.3 million young people between the ages of 18 and 29 years who are currently neither studying nor working so that they can develop work skills. Through a model of social co-responsibility between the public, private and social sectors, young people are offered a space, support and activities to gain technical skills that promote social inclusion and improve their future employability. The "Pension for the welfare of older adults" programme consists of a bimonthly non-contributory pension to support women and men over the age of 68, giving priority, of course, to indigenous areas or areas of high marginalization in the country, and covering 8.5 million beneficiaries. The "Pension for the welfare of persons with permanent disabilities" programme aims to improve the living conditions of children and young people with permanent disabilities living in extreme poverty in indigenous municipalities with high or very high levels of marginalization. These programmes comply with Paragraph 5 of Recommendation No. 202 by providing basic income security to persons who for any reason are unable to obtain sufficient income.

With regard to the implementation of progressive policies to reduce informality, it should be noted that in Mexico the social security model is based on a formal employment relationship, that is individual subordinate work and contributions to a tripartite scheme. However, there are groups that, although they participate in a formal employment relationship, have been deprived of the right to social security. This is the case of domestic workers. In order to amend this omission, a historic reform to the Federal Labour Act was adopted on 14 May to guarantee labour rights in this sector. In addition, through the Social Security Institute, the Government of Mexico launched a pilot programme to incorporate domestic workers into the mandatory social security system. This will enable Mexico to ratify the Domestic Workers Convention, 2011 (No. 189), in the near future. Mexico is currently undergoing major changes that are reflected in action that directly benefits the population, without intermediaries, in order to guarantee the effective exercise of economic, social and cultural rights, to reduce inequality gaps and existing conditions of vulnerability and discrimination, so that all Mexicans can have decent work and no one in Mexico is left behind.

Observer, International Organisation of Employers (IOE) – First of all, I wish to express my regret at the fact that, for ideological reasons which are contained in and run throughout the entirety of the report we are considering, we are being prevented from taking on the great challenges facing pension systems and we are being recommended to return to a PAYG system which, regardless of the opinions that may be held on the subject, is a system that no longer works. It functioned satisfactorily while the population pyramid had a large base of young people who financed the pensions of the elderly, who were fewer and lived shorter lives. Today that reality has changed dramatically; today the base has been reduced. In the 1950s there were five children for every woman, today there are two or fewer, and worldwide life expectancy at 65 years has increased by 4.5 years for women and 3.7 years for men over the last 30 years alone. In Latin America in 1965, the ratio of contributing workers to retired workers was 15 to 1, today that ratio is 8 to 4, only considering the effects of ageing. If we add to that the effects of informality, the ratio is reduced by half. So, as I said, looking beyond opinions, we have a structural problem in that it will not be possible to pay pensions and the young people who are currently funding the pensions of the elderly will have no one to pay their pensions when they reach retirement age. It will be like being in a Ponzi scheme. Coming to the General Survey, I must make a couple of comments. Do you think that individual savings systems have no capacity to achieve effective redistribution based on the criterion of social solidarity? I think that here, as was previously mentioned, there is confusion between PAYG and solidarity; PAYG is a mechanism for funding pensions and solidarity is how we support the most vulnerable sectors who, for reasons of poverty or otherwise, could not adequately fund their pension with their own resources. Furthermore, PAYG is often regressive because it is not the highest paid workers who fund the pensions of others, but tends to be the exact opposite. Just to cite the case of my country, Chile, 50 per cent of the workers in the old system had a PAYG scheme. They did not reach the 15-year threshold required to be eligible for a pension and lost all the savings they had made over those years. The General Survey welcomes the tendency for individual account systems to go back to PAYG systems, in view of the greater capacity of the latter to meet pension objectives. But it does not mention that the reasons for these changes were fiscal, because these countries were not able to adequately fund the transition, as they had to cover the pensions of the workers who were now no longer contributing, but were paying into their own pension funds. The predictability of benefits is cited as one of the advantages of PAYG system. What predictability are we talking about? When PAYG systems, which are also referred to as defined benefit systems, have changed over 23 years, 78 countries increased the contribution rate, 57 countries changed the retirement age and 61 countries adjusted the amount of benefits. The General Survey appears to correct itself concerning an incompatibility between a pensions system and the administration of funds on the capital market, in circumstances that are perfectly compatible and, moreover, to be welcomed. A study of Colombia, Peru, Chile and Mexico concludes that, with regard to the changes to the individual accounts pension system, 10 per cent of growth in those countries has its roots in individual accounts schemes.

I would like to conclude by saying the following: I believe that the Office could encourage a major debate in which we focus on the challenges of this system. But we have not engaged in or developed tripartite knowledge in the General Survey that was absolutely not subject to consultation and has resulted in serious harm because it has been presented as the opinion of the ILO in circumstances in which the Employers' group was never consulted regarding the opinions expressed in it, which were even expressed on international television channels. I believe that this must be corrected as soon as possible.

Worker member, Argentina – The workers know that the real way to redress social exclusion is to consolidate comprehensive social protection systems.

The ILO Declaration on Social Justice for a Fair Globalization provides us with the framework. The four components of decent work are inseparable and mutually reinforcing. Better social protection does not therefore depend solely on favourable regulations. It depends on giving effect to the objective of extending and universalizing coverage, a policy for productive and quality employment, the transition from the informal to the formal economy and a space for effective social dialogue with representative social partners. This is one of the lessons we have learned over the years during which Recommendation No. 202 has been in force.

Despite normative efforts to extend social protection in many countries, only 29 per cent of the world's population has access to comprehensive social security systems and a further 55 per cent are not covered by any effective protection.

The General Survey under consideration brings together conclusive data on the role of social protection systems in reducing and preventing poverty, inequality, social exclusion and social insecurity. We believe that for this to become a reality, social protection cannot be exposed to a mercantile or financial perspective. The State must assume the responsibility for organizing society in this way to combat inequality. A society that does not have decent work at its centre and the objective of achieving full, decent and productive employment cannot guarantee the sustainability of social security and protection systems. While States are ultimately responsible for the functioning of comprehensive systems, their role must go beyond mere supervision to guarantee the management of public systems that take measures to resolve the market failures to which social protection is subject, and they must avoid handing them over to those who see them simply as a source of profit. The reference in the Recommendation to social protection guarantees implies the need for a growing base of national budgets, taking into account the need for coverage to combat the phenomena of exclusion characteristic of our countries, which are of a structural nature and, far from diminishing, are deepening.

A decisive figure from the General Survey regarding the budgetary sufficiency of national systems is the percentage of GDP invested in social protection. While the maximum level is 6 per cent in Central European countries, in the Americas it is 3 per cent. This level of social investment, which some maliciously call spending, is clearly insufficient to respond to the package of guarantees provided for in the Recommendation.

Little mention, however, is made of the need to review the tax structure. Thus, increasing the pressure on regressive systems to fund the envisaged package of guarantees may be financially viable, but is socially unjust. It is necessary to think of solutions that go hand in hand with increased employment, the strengthening of the capacity for progressive taxation and the inclusion of the various categories of workers. The best way to definitively implement the Recommendation, as it was conceived, requires a change of perspective on the adjustment measures that the economic powers, especially the International Monetary Fund and the World Bank, impose on emerging countries such as ours.

The Recommendation goes much further. Fulfilling the guarantees that it sets out requires a comprehensive development plan to provide comprehensive benefits systems that will make it possible to achieve the goals of the 2030 Agenda on a sustainable basis. To this end, we need in particular to increase the awareness of governments, which are responsible for public policy, that we are not

moving in the right direction. We remain immersed in what Pope Francis calls "the culture of waste", which is condemning a large part of the world's population to exclusion and is a result of economic concentration and rising poverty and inequality. Only by focusing on social justice will we be able to move the 2030 Agenda towards the promised horizon.

Government member, Egypt – The Egyptian Government would like to say a big thank you for all the work done on this General Survey. This is very important for sustainable development in our view so that there can be decent living conditions and services which provide justice worldwide. This Survey based on Recommendation No. 202 shows that social protection is very important to preserve human dignity and achieve social justice and non-discrimination and this is in keeping with the 2030 Agenda.

We would like to add that there are 114 governments which participated in the General Survey, also there were employers' and workers' organizations and they all gave their opinions on the Recommendation so as to provide good practices from the various States and also provide examples of difficulties. The Government of Egypt has taken the required measures and the Constitution in article 17 states that social protection is the right of all citizens. In Egypt, we give great importance to social protection. We have programmes and projects and the application of initiatives to strengthen coverage so that it covers people who are in a weak position and not yet covered. We have also taken into consideration the poorest families which do not live in dignity. The Government of Egypt also attaches great importance to the weakest layers of society. We have provided proper accommodation and decent work to people who lacked these. We have encouraged investment in human resources, we also take great importance to health and education. We have programmes and initiatives; there is a special programme for those families which cannot meet the needs of their members. Our Government also believes that the General Survey has highlighted social dialogue and its role in social protection.

Employer member, Argentina – We would like to make three remarks regarding the comments related to our country. Firstly, there are a series of statements in the first part of the General Survey on spending trends in Argentina's social protection systems that require some clarification. It should be emphasized that, even in a context of rapid inflation with a production sector affected by the recession, the resources allocated for these benefits have increased nominally by 142 per cent since 2015, only slightly behind inflation, the cumulative rate of which was 150 per cent over this period. Furthermore, over the last year, a series of measures were adopted which seek to address the system's sustainability problems by increasing employers' contributions: reduced contributions for disadvantaged regional economies were abolished and an additional employers' contribution was established for occupational pension schemes.

Secondly, in its analysis of the gaps in legal health coverage, the General Survey echoes remarks made by one of the Argentinian trade union confederations regarding the lack of coverage of informal workers. With regard to these remarks, we must clarify that Argentina has full health coverage for both nationals and non-nationals, which is duly set out in national legislation and safeguarded by national jurisprudence. In general, the Employers note with concern that the General Survey reflects statements provided in isolation by a single workers' confederation.

Thirdly, in the case of the Argentinian pension system, the main challenge for coverage is informality, which in Argentina is directly linked to excessive fiscal costs, but is also influenced by a lack of macroeconomic stability, the absence of a plan of productive development, a rejection of competitiveness and a disconnection between the tax system and related production policies.

Recommendations to increase the level of social protection should also take into account mechanisms that offer incentives to broaden the contributory base, reduce informality and increase investment, especially in countries in the region where informality is high. With regard to the preference expressed by the Committee of Experts for PAYG schemes over private capitalization schemes, we believe that it is important to point out that we support the coexistence of PAYG schemes supplemented by private capitalization. The transition that took place in the Argentinian pension system was a result of factors such as extremely high long-term inflation, high administrative costs and the impossibility of finding investments that maintain their value, leaving no alternative but to reverse this initiative, which we believe to be adequate and viable for more solid and predictable economies.

On the other hand, while the reinstatement of Argentina's public benefits scheme in 2008 followed the ILO's social protection policy, reducing risks for workers and pensioners by adopting a PAYG redistribution system, this has not prevented the essential principles of social security from being undermined, namely solidarity, risk-pooling and co-financing, and particularly the principles of the transparent, responsible and democratic management of the scheme with the participation of the representatives of insured persons.

Lastly, we would like to reiterate that addressing the sustainability of the system requires a comprehensive overview with tripartite consensus, and in Argentina's case it is necessary to discuss at least three aspects that challenge this sustainability. Firstly, the importance of the macroeconomic context as a basic condition. Sustained growth is needed, along with policies for the development of the productive economy that increase innovation, the use of technology, the skills and training of personnel and the scale of production. Secondly, systemic competitiveness factors, such as access to infrastructure and financing, as well as highly volatile exchange rates and high interest rates, present a challenge that threatens the expansion and formalization of employment. Lastly, it is desirable to promote a tax system that supports the policy for the development of production and is linked to incentives for investment, technology transfer and applied innovation.

Worker member, Mali – On behalf of the many members of the Organization of Trade Unions of West Africa (OTUWA), we align ourselves with the previous speakers, who have expressed warm feelings on the occasion of the Centenary of the ILO. We note that this Centenary celebration comes at a time when the world has made modest progress, to which the ILO has tirelessly contributed.

Nevertheless, we also know that the Centenary is being celebrated at a time when global discontent at the unequal and biased distribution of global wealth creation is widespread. The situation is such is that the rich are becoming vastly wealthy, while the poor become increasingly destitute, weak and disillusioned.

It is not therefore difficult to understand that what the world actually needs is a new form of social contract that will remedy the evils of neo-liberal globalization, help the weak and dispossessed, and also give hope to people and their communities. We are convinced that such a social contract will take into account the necessity and urgency of extending the coverage of social protection measures and, above all, of finding sustainable means of financing them.

Allow me to use this occasion to highlight the way in which we can respond to the concerns relating to financing. Organized workers are convinced that the reduction or blockage of the losses resulting from illicit financial flows would make a major contribution to guaranteeing the local resources needed to fund social protection measures in Africa.

The 2016 *Report of the High Level Panel on Illicit Financial Flows from Africa* showed that a highly conservative figure of US$60 billion leaves Africa each year

through tax fraud and evasion practices. One can only imagine what US$60 billion could do in a year to finance the health and education of all Africans.

We emphasize that taxation is a secure and sustainable way of financing social protection. It is only when enterprises and the rich pay a fair share in taxes in the economies where they make their profits that a State can have adequate means to fund social protection.

We would also like to state that taxing does not mean taxing poor people, especially women, who already bear an excessive fiscal burden in the form of taxes and fees. Municipal councils and collectors of illegal fees practice extortion on impoverished women traders who are struggling to make ends meet. We are witnessing the way in which austerity measures reduce and eventually undermine social expenditure. This is in practice the means through which States have balanced their alleged economic deficits on the backs of the poor.

We say that the financing of social protection measures entails fiscal mechanisms that exclude essential goods and services, such as water supply, food, nutrition and medicines. We welcome the taxation of luxury goods and services, such as lavish housing, high-end cars, wristwatches, tobacco and alcohol.

The benefits of using taxation to finance social protection measures work for everyone. For example, effective tax collection would provide an opportunity to widen the tax base through job creation.

Worker member, Uganda – I am speaking on behalf of the workers of the East African Trade Union Confederation (EATUC). Like some of the previous contributors have offered, there is no contention on whether social security, social protection for citizens, especially indigent and the poor ones, so as to assuage their dire situation and give everyone the opportunity to fulfil individual potential. In fact, we are all in agreement that making social protection provisions available to people makes sense for communities and business, and can help secure global stability by eliminating the current growing inequality feeding global discontent, and ensure global prosperity is shared.

However, our utmost concerns are the fact that the present social protection remedies that are available are not covering enough persons that need protection, and that it must be effectively and sustainably financed.

As African workers, we are also concerned that where formal social protection schemes exist, I mean, formal contributory pension schemes, where workers and employers contribute to funding the schemes, there is a tendency for employers not to remit said funds as stipulated by the extent laws. Already we are witnessing a scenario where employers are owning contributions running into multiple months capable of derailing existing schemes. Worse still is the situation where the enforcement mechanisms for such defaults are weak and most of the time tacitly overlooked by enforcers. This must change.

The tendency to exclude the contributors from the governance of contributions and administration, and the utilization of the funds that are being witnessed across some African economies will need to be sternly discouraged and halted. It is only fit and proper for people to have their eyes and put their mouth where their monies are. Already, we are seeing employers especially States through their official scrambling and wrestling to exert unilateral control of pension contributory schemes, most of which with naked ulterior motives that are capable of harming the health of schemes and exposing contributors to avoidable suffering.

We welcome the Survey with its prescriptions emphasizing collective and shared governance of contributory pension schemes. In essence, the imperativeness of genuinely and effectively protecting the sanctity and integrity of existing patient schemes, which should be done in full and complete consultation and collaboration of social partners, especially workers who are direct contributors.

Worker member, India – Thank you very much for providing me with this opportunity to share my intervention on behalf of Indian workers. We have a total workforce in my country of 480 million, out of that 93 per cent are working in the informal sector, and in the informal sector there is not any social protection.

India needs an effective and robust social protection system based on Recommendation No. 202 and Convention No. 102. These instruments dealing with social protection are up to date and remain very relevant in addressing the needs of workers and the vulnerable in India. We need this rights-based approach to social protection because the structure of the economy in India is creating massive social vulnerability and a gap in social protection.

India has pursued economy policies that have increased wage stagnation, high inflation and has reduced the effectiveness of the labour administration and inspection resulting in a high number of informal economy workers and working poor in the formal sector. For example, in the garment sector, where 80 per cent of workers are women, 60 per cent of workers have become precarious workers. A similar situation exists in the agricultural sector. Public sector employment is also increasingly becoming precarious due to offloading of regular work on a contract basis.

The Government has attempted to introduce a social protection scheme, but without effective social dialogue and tripartite consultation. For example, social protection policies and schemes targeted at the informal worker, such as those under the Unorganized Workers' Social Security Act, 2008, have failed due to legislative shortcomings, inadequate budgetary allocation, poor consultations and poor implementation.

We know that an effective social protection system consists of policies that help people manage their social risk in order to prevent poverty and maintain decent income and living standards. The Government must spend more on essential services like education, health and social protection. Currently, the Government spends just under 3 per cent on education and health is just over 1 per cent.

We would like to emphasize the need for tripartite participation in the design and decision-making process of the social protection schemes. The social protection schemes must be universal and based on solidarity. It must include all categories of workers, especially workers in non-standard forms of employment and those in the informal economy. Formalization of the informal economy must be a priority. We call on governments, including the Government of India, to avail themselves of ILO technical assistance to governments in the planning of their social protection reforms, notably through the ILO Global Flagship Programme on Social Protection and Decent Work Country Programmes.

Government member, Islamic Republic of Iran – My delegation presents its compliments to the Office for preparing the General Survey. It is our view that the necessary foundations for creation and extension of social protection should be reinforced worldwide to gain better and more sustainable outcomes. The Government has taken an array of measures for extension of social protection and launched a number of specific schemes in this respect. It is noteworthy that the new initiatives are in line with the task entrusted by the development programme of the country to establish a comprehensive social security system, and the Government is bound to realize it. On this basis, we strive to establish single window services to enhance the liberty of welfare services. In this regard, a welfare database has been created which has successfully linked 62-related databases from 26 governmental organizations. By improving the processes through the Single Window System, the Government has succeeded in preventing resources from being wasted, while satisfying the beneficiaries. Social Support for Children was another plan implemented so as to financially support a child's family, render insurance

services for children and their families, and provide technical and professional services to one of the children's family members who is able to learn a vocation. The Government also conducted a plan on drop-out students, with the primary objective of identifying drop outs. Accordingly, they involved members of the plan in the provinces visited to identify children in their homes and developed the protection packages, including conditional financial support for the children's family, counselling services, food support, and facilitating children's enrolment process at school. We encourage the Office to continue its efforts for the promotion of social protection and stand ready to share our experiences gained from the implementation of the aforesaid policies and to benefit from the best international experiences to further promote these services.

Worker member, Republic of Korea – I would like to join in highlighting the application gap focusing on the situation of people in non-standard forms of work who are more likely to be excluded from protection. In the Framework Act on Social Security of Korea, the term "social security" is defined as social insurance, public aid and social welfare service that guarantee income and services necessary to protect all citizens from social harms such as childbirth, nurturing children, unemployment, ageing, disability, illness, poverty and death, and to improve the quality of life. And "social insurance" means a system that guarantees citizens' health and income by coping with social harms that occur to citizens with insurance schemes.

In that sense, social security and social insurance should be a universal right for all citizens. However, in Korea the specific schemes of social insurance have been established based on the employment relationship and the dichotomy of the employee and employer. Like in many other countries, a large number of the working population in Korea are not classified as employees and the existing social security system based on the traditional employment relationship leaves the most vulnerable working people without protection.

The discussion on protection of these non-standard forms of workers started in early 2000s and, no earlier than 2008, some small part of workers in non-standard forms of employment became able to be covered starting with the Industrial Accident Insurance Scheme. The concept of "people engaging in special forms of work" was created aiming to protect those who are not classified as an employee but need protection from risks. Under the system, workers in non-standard forms of employment are treated as "special cases" and differentiated systems are applied to those who are regarded as "people engaging in special forms of work" in which half of the contributions should be made by workers themselves and business owners are able to get exemption upon request. To be regarded as "special forms of work", one should fall under a very strict and narrow definition with the indicators of organizational and economical subordinations. On top of that, the "special case" is applicable for the limited number of occupational categories stipulated in the Presidential Decree. Under this limitation, the industrial accident insurance is applicable to only 25 per cent of the whole non-standard forms of workers and only 9 per cent of those who are covered by the scheme are enrolled. In the case of the employment insurance system which covers unemployment benefits, parental leave and support for skill developing, the extended application for the non-standard forms of workers is being discussed recently. However, the same concept and the system is to be repeated. In this regard, I would like to reiterate the recommendation of the Committee of Experts for governments to bear in mind the objective of universality in developing and maintaining the social security system considering the vulnerability of non-standard forms of workers.

Government member, Chile – I would like to refer to the General Survey that is being discussed, particularly paragraphs 624 and following, as these paragraphs contain a series of opinions on the insurance system based on capitalization and the PAYG system which, in our opinion, should be clarified, as they contain a series of imprecisions that confuse and to a certain extent distort the facts to which they refer.

Firstly, it is stated categorically in the General Survey that a pension system based on individual accounts is not a system that complies with the principles of transparency and supervision. This statement not only does not stand up to scrutiny but indeed that is what distinguishes individual capitalization from PAYG systems, namely the principles of transparency and supervision. In particular, the institution responsible for supervising the management of funds is separate from the entities engaged in fund management, which offers a clear guarantee of greater transparency and supervision. This is not the case in PAYG systems, in which the State collects and manages funds at the same time. If we turn to the system of cash transfers, namely the individual capitalization system, all the transfers are explicit and transparent in the eyes of the public, and everyone knows exactly what their money is invested in, which is not the case in the PAYG system, where the transfers of these resources are anonymous and no one knows what they are invested in. Indeed, we frequently see with PAYG systems that the only time that contributors are aware of the resources that are available is when they are notified that their future pension benefits are to be reduced or contributions increased.

Secondly, the General Survey also states in a categorical and definitive fashion, but with no sound basis, that the recent trend worldwide is to move away from individual capitalization systems to move towards the PAYG system. The truth is that it is precisely the other way round, and it is sufficient to look again at the world map to see that the trend is going in the opposite direction: the Nordic countries, such as Sweden, and also other countries, such as the United Kingdom, Australia and New Zealand, have slowly been abandoning the redistribution system and introducing elements of individual savings.

The cases cited in paragraph 624 of countries that have been moving away from the individual capitalization system and towards PAYG systems are not the best examples, not least because the common ground in all those countries is precisely the fiscal deficit. As mentioned, this fiscal shortfall means that there are not enough resources for adequate transfers, and so the State ends up using or spending the savings of contributors. On this issue, we consider that it is important to have a debate with an ambitious vision, which is not possible on the basis of statements that are not well founded, and still less so when they are made by an institution with the significance and gravitas of the ILO. We would therefore like to request that these points are rectified, and that any reference made to our country is based precisely on the actual facts, because Chile has now, through President Piñera, put forward a social insurance project that increases by 40 per cent the contributions payable by employers to employees' individual accounts, while at the same time strengthening, as never before, the so-called solidarity pillar. For this reason, it has been welcomed by those who have not paid individual contributions, or have paid very low levels of contributions.

We have always defended mixed pension systems and what President Piñera's reform has done is precisely to strengthen the solidarity elements, while also increasing the individual capitalization element.

Observer, International Transport Workers' Federation (ITF) – On behalf of the International Transport Workers' Federation (ITF), I would like to thank the Committee of Experts for the excellent General Survey. The Committee of Experts has recognized that social security coverage is notably inadequate among the 1.4 billion workers in non-standard forms of employment. It is estimated that an additional 17 million workers will join their ranks every year.

Disguised employment and dependent self-employment, one of the four categories of employment arrangements that deviate from standard employment and, indeed, an example of which was just enumerated by my colleague from Korea, pose serious problems from a social security coverage perspective. In particular, the scourge of employment status misclassification denies millions of workers essential workplace and social security protections.

From port truck drivers in California to parcel careers in India, employment status misclassification has been a major issue for transport workers for decades. The misclassification question is also now a question of huge contemporary importance given the growth of crowdwork and on-demand work in the so-called "gig economy".

In our view, the fight against misclassification falls within the scope of Part 3 of Recommendation No. 202, as it should form part of a government's effective strategy to extend social security to uncovered workers. Having said that, business also has a major role in all of this.

In accordance with the corporate duty to respect human rights under the UN *Guiding Principles on Business and Human Rights*, companies should correctly classify their workers so that they can fully enjoy labour and social protections. Indeed under the *OECD Guidelines for Multinational Enterprises*, which explicitly refers to the Employment Relationship Recommendation, 2006 (No. 198), enterprises are expected to structure their relationships with workers so as to avoid supporting, encouraging or participating in disguised employment practices.

While tackling this classification, governments should also extend social security coverage to workers in non-standard forms of employment including disguised employment using innovative means. We note from the General Survey that in Uruguay, for example, a new mechanism has extended social security protection to drivers using digital platforms via a specific mobile application. Governments should heed the call of the ILO Global Commission on the Future of Work to ensure that rights and benefits are accessible and portable, including for those working on digital platforms. Indeed, portable benefits are one proposal to support workers in the gig economy. So with this approach, benefits are tied to the worker, moving with the worker regardless of company or customer and this is of course just one approach among many.

To conclude, I would like to reiterate the importance of the need to extend social protection to workers in disguised forms of employment, while ensuring that the employment relationship remains the cornerstone of labour protection.

Government member, Colombia – With regard to the subject of this session, that is, regarding social protection floors, allow me to express our particular interest in this topic and to share with you some crucially important statistics.

In our country, we have 23 million workers, of which scarcely 8.3 million pay pension contributions, and only 3 million will receive a pension; 44 per cent of workers receive less than the minimum wage, which means that more than 10 million workers have no social protection with respect to pensions and occupational risks. Faced with the worrying reality of 10.12 million part-time workers who lack social protection and earn less than the minimum wage, and who do not currently have a legal mechanism to pay social security contributions for pensions and occupational risks, the President of the Republic, Iván Duque Márquez, and the Labour Minister, Ms Alicia Arango Olmos, took the initiative to submit to the legislature of Colombia a text that will establish the social protection floor as an important step in providing social protection for nearly half of Colombian workers through saving for their old age and occupational risks.

After being debated by Congress, this proposal was adopted as part of the National Development Plan. What is the social protection floor? It consists of subsidized healthcare coverage, coverage by the programme known as "periodic cash benefits (BEPS)" for retirement savings, and the right to inclusive insurance for occupational risks. The employer will pay part-time employees an additional 15 per cent of their daily pay, which will be broken down as follows: 14 per cent for retirement savings, through periodic cash benefits, and 1 per cent to cover occupational risks. The Government will supplement the 14 per cent provided by the employer for retirement savings with an additional 21 per cent, which undoubtedly represents an important benefit for almost half of Colombian workers. And, as its name implies, the social protection floor means that we are starting from a minimum standard in order to progressively advance social protection. The Government of Colombia is undoubtedly committed to doing this.

Employer member, Mexico – I have to begin by recalling that the General Surveys produced by the Committee of Experts must provide a technical and impartial assessment based on standards and their due application. Regrettably, the Survey that we are examining, which contains extensive information from many angles, strays off topic and engages in a partial assessment, i.e. with no objectivity, of the experience acquired over time. This is particularly true of the examples given of the failure of PAYG systems. Fundamentally, they failed because of design problems and the economic situation, as they were based on a population pyramid and an economic system that changed and affected their capacity to secure reserves and pay benefits.

The General Survey not only lacks this analysis; beyond that, and possibly because of this lack of reflection, it practically concludes that this – the PAYG system – is the only one that is based on the principle of solidarity due to its fiscal nature, which is inaccurate, as is the statement that individual capitalization systems are not appropriate, as claimed in paragraph 625 of the General Survey. This does not reflect an impartial vision, nor does it show an understanding of the problem, which is obviously multifaceted and which takes on various dimensions. The analysis should be more in depth and show, as a minimum, that the individual capitalization system has generated domestic savings. In Mexico, these have already reached more than 15 per cent of GDP in barely 20 years of the system's existence. Domestic savings in turn generate economic stability, loans at reasonable rates, and investment in infrastructure, and the overall situation has permitted new job creation. It must also be said that more than 50 per cent of the savings that workers have in their personal accounts consist of interest. With tax incentives and certain additional adjustments, the amounts would surely be higher. It must not be forgotten that in many of our countries, most economic activity and jobs are in the informal economy. In Mexico, the rate is approximately 48 per cent. As a result, governments face low rates of tax collection, and obviously, under these conditions, social protection through the PAYG system cannot be sustained over time and is much less viable.

It is clear that, as the General Survey under discussion cannot serve a basis to continue the analysis that we have undertaken, we will have to work on another study. We must direct all our efforts at suitable public policies geared towards the creation of formal jobs and strengthening individual capitalization systems to achieve contributory social security floors, which can also be combined with public finance mechanisms to provide non-contributory social protection. We would have liked to see this analysis and other proposals in the General Survey.

We are no longer at the stage of rejecting one formula to adopt another. The challenges we face today and that we will face in the future require us to seek innovative solutions by considering cases of success and acknowledging failures.

Government member, Republic of Korea – First of all I would like to express gratitude for the General Survey on this important topic of social protection. I would like to

make some comments on the parts about Korea in the General Survey.

Paragraph 415 states: "… migrant workers often have limited access to the social security system in their country of employment …", however foreign workers who have migrated and work in Korea are mandatorily enrolled in the social protection system, including the National Pension System of Korea, so their access to social protection is not limited. Regardless of whether the principle of reciprocity applies or not with their country of origin, foreigners aged between 18 and 60 who reside in Korea are equally eligible for mandatory enrolment of the social protection system as Korean nationals, except for some cases such as those with an irregular status.

Paragraph 415 states: "In the Republic of Korea, citizens residing abroad, who do not report their permanent return from overseas under … the Emigration Act, are not covered when they return to the country"; however, if a citizen who resided abroad reports to be registered as a Korean national residing abroad under the Resident Registration Act, he or she becomes eligible for the national pension and can enjoy the benefit of social protection even if the person has not reported his or her permanent return from overseas under the Emigration Act.

Furthermore, the Korean Government has been actively signing social protection agreements with other countries to address any risks caused by movements from one country to another for Korean and foreign nationals such as the risk of dispersion of pension enrolment periods.

Paragraph 447 states that 18.4 million workers, or around 66 per cent of the economically active population are covered by industrial accident compensation insurance in Korea. In fact, all workers are mandatorily covered by industrial accident compensation insurance in Korea regardless of their age and work hours.

As the economically active population includes not only wage earners but also employers and unemployed people, almost 100 per cent of the actual workers are covered by the industrial accident compensation insurance. For own-account self-employed workers who are at high risk of industrial accidents, and thus need protection, and those who are in dependent self-employment, the industrial accident compensation insurance is applied through special regulations and the scope of eligibility has been expanding. As mentioned in paragraph 457, the scheme to support the social insurance premiums of low-paid workers, which is called the Duru Nuri Social Insurance Subsidy, is one of the major programmes implemented by the Ministry of Employment and Labour. The Government has continued to expand and reorganize the support scheme since it was introduced in 2012. The Government also has been pursuing institutional improvement of making employment insurance enrolment mandatory for those in new forms of employment, which may be categorized in the middle between workers and the self-employed. While agreeing that the existing employment insurance system is designed for full-time workers, as pointed out by the Korea Employers' Federation in the Survey, the Government plans to expand and reform the coverage eligibility of the employment insurance, which currently covers only traditional workers, to include working people, to respond to the diversification of the forms of employment. To this end, what should be first is to design an appropriate unemployment benefit system and closely examine the exact income levels of those in dependent self-employment. In this regard, the Government plans to pursue a step-by-step reform of the employment insurance system, rather than an overhaul, and has been carrying out discussions for institutional improvement based on sufficient consultation with social partners through the Employment Insurance Improvement Taskforce and the Employment Insurance Committee.

Worker member, Mexico – We share, with all other countries, the views of the Recommendation on social protection floors in terms of social justice, just as we also share the concerns expressed by the Employers. Investors are very important to us. In this connection, the general situation and especially today at this historic moment 100 years after the establishment of the ILO, we must sow the seeds for the next stage, in which as workers, employers and governments we must change course to meet our needs. We are dealing with the same or similar issues as those of 100 years ago. This historical moment shows that we have moved on and we have to make changes.

Allow me to outline what the Mexican Government has done regarding programmes which are having an effective impact in the area of social security and are very promising. We have to be successful for the young people of the future. The Workers are well aware of this. It is also true that we have to work together on financial incentives for businesses. We also understand this and I think it is time to ensure coordination and synergies among the three constituents here. There is no better scenario than this to reach such agreements and work on a new direction.

Turning to the general situation, the issue of labour, which comprises an emblematic and revolutionary movement, must be managed and developed strategically, with surgical precision, as each country is different. Mexican labour law has changed and in parallel so have the current Government's perspectives and philosophy regarding the trade union movement and ways of integrating freedom of choice and representation. The real objective is the creation of a new trade unionism, which I represent in CATEM, which adopts the approach of protecting dignity, fair wages, sustainable employment, as well as equity and adequate support for human capital, and an ongoing sustainable increase in employment generation. We aim to achieve a balance and a dynamic between production, processes and people, which is the necessary equation for the existence and sustainability of businesses. This is the approach we need to defend. We need investors to ensure paid work. We need to work on a new reference framework in which constitutional and legislative standards and precepts are revised, based on the support of both unionized and non-unionized workers, as well as independent bodies and other organizations in support of the new philosophy of transformation that we are introducing in Mexico: the fourth transformation, which is not based on the development of the trade unionism through shock tactics or unilateral demand, but through the improvement of workers' conditions, their performance and contribution to the economic results of the employer, and the recognition by the employer of the true value of the contribution made by human capital. We must develop an adaptable, flexible, transferable and adjustable model of trade union action that addresses all aspects. Based on the reference framework, the value of service, the process and the people, the agents can be defined. We must find a solution to replace poorly led trade unionism and achieve a discourse that is pluralistic and linked to private initiative with employers, and the development of competitiveness. We must maintain political plurality without neglecting philosophical, political and social leadership.

This is a participatory plan and proposal.

Government member, Zimbabwe – Zimbabwe aligns itself with the statement that was delivered by Senegal, on behalf of the Africa group, and wishes to make a few remarks on the General Survey.

Firstly, the Survey underscored the centrality of social dialogue on developing and implementing strong social protection systems that are capable of delivering universal social protection. In this regard, Zimbabwe believes that the enactment of laws at country level, stipulating the roles, responsibilities and rights of all the parties as their way to raising their commitment to social dialogue, is critical. For example, Zimbabwe in this respect recently launched the Tripartite Negotiating Forum Act, which provides a legal framework for sustained and effective social dialogue.

Secondly, Zimbabwe concurs with the finding of the Survey that most countries, particularly developing and low-income countries, have laws governing the provision of contributory benefits under social insurance schemes, while on the other hand the provision of non-contributory benefits is not by law. This is mainly because most of these countries has faced budgetary constraints. In this respect, Zimbabwe believes that studies should focus on finding practical strategies for creating fiscal space at country level, as well as a stimulating political will to financing social protection, coupled with social protection becoming an integral part of the country's social economic agenda.

Thirdly, Zimbabwe acknowledges the Recommendation in the Survey that collaborators of social insurance schemes should remain a fundamental element of income security because they tend to provide higher benefits than those provided under non-contributory programmes. In this regard, Zimbabwe believes that there is a need to rethink the models of extending coverage to players in the informal economy with the assistance of the experts, particularly for countries with huge informal economies, because the predominantly voluntary schemes that have been used for a long time now have not assisted much in extending coverage to workers in the informal economy. The numbers have remained low, which is not good progress towards universal coverage.

Last but not least, Zimbabwe wishes to congratulate the Committee of Experts for a well-researched and elaborate Survey.

Worker members – In the light of the very interesting interventions from all delegates, allow me to make some comments and recommendations on behalf of the Workers' group.

I would like to thank in particular the European Union and also the States that have taken the floor to reaffirm the principles in this area. However, I am forced to note many differences with the Employers' group. We are not here to put a gloss on the situation and to dish out praise. The social protection situation is worrying in several respects, and our role is to describe the problems.

A lot has been said, particularly by the Employers, about private systems, i.e. capitalization. However, these are not among the mechanisms promoted by Recommendation No. 202. Therefore, everything that has been said in this connection is undoubtedly very interesting but questionable and, above all, irrelevant.

Beyond this aspect, whether it is through capitalization or PAYG, a pension system redistributes wealth. Capitalization does not provide any solution to ageing. Money does not circulate over time. This is a myth. No one pays their own pension; it is always paid by others.

The main difference between the two systems is that PAYG promotes solidarity, while capitalization negates it. The major problem is not ageing, but the explosion and persistence of inequalities. This was reiterated by several speakers. There is no opposition between economic development and social protection. It is only the latter that can guarantee real economic development. The market must be at the service of society, not the other way round.

Moreover, we regret that some people still continue to reason as they did in the eighteenth century, praising the merits of individual initiative, even though history has shown the limits of this logic.

Regarding so-called cost sharing in healthcare, it is astonishing to hear that this is only a problem in low-income countries. We seem to be ignoring the fact that there are significant wealth inequalities even within high-income countries. This mechanism limits the accessibility of healthcare systems.

It has also been said that work is the best remedy for poverty. This should be true, but unfortunately it is not the case, and we are seeing the phenomenon of the working poor spreading. Moreover, requiring workers to choose between any work and/or social benefits is not in line with ILO standards and values.

Finally, my last comment concerns the negative remarks made by some on the General Survey. The General Survey is produced by the Committee of Experts, which is an independent supervisory body. We may not agree with its comments and observations, but no one here has the right to disparage it or ask it to change its report.

And now some recommendations. First, the primary objective to be achieved is to obtain the maximum number of ratifications of the Recommendation and of Convention No. 102. The ILO could conduct a campaign aimed at the ratification of social protection instruments.

Moreover, the Workers' group is not in favour of a process of consolidating ILO instruments on social protection. Indeed, there is no added value in this exercise, and we must concentrate our efforts at present on other aspects.

Second recommendation: we have repeatedly emphasized that the gaps and deficits in social protection are largely due to a lack of funding. We call on States to ensure sufficient funding to ensure basic social protection needs.

Third recommendation: in the same vein, the fact that the allocation of loans and aid by certain international institutions is conditional often leads to a reduction in social protection or its targeting of the most vulnerable. These practices are incompatible with ILO standards and hinder the extension of social protection.

The ILO must continue and intensify its dialogue with these institutions in order to put an end to these conditions. This dialogue could take the form of agreements involving the ILO in these discussions.

Fourth recommendation: representative organizations of workers must be closely involved in social protection reform processes so that their views are taken into account and to ensure that reforms have a political and social basis.

Fifth recommendation: we insist that the development of social protection schemes is the responsibility of the State. It follows that a system that gives more space to private insurance systems does not meet the requirements of the Recommendation, since the Recommendation does not call for the implementation of private systems.

Sixth recommendation: the objective of universality set out in the Recommendation should remain a priority when developing social protection floors. In particular, this objective must not be lost sight of when cost-saving measures are taken that may reduce the level of coverage.

Seventh and final recommendation: this objective of universality must also be pursued by including all categories of the population, and in particular workers in the informal economy. The measures necessary to ensure that employers in this sector face their responsibilities are fundamental. This consideration is also valid in the context of subcontracting and outsourcing processes, where we can see phenomena of false independence.

The findings we have had to note are alarming. They reflect the urgent need to take action to remedy the situation. It is striking to note that beyond regional differences, the findings and problems are, to varying degrees, the same. This observation provides a practical demonstration of and once again affirms the role and importance of the ILO's mandate.

I have just outlined a series of recommendations that are levers to ensure a life in dignity for populations. Satisfying the demands expressed here by workers is not a matter of charity, but of justice.

Employer members – As I said to you when I made my first remarks, I am going to continue to make some substantive remarks on Chapters 11, 12 and 13 and then I will be mercifully brief on the concluding remarks.

With regard to Chapter 11, and as we have discussed already in the context of Chapter 4, we find policy coordination and connection with the design and implementation of social protection floors of fundamental importance. We

also stressed that policy coordination applies in both directions. While other policy areas should take into consideration the needs of social protection floors policies, those policies themselves also have to be supportive to the other policy objectives, particularly employment policy objectives, so in our view close coordination is necessary between social protection floors policies and employment policies particularly concerning education and vocational training. Unfortunately, the Survey does not provide much substantive information in this regard – there is only one paragraph on the matter.

With regard to paragraphs 672–674, and as we have already discussed in connection with the conditionality of family benefits and cash benefits for children, we also fully support conditional cash transfer programmes considering their proven positive impact on poverty and child labour reduction. They contribute to the very objectives and complement the effectiveness of social protection floors. Contrary to the view expressed in the Survey, we do not see any discrepancies with the right to a minimum level of social security, as this right may still involve a duty for beneficiaries to cooperate to the extent that they are able to do so. Conditionality in this way seems to be an appropriate way to encourage cooperation by beneficiaries, however, depending on the situation and the level of non-cooperation, rather than completely withholding cash benefits, their reduction may be sufficient.

In paragraph 683, the Survey raises concerns regarding the compatibility of public work programmes with the human right to social security. According to the Survey, these programmes should be designed to ensure that there is no requirement for beneficiaries to perform work as a precondition for receipt of cash or food. We do not agree with the Survey that a conditionality between benefits and work performed in public works contracts of that sort conflicts with the human right to social security. As we discussed earlier, the right to social security also involves duties and the duty to perform work in a public works programme as a precondition for receipt of benefits seems acceptable. Given the scarcity of resources in developing countries, these programmes may temporarily constitute the only available element of a social protection floor. We would, however, agree that public works programmes should be designed in such a way that they provide skills and increased employability so that they can provide a way into sustainable employment and thus out of poverty.

Turning to Chapter 12, we have the following comments with regard to paragraph 690 in the context of monitoring progress in the implementation of social protection floors. Firstly, we would like to highlight that given the scarcity of data and the lack of administrative capacity in many low-income countries, monitoring should not seek to be comprehensive but rather focus on key specific areas of social protection floors. In doing so, due regard should be taken to what social protection floor systems can realistically deliver. For instance, the reduction of poverty, vulnerability and social exclusion cannot be achieved by social protection floors alone, but only by coordinating overall policies including in the fields of moderation of population growth, education and vocational training, enterprise development and employment promotion. Monitoring should also look at the ability of systems to promote and facilitate private provision or to re-enter the labour market and move out of social benefits. It is also important to monitor the efficiency of the systems, namely, their ability to maintain administration costs at a reasonably low level and to target benefits to those areas and individuals most in need. Finally, the sustainability and crisis resilience of social protection systems should be kept under constant review.

Now let me turn to Part IV of the Survey and Chapter 13. We note that in paragraph 745 reference is made to the fact that the Office is, and I underscore, "actively promoting the ratification of Convention No. 102". It uses the same wording when it reports in paragraph 750 that the ITUC and other trade unions "have been very active in promoting the ratification of Convention No. 102". We trust that there is a difference in the promotion of ratification by the Office on the one hand and trade unions on the other. While trade unions may lobby for ratification and try to influence governments and parliamentarians towards a positive ratification decision, such promotion would be inappropriate for the Office which should be neutral. The Office may inform governments of decisions by ILO bodies that encourage or invite to consider ratification and it might offer any information or assistance of relevance in the context of possible ratification. However, the Office should not try to influence governments towards ratifying Conventions which, in addition to conflicting with the Office's neutrality, risks bypassing the outcomes of tripartite consultations. We request that the General Surveys use terminology in this context in a more deliberate manner.

Finally, in this section, paragraphs 762–781 highlight the need for technical assistance. We recognize the needs of ILO member States for assistance on social protection floors and the availability of ILO support. Nevertheless it is for member States to set their priorities in Decent Work Country Programmes, including with regard to technical assistance. Technical assistance should not replace member States' own responsibility for setting up social protection floors. The availability of ILO assistance and tools must not be understood as an offer to shift responsibility onto the ILO in this regard.

I thank the Governments and the Workers for a rich and interesting debate throughout this afternoon and this evening. From the perspective of many of the Government interventions, I was inspired by the Governments' understanding, the Government representatives' understanding of the need to put social protection policy in the context of wider economic and social policy and on the context of growth and the success of their countries. I thought that was a very interesting insight from many on the Government benches and I thought it spoke very well to the kinds of points we had been making about the comprehensive nature of policymaking around social protection floors and the impact that they have on issues like labour market policy and vice versa.

With regard to the Workers' statements, I noted my Worker colleague a minute ago just came back onto the pay as you go versus the contributory systems and I understand the position of the Workers here. I will simply make the point that I think our most passionate interjections tonight and our most passionate contributions tonight have been around the legitimacy and success in fact of those contributory systems so I will not need to further debate with my Worker colleague but I would just note that we have made a number of very important statements on the success and contribution that contributory systems can make.

We are particularly pleased that tonight we have had the opportunity to provide information also on present laws and practices on social protection floors, the ongoing relevance of the Recommendation, as well as ideas and suggestions for ILO activities in this context, and I think there have been a number of them and I think many of them have been very, very valuable. In order to make sure that all of those contributions get due attention and can be consulted along with the General Survey we suggest that the Office use the record of the General Survey discussion as a supplement to the General Survey on the ILO website.

We recall that much progress has been achieved in extending social protection floors over the past decades and many Government representatives tonight were very proud to talk about this and I thought that was inspirational. Significant gaps nevertheless still exist and they need to be gradually filled following the guidance provided by the Recommendation. Of key importance in this context is the

generation of the necessary resources which requires polices that promote productive employment, skills development and sustainable enterprises. Ultimately, in our view, this debate has also brought out clearly that social protection floors, while they should aim at universal coverage, should be seen as a kind of reserve backstop that only intervenes if no social security benefits or private provision is available. Government policies, while aiming at full coverage of social protection, should set the right conditions and incentives to promote private initiative and commitment to make sure that as many people as possible can take care of their own protection and do not have to rely on social protection floors. Our countries will be better for it.

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

Chairperson – I would like to recall the Committee's methods when dealing with the cases of failure by member States to fulfil reporting and other standards-related obligations. The Committee has established specific criteria to determine what constitutes serious failure when it examines these compliances. These criteria are contained in document D.1 which is available on the Committee's web page.

The cases of serious failure have been identified in the relevant paragraphs of the General Report of the Committee of Experts. To take account of recent developments, updated information on the countries concerned was provided to our Committee in document D.2(Rev.) which was made available yesterday. This document takes into account the fact that some governments have submitted the required information before the present sitting this morning.

Government representatives from the countries mentioned in Part B of document D.2(Rev.) will be called to provide information and explanations to the Committee. They are requested to provide information on all the cases of non-compliance in a single intervention.

The governments concerned may in particular highlight the challenges they may be facing in fulfilling their obligations and to indicate the areas in which the ILO may assist and technical cooperation may be desirable. Such information would enable the Committee to have a better understanding of the situation in their particular country and is helpful to the Office in its response to governments' requests.

At its 88th Session in 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 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 advise 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 last session the Committee of Experts issued urgent appeals to the following countries which had failed to send a first report for at least three years: Congo; Equatorial Guinea; Gabon; Kiribati; Republic of Maldives; Nicaragua; San Vincent and the Grenadines; and Somalia. Since the last session of the Committee of Experts the Governments of Kiribati and Nicaragua have sent the first reports due.

I want to draw your special attention to the Committee of Experts' decision 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. The countries to which urgent appeals have been addressed will be invited to provide information to our Committee during the sitting this morning. At the end of the discussion, I will give the floor to the spokespersons for their final remarks following which I will present the draft conclusions for approval by the Committee in accordance with its methods of work.

I would now like to give the floor to the spokesperson for the Workers and Employers for their opening remarks.

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.

Concerning governments' compliance with reporting obligations, we regret to see that there is a decrease of reports received by the 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.

Submissions by workers and employers can complement the factual basics and provide a real assessment of the facts, but they simply cannot replace the governments' reports. We understand that the Office had limited finance and human resources. It should nevertheless continue its efforts to provide assistance and to encourage governments to meet their reporting obligations. Ultimately, the governments hold a primary responsibility to fulfil their reporting obligations as they have committed themselves to do so when they ratify the Conventions.

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 14 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 Conventions Nos 68 and 92 since 1998; Republic of Maldives – no reporting on Convention No. 185 and the Maritime Labour Convention, 2006 since 2016; Saint Vincent and the Grenadines – no reporting on the Maritime Labour Convention, 2006 since 2014; and Somalia – no reporting on Conventions Nos 87, 98 and 182 since 2016.

First reports are vital to provide a basis for a timely dialogue between the Committee of Experts and the ILO member States on the application of ratified Conventions. We highly encourage these governments concerned to request technical assistance from the Office if necessary and to provide the experts with the first reports due without further delay.

According to paragraph 63, we note with concern that the number of comments by the Committee of Experts to which replies have not been received remains significantly high. We would like to understand from the governments concerned the reasons why they are not responding to the 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.

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 require the Committee's attention. This enables 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 absence of a report.

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.

Turning now to the social partners' role and participation in the regular supervisory system. As part of their obligation 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.

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.

I would like to conclude by highlighting that an effective regular ILO supervisory system needs two essential elements to function: first, government reports and secondly, 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 to extend the possibility for e-reporting will help 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.

Worker 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 normative, of the ILO. It is therefore fundamental to address this issue and to invite the countries which do not respect their obligations to comply.

We see again this year that the reporting obligations have been observed less and less by the 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.

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.

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.

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.

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 has 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. This year, 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.

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 the 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.

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.

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.

Chairperson – I will now invite the governments indicated in the document D.2(Rev.), Part B, to supply information on cases of serious failure to respect reporting and other standards-related obligations. As you will see, the countries are listed in alphabetical order on screen, so we will begin that process now.

Afghanistan – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Albania – Failure to submit instruments to the competent authorities, paragraph 127.

Angola – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Government representative, Angola – I would like to provide the following information concerning the submission of the result of the Conference to competent authorities of our country. The rules of procedures in our country require that all documents to be sent to the authorities must be in our official language which is Portuguese. On this path, the Ministry of Labour asked the ILO for all translated and certified documentation. The ILO replied that it could not certify translations into no official language of the Organization. In these terms, we once again ask the ILO to provide the necessary support to address this issue.

Azerbaijan – Failure to supply instruments to the competent authorities, paragraph 127.

Bahamas – Failure to submit instruments to the competent authorities, paragraph 127.

Bahrain – Failure to submit instruments to the competent authorities, paragraph 127.

Barbados – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Government representative, Barbados – In the case of Barbados, the request for the conciliation services of the Ministry of Labour Department have significantly increased in the past two to three years and as a result the technical officers have been hard-pressed to pay as much attention as they should have to the reporting requirements. Barbados has a plan and a schedule to correct the deficiencies.

Belize – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Belize is not accredited to the International Labour Conference.

Botswana – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Government representative, Botswana – With respect to Botswana's non-submission on unratified Conventions and Recommendations for the past five years, the intention of Botswana was to have submitted our report by February of this year but unfortunately it is still being finalized and we pledge to submit it by July of this year.

Brunei Darussalam – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Brunei Darussalam is not accredited to the Conference.

Chad – Failure to supply first reports on the application of Convention No. 102 since 2017, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Chile – Failure to submit instruments to the competent authorities, paragraph 127.

Comoros – Failure to submit instruments to the competent authorities, paragraph 127.

Congo, which is an urgent appeal – Failure to supply first reports on the application of ratified Conventions for at least three years, paragraph 59; failure to supply first reports on the application of Convention No. 185 since 2015 and the MLC, 2006 since 2016, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Congo – On behalf of my country, I would like to begin by reaffirming the Congo's commitment to observing the rules of our Organization and to providing in due time the information requested from my country. The Congo is aware of the evident shortcomings in the functioning of its activities at this level. Hence it requested and was granted technical assistance from the ILO last month, in May, so that all issues brought to its attention could be addressed. Since the workshop held in May, we have been making every possible effort to ensure that we will be in conformity with the requirements of our Organization by the end of August.

Croatia – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Croatia – Allow me to address the Committee regarding Croatia's failure to submit Conventions, Recommendations and Protocols to the competent authority. We have taken special attention to review all comments made in the Report of the Committee of Experts for this year. Croatia values the standards set by the International Labour Organization and shares its devotion to the promotion of social justice and labour rights.

Despite many commitments that we have in a nearby future, Croatia is firmly determined to resolve all our obligations and backlogs in respect of the International Labour Organization. As of 1 January of this year, the Ministry of Labour and Pensions System established a department for international cooperation in the field of labour that will be mainly focused on reporting and other standards-related obligations towards the ILO. It will be priority in this department's work. Also, allow me to inform you that in the light of the 100th anniversary of the International Labour Organization, the Republic of Croatia has recognized the importance of ratifying the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The ratification procedure has already started and it will be finished in the third quarter of this year.

We are also aware that there have been no submissions of adopted ILO instruments or their ratification in recent years. The Ministry of Labour and Pensions System is determined to address the situation with all our pending obligations. To that purpose we have started the procedure to establish an interdepartmental committee that will be in charge of preparing instruments for submission to the legislative body, Croatian Parliament. The submission procedure has been defined and it is planned that it will be formalized by the Government and adopted in the form of a decision which we hope would help avoid the gaps that were created before because of changes in national public administration structures. To that purpose, an analysis of instruments and arguments for their consideration for possible ratification is being prepared at the Ministry at the moment and the analysis will be completed and ready for the first meeting of the committee. Having in mind that we have already designated a responsible department for the ILO within the Ministry of Labour and Pension Systems, formalized the reporting process in order to avoid the problems we have had so far with our reports and started the formalization of submission procedure, we firmly believe that Croatia will fulfil all its obligations towards the ILO.

On behalf of the Government of the Republic of Croatia I would like to assure the Committee that we plan to honour both our reporting and submission obligations by this year's deadline.

Djibouti – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Dominica – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Dominica is not accredited to the Conference.

El Salvador – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, El Salvador – We have taken note of the Committee's indications regarding the failure to submit international labour standards. Accordingly, as the Government delegation, we hereby inform you that our Legislative Assembly is in the process of ratifying the Maritime Labour Convention, 2006, as amended (MLC, 2006), and that this Convention includes a total of 15 legal instruments which will be submitted for the first time, in conformity with article 19(5) of the ILO Constitution and clearly with the constitutional principles of El Salvador. We will continue to keep the ILO informed of progress and developments in this matter. We believe that ILO technical cooperation will be very useful in support of this process. Once this process has been completed, a specific report on the matter will be sent.

Equatorial Guinea, which is an urgent appeal – Failure to supply first reports on the application of ratified Conventions for at least three years, paragraph 59; failure to supply first reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply first reports on the application of ratified Conventions Nos 68 and 92 since 1998, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Equatorial Guinea – The Government of Equatorial Guinea thanks the Committee of Experts for the comments and observations intended for us in its report on the general issue of compliance with international labour standards, in light of the current situation of the country in relation to the Organization. As everyone knows, the country has been a member of the ILO since January 1981 and has ratified a total of 14 Conventions, which are all in force, including the eight fundamental Conventions and six technical Conventions. Consequently, engaging in an exercise of realism, we admit that the situation of Equatorial Guinea in terms of compliance with certain obligations is not as desired by any of the tripartite constituents in the country. But, to resolve this situation, the Government and the social partners are making joint efforts. For that we wish to thank the Committee for giving the Governments concerned, including that of Equatorial Guinea, the opportunity to provide information on their respective situations of non-compliance. With regard to Equatorial Guinea, the Committee invites us to provide information on the serious failure to comply with the obligation to send reports and other standards-related obligations, according to the General Report of the Committee of Experts, which indicates as follows: failure to provide reports on the application of ratified Conventions (paragraph 57, p. 18 of the report); failure to supply first reports on the application of ratified Conventions Nos 68 and 92 since 1998 (paragraph 58, p. 18 of the report); and the urgent call relating to the failure to send first reports on the application of ratified Conventions for at least three years (paragraph 59, p. 18); failure to provide information in reply to the comments of the Committee of Experts (paragraph 63, p. 19); and failure to submit instruments to the competent authorities (paragraph 127, p. 35).

Indeed, we wish to remind the Committee that for the past decade the relations between our country and the ILO have been weakened for various economic and socio-cultural reasons, as reflected in the current situation which today requires us all to set a different course. Despite this situation, the Government has continued to maintain its firm commitment to the fundamental principles of the Organization, which has also continued to provide support to our country.

The Government of Equatorial Guinea takes note of all the comments and observations, direct requests, urgent calls and concerns expressed by the Committee of Experts in recent years, and regrets the fact that many of them have not been the subject of replies, due, among other reasons, to the inactivity of the operational structures of the State in a certain sense. We hope that the attitude of certain groups and individuals who have devoted themselves to providing negative reports on the action of the Government will not be taken into account by the ILO supervisory bodies when assessing the current situation experienced by the country.

The difficulties that are being experienced by the Government are directly reflected in the resulting serious failure to comply with obligations relating to the provision of information, which has its roots in technical and operational issues. Nevertheless, the firm will of the Government to seek improvements for the workers and employers of Equatorial Guinea is unquestionable and is demonstrated by the major progress and transformation achieved by the country in the recent past.

We inform this Committee that, in light of the obligation to give effect to compliance with the Conventions, Recommendations and other instruments of the ILO, the country is adopting measures to give effect to the content of such

standards. This progress has not been accompanied, as it should have been, by the experience of the ILO, resulting in the general situation of serious failure of compliance which has led to this appearance.

We therefore reaffirm to this Committee the relevance of receiving ILO technical assistance to continue making progress in compliance with the obligations and of providing information to the supervisory bodies of the Organization.

Taking all of that into account, the Government of Equatorial Guinea considers that in relation to this point it is necessary to inform the members of this great Committee of the actions undertaken to improve the situation in relation to the comments recalled earlier, as much of the action taken helps to give effect to the content of the ratified instruments. We emphasize certain actions undertaken by the Government over the past decade, namely:

- Plan to establish a committee for the drafting of reports. The Government indicates that it is encountering certain technical difficulties that it is endeavouring to resolve through the establishment of a committee for the drafting of reports. In this respect, with the support of the ILO, several capacity-building seminars have been held for the tripartite constituents on the preparation of reports.
- Establishment of a commission for the updating of the country's social and labour legislation. This commission is analysing the various labour laws that are not currently in compliance with certain international labour standards, which in practice makes it difficult to comply with the obligations deriving from the ILO Conventions ratified by the country, and particularly the amendment to the Trade Union Act taking into account the comments of the CEACR. It is hoped that this work will lead to the establishment of a national legislative framework which encourages and facilitates compliance with the obligations undertaken by the country.
- Introduction of workers' delegates and enterprise committees, which provide support for the promotion and development of social dialogue and free and voluntary, direct and effective collective bargaining.
- Amendment of the Act on the National Employment Policy by Act No. 6/1999, establishing a tripartite levy for the protection of workers and the development of employability, known as the Labour Protection Fund (FTP).
- Regulation of temporary employment agencies in Equatorial Guinea through the adoption of Act No. 5/1999 of 6 December. This legislation organized the employment placement sector, avoiding the proliferation of underemployment and establishing other advantages.
- Repression of the illegal trafficking of migrants and the smuggling of persons through Act No. 1/2004 of 14 September.
- Adoption of measures to prevent and combat sexually transmitted diseases and to defend the rights of affected persons through Act No. 3/2005 of 9 May.
- Adoption of urgent measures to slow down the propagation of HIV and AIDS in Equatorial Guinea through Decree No. 107/2006 of 20 November.
- Reform of general labour regulation with the participation of groups of workers and employers as a result of the recommendations of the National Labour Conference.
- Adoption of other legislation creating government bodies for supervision and for the promotion of social justice, such as the Defender of the People, the Court of Accounts, the Economic and Social Council, the Senate, etc.
- Adoption of a new Act on State civil employees, Act No. 2/2014 of 28 July.
- Enactment of regulations governing the general State administration through Act No. 2/2015 of 28 May. The Act regulates the legal status of personnel working with the public administration.
- The creation of the National Institute of Statistics of Equatorial Guinea by Decree No. 22/2013, an institution that was needed by the country as its absence had a negative impact on the lack of statistical data on social and labour matters, which makes it very difficult to implement government policies, and to comply with many of the country's constitutional obligations in relation to the ILO. Its effective operation continues to be a challenge for the country today.
- Adoption and implementation of the educational development project of Equatorial Guinea, which has been implemented over the past ten years with the support and intervention of the private sector, for the strengthening of the education sector for the benefit of boys and girls in Equatorial Guinea.
- Introduction of the National Programme to Combat Malaria, a programme developed by the public health system under which pregnant women and children under five years of age benefit free of charge from all the services necessary for the cure and prevention of malaria. Moreover, a national strategy for the reinforcement of and community education on prevention was developed jointly with private sector enterprises.
- Action for persons with disabilities and the elderly. The action is taken in a coordinated manner by the Government with interventions by the various ministerial departments and public institutions.
- The examination and assessment of labour market trends for young persons in Equatorial Guinea, field analysis undertaken with the United Nations programme to measure perceptions of employment among the young in the country, which enabled us to prepare a project on youth empowerment, which is being implemented in the framework of the current UNDAF between Equatorial Guinea and the United Nations system.

Fiji – Failure to indicate during the past three years the representative organizations of employers and workers to which copies of the reports and information supplied to the Office have been communicated, paragraph 60; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Fiji – Firstly, I would like to acknowledge the comments from both the Worker and the Employer representatives on this agenda. On item 4 and item 7 as it appears on document D.2(Rev.), the Fijian Government would like to acknowledge the communication on the report of the ILO on this agenda item and we thank you for raising this matter to our attention to ensure compliance with ILO regulations. Perhaps there could be miscommunication on the subject. However, we look forward to working closely with our two social partners and the ILO Suva Office, likewise here in Geneva to improve our coordination and communication on the matter.

Furthermore rest assured of our Government's commitment in this regard and we will also liaise with the ILO Office on our obligation to submit future adopted international labour instruments to the competent authorities.

Gabon, which is an urgent appeal – Failure to supply the first report on the application of a ratified Convention for at least three years, paragraph 59; failure to supply the first report on the application of the MLC, 2006 since 2016, paragraph 58; and failure to submit instruments to the competent authorities, paragraph 127.

Gambia – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; and failure to supply information or reply to comments made by the Committee of Experts, paragraph 63.

Grenada – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information or reply to comments made by the Committee of Experts, paragraph

63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Grenada is not accredited to the Conference.

Guinea-Bissau – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Guinea-Bissau is not accredited to the Conference.

Guyana – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Haiti – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Haiti – This time last year, my delegation made a commitment to this assembly to submit the reports due on ratified Conventions to the supervisory bodies. To this end, the Ministry of Labour set up a committee which is currently examining all the reports. The Government also requested technical assistance from the Office. At this stage, we would like to thank the Office, which has already provided us with an expert from the Standards Department, who will arrive in Port-au-Prince on 17 June to assist us in this process. At the same time, I would also like to inform you that a tripartite commission for the revision of the Labour Code is currently operational and is working on harmonizing the Labour Code with the ILO Conventions already ratified by Haiti.

In this Centenary year, despite the current difficulties faced by my country, the Government of Haiti intends to renew its commitment to the ILO to submit reports as soon as possible, to modernize its legal framework and to adopt new international labour standards.

Kazakhstan – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Kazakhstan – I would like to read the letter of the Minister of Labour of Kazakhstan sent to the ILO this morning. The letter says the following: Changing conditions of work and the appearance of new forms of employment requires the most effective mechanism of legal regulation of labour relations. Taking into consideration current changes in the labour market, the Report of the Global Commission on the Future of Work is undoubtedly relevant regarding the development of all aspects of the labour sphere.

On 16 May 2019, within the framework of the 12th Astana Economic Forum in Nur-Sultan, under the auspices of the 100th anniversary of the ILO, the International Conference was held to discuss the Report of the Global Commission on the Future of Work. During the International Conference, a comprehensive and constructive exchange of views took place on various aspects identified in the Report, and its fundamental recommendations were adopted. One such recommendation of the Report is to strengthen sovereign control over time in order to create real flexibility and control over the work schedule.

In this regard, the Ministry, in commemoration of the 100th anniversary of the ILO, has initiated the domestic procedures for the ratification of the Part-Time Work Convention, 1994 (No. 175). We take this opportunity to express hope for fruitful and constructive cooperation and technical support for the ratification of this Convention.

Kiribati – Failure to supply information in reply to comments made by the Committee of Experts, paragraph, 63; and failure to submit instruments to the competent authorities, paragraph 127.

Kuwait – Failure to submit instruments to the competent authorities, paragraph 127.

Kyrgyzstan – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to submit instruments to the competent authorities, paragraph 127.

Lebanon – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Lesotho – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Liberia – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Liberia – On the issue of failure to submit instruments to the competent authorities, Liberia would like to note that there is an oversight on procedures and it has since been corrected. The instruments have been submitted to the competent authorities and we informed the Committee. As to their failure to supply reports for the past five years on ratified Conventions and Recommendations, Liberia has submitted the unratified Convention to the National Tripartite Council for consultation, education and awareness for subsequent submission to the national legislature and we inform the Committee on our progress before setting out this year.

Libya – Failure to submit instruments to the competent authorities, paragraph 127.

Malaysia – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Malaysia – Malaysia and also the State of Sabah took note of the observation by both the Committee of Experts and this Committee on the failure of submitting the reports required under the standards obligation. We have submitted almost all the required reports for 2018 and are in the midst of clearing the remaining report obligations. We are currently working with the ILO under the Decent Work Country Programme whereby one of the targets under the country priority of rights at work is focus on updating Malaysia's reporting obligations.

Maldives, which is an urgent appeal – Failure to supply first reports on the application of ratified Conventions for at least three years, paragraph 59; failure to supply first reports on the application of the ratified Equal Remuneration Convention, 1951 (No. 100) since 2015, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) and the Maritime Labour Convention, 2006 (MLC, 2006) since 2016, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Malta – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to submit instruments to the competent authorities, paragraph 127.

Marshall Islands – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Representative of the Secretary-General – Marshall Islands is not accredited to the Conference.

Mauritania – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Netherlands – Aruba – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Government representative, Netherlands – I am speaking on behalf of both autonomous countries, Aruba and Curaçao. Regarding Aruba, Aruba is working on a plan of action

to tackle the problem, which they are aware of, and will be in contact with the Office shortly. Regarding Curaçao, Curaçao is already in close contact with both ILO Offices in Trinidad as they are in Geneva, and we will update the Office shortly after this meeting.

Pakistan – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Pakistan – A report on 39 pending instruments was prepared with the technical assistance of the ILO. The Ministry has initiated the final process for placing the instruments before the Parliament through the Ministry of Parliamentary Affairs. With the completion of this process, the Government of Pakistan will fulfil its obligations under article 19 of the ILO Constitution. The ILO Office will be informed accordingly.

Papua New Guinea – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Papua New Guinea is accredited but not registered for the Conference.

Romania – Failure to supply the first report on the application of the MLC, 2006 since 2017, paragraph 58.

Government representative, Romania – We express our regret for the failure to fulfil our reporting obligations and for the considerable delay in submitting the MLC report. We are aware that the failure to fulfil reporting obligations hinders the functioning of the supervisory system as a whole. We strongly believe that the ILO principles and values are more than ever of utmost importance for us. All missing information will be provided to the ILO before 1 September 2019, and we hope that it will at least partially compensate with informative and responsive content.

Rwanda – Failure to indicate during the past three years the representative organizations of employers and workers to which copies of the reports and information supplied to the Office have been communicated, paragraph 60.

Government representative, Rwanda – Allow me to reiterate first and foremost that national reporting process is made in accordance with relevant provisions of the Prime Minister's Order of 25 October 2010 establishing the National Labour Council, whose members comprise representatives of organizations of employers, workers and the civil society. During the last three years, representatives of these organizations were regularly invited by the Ministry in charge of labour to meetings aimed not only at elaborating periodic reports for the corresponding years, but have also participated in all matters pertaining to the work of the National Labour Council, mainly planning and implementation processes, as well as the ratification of international legal instruments.

In view of the reporting process during the concerned period (2016–18), representatives from the organizations of the Rwanda Workers Trade Union Confederation (CESTRAR) and the ACPRA and the Private Sector Federation (PSF) were regularly invited to the preparations of the report and a couple of the letters transmitted to them are here with me but those letters were written in Kinyarwanda which is, primarily, the official language, together with English and French, and will be translated into one or the other of the two official languages, which is English or French and be sent to the Office.

Finally, our delegation commits to abide by provisions of article 23, paragraph 2, of the Constitution while submitting future periodic reports.

Saint Kitts and Nevis – Failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Saint Kitts and Nevis is accredited, but not registered.

Saint Lucia – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Saint Vincent and the Grenadines, which is an urgent appeal – Failure to supply the first report on the application of a ratified Convention for at least three years, paragraph 59; failure to supply the first report on the application of the MLC, 2006 since 2014, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Saint Vincent and the Grenadines is not accredited to the Conference.

San Marino – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Representative of the Secretary-General – San Marino is accredited, but not registered.

Samoa – Failure to submit instruments to the competent authorities, paragraph 127.

Sao Tome and Principe – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Representative of the Secretary-General – Sao Tome and Principe is accredited to the Conference, but not registered.

Seychelles – Failure to submit instruments to the competent authorities, paragraph 127.

Sierra Leone – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Sierra Leone is accredited to the Conference, but not registered.

Solomon Islands – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Representative of the Secretary-General – Solomon Islands is not accredited to the Conference.

Somalia, which is an urgent appeal – Failure to supply first reports on the application of ratified Conventions for at least three years, paragraph 59; failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply first reports on the application of Conventions Nos 87, 98 and 182 since 2016, paragraph 58; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Somalia – On behalf of the Somalia delegation, let me reiterate our commitment to the ILO for reporting timely with all the Conventions. As you know, Somalia – we have three decades of long civil war but the country is now emerging. We are currently reporting three Conventions, namely the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Worst Forms of Child Labour Convention, 1999 (No. 182). We are also – because we received this year technical assistance from the ILO – we are also planning to ratify three new Conventions, the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138), and also the Employment Policy Convention, 1964 (No. 122).

After many years of Somalia being absent from the international scene, we are committed and at the end of this year we will report and will be compliant on all the Conventions of the ILO.

South Africa – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

South Sudan – Failure to supply reports for the past two years or more on the application of ratified Conventions, paragraph 57; failure to supply information in reply to comments made by the Committee of Experts, paragraph 63; and failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Government representative, South Sudan – According to my understanding, although I am not in a position to give you a great answer, I think the changing of the Cabinet in a short period is the one who lead to this gap. So, I urge this Committee, if possible, to address my Government officially so that they can respond accordingly to the questions because the technical support of the ILO is very important to my country.

Syrian Arab Republic – Failure to submit instruments to the competent authorities, paragraph 127.

Tajikistan – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Representative of the Secretary-General – Tajikistan is not accredited to the Conference.

Timor-Leste – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Tonga – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Tuvalu – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Representative of the Secretary-General – Tuvalu is not accredited to the Conference.

Uganda – Failure to supply information in reply to comments made by the Committee of Experts, paragraph 63.

Vanuatu – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117; and failure to submit instruments to the competent authorities, paragraph 127.

Yemen – Failure to supply reports for the past five years on unratified Conventions and Recommendations, paragraph 117.

Chairperson – I understand the delegation from Chile would like to take the floor now.

Chile – Failure to submit instruments to the competent authorities, paragraph 127.

Government representative, Chile – As you mentioned, I would like to take the floor in relation to the content of paragraph 127 of the report of the Committee of Experts, which notes and observes for Chile a "serious failure to submit" as Chile has failed in its obligation to submit 30 Conventions and Recommendations. The qualification of "serious" is due to the fact that the Committee has been requesting Chile for several years to report on the submission of these instruments without it having done so. More specifically, the backlog extends to 1996.

In this regard, first of all, we would like to point out that the report is not accurate in noting that the lack of submission covers 30 Conventions and Recommendations. Chile ratified the Maritime Labour Convention, 2006, as amended, (MLC, 2006) in 2018, thus tacitly repealing four instruments. Therefore, the report of the Committee of Experts should refer to 26 instruments, rather than 30, and we request that this situation be rectified.

Secondly, I would like to clarify that the State of Chile has taken note with great concern of this situation of failure of submission, given the time that has elapsed since 1996. It seems that this is due to an internal administrative issue and not to an unwillingness on the part of the State to comply with our constitutional requirements. For this reason, we are already taking the necessary steps to resolve this situation rapidly.

Specifically, we are currently reviewing the instruments in question with a view to identifying which of them will be submitted to the legislative authority, thus fulfilling the requirement set out in article 19 of the ILO Constitution.

Chairperson – We have now examined all of the countries mentioned in document D.2(Rev.). I now turn to the Worker spokesperson to make their closing remarks.

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.

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.

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

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.

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. As I already said, we sincerely hope that our present efforts to streamline reporting and to extend the possibility for e-reporting will help facilitate government reporting and increase the number of reports we receive in the future by the 1 September deadline.

Chairperson – I am going to now present the draft conclusions on each criteria for the adoption by the Committee.

Conclusions of the Committee

The Committee takes note of the information and explanations provided by the Government representatives who took the floor. The Committee notes in particular the specific difficulties mentioned by some governments in complying with their constitutional obligations related to the submission of reports and the submission of the instruments adopted by the International Labour Conference to the competent authorities. It also takes note of the promises made by some governments to comply with these obligations in the near future. The Committee has regularly recalled that governments can avail themselves of ILO technical assistance to comply with their reporting obligations.

Concerning the failure to supply reports for the past two years or more on the application of ratified Conventions, the Committee recalls that the submission of reports on the application of ratified Conventions is a fundamental constitutional obligation and the basis of their system of supervision. The Committee also stresses the importance of respecting the deadlines for such submission. The Committee expresses the firm hope that the Governments of Brunei Darussalam, Dominica, Equatorial Guinea, Gambia, Grenada, Malaysia – Sabah, Saint Lucia, Sierra Leone, Somalia and South Sudan will supply the reports due as soon as possible and decides to note these cases in the corresponding paragraph of its General Report.

In relation to urgent appeals, failure to supply first reports on the application of ratified Conventions for at least three years, the Committee underlines the fundamental importance of the detailed information requested in the first reports on the application of ratified Conventions, as they set out the baseline for continued regular supervision by the Committee of Experts. The Committee expresses the firm hope that the Governments of Congo, Equatorial Guinea, Gabon, Republic of Maldives, Saint Vincent and the Grenadines, and Somalia, will supply the first reports as soon as possible, and decides to note these cases in the corresponding paragraph in its General Report. The Committee brings to the attention of these Governments that the Committee of Experts has decided to examine in substance at its next session the application of the concerned Conventions on the basis of publicly available information, even if the Government has not sent the corresponding first report. The Committee recalls that Governments could request technical assistance from the Office to overcome their difficulties in this respect.

Concerning the failure to supply first reports for two years or more on the application of ratified Conventions, the Committee recalls the particular importance of this submission of first reports and the application of ratified Conventions. The Committee expresses the firm hope that the Governments of Chad, Congo, Equatorial Guinea, Gabon, Republic of Maldives, Netherlands – Curaçao, Romania, Saint Vincent and the Grenadines, and Somalia will supply the first reports due as soon as possible, and decides to note these cases in the corresponding paragraphs of its General Report.

In relation to the failure to indicate during the past three years the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the report and information supplied to the Office have been communicated, the Committee stresses the importance it attaches to the constitutional obligation under article 23, paragraph 2, of the Constitution of governments to communicate copies of the reports and information supplied to the Office to employers' and workers' organizations. The Committee recalls that the contribution of employers' and workers' organizations is essential for the evaluation of the application of Conventions in national legislation and in practice for their participation in ILO supervisory mechanisms. The Committee expresses the firm hope that the Governments of Fiji and Rwanda will respect this important constitutional obligation in the future. The Committee decides to note these cases in the corresponding paragraph of its General Report.

Concerning the failure to supply information in reply to comments made by the Committee of Experts, the Committee underlines 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. The Committee expresses the firm hope that the Governments of Afghanistan, Barbados, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Kyrgyzstan, Lebanon, Lesotho, Malaysia – Sabah, Republic of Maldives, Malta, Mauritania, 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 will supply the requested information in the future, and decides to note these cases in the corresponding paragraph of its General Report.

Concerning the failure to supply reports for the past five years on unratified Conventions and Recommendations, the Committee stresses the importance it attaches to the constitutional obligation to supply reports on non-ratified Conventions and Recommendations. The Committee expresses the firm hope that the Governments of Angola, Belize, Botswana, Chad, Congo, Dominica, Grenada, Guinea-Bissau, Guyana, Haiti, Liberia, 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 will comply with their obligation to supply reports on non-ratified Conventions and Recommendations in the future. The Committee decides to note these cases in the corresponding paragraph of its General Report.

Concerning the failure to submit instruments to the competent authorities, the Committee recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to national competent authorities is a requirement of the highest importance in ensuring the effectiveness of the Organization's standards-related activities. The Committee expresses the firm hope that the Governments of Albania, 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 will all comply with their obligations to submit Conventions, Recommendations and Protocols to the competent authorities in the future. The Committee decides to note these cases in the corresponding paragraph of its General Report.

In conclusion, overall the Committee expresses its deep concern at the large number of cases of failure by member States to respect the reporting and other standards-related obligations. The Committee recalls that governments could request technical assistance from the Office to overcome their difficulties in this respect.

C. Information and discussion on the application of ratified Conventions (individual cases)

The Committee on the Application of Standards (CAS) has adopted short, clear and straightforward conclusions. Conclusions identify what is expected from governments to apply ratified Conventions in a clear and unambiguous way. Conclusions reflect concrete steps to address compliance issues. Conclusions should be read with the full minutes of the discussion of an individual case. Conclusions do not repeat elements of the discussion or reiterate government declarations which can be found in the opening and closing of the discussion set out in the Record of Proceedings. The CAS has adopted conclusions on the basis of consensus. The CAS has only reached conclusions that fall within the scope of the Convention being examined. If the Workers, Employers and/or Governments had divergent views, this has been reflected in the CAS Record of Proceedings, not in the conclusions.

Algeria (ratification: 1962)

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

Written information provided by the Government

A high-level mission visited Algeria from 21 to 23 May 2019, in the context of the implementation of the conclusions of the 107th Session in June 2018 of the Committee on the Application of Standards.

The acceptance by Algeria of this ILO high-level mission is a strong indication bearing witness to the country's interest in the promotion and implementation of the ILO's Conventions.

Algeria has indicated on several occasions that it has always endeavoured to reinforce and adapt the national legislation in force in conformity with the ILO's Conventions and the recommendations of the ILO supervisory bodies.

In the context of the legislative reforms, a new approach has been adopted of disassociating Act No. 90-14 of 2 June 1990 on the exercise of trade union rights, as amended and supplemented, from the draft Labour Code. This approach will be aimed at gaining time in the adoption procedure, in view of the number of provisions that it contains in relation to a Labour Code that gathers together several texts, and that dialogue on a single law allows consensus to be reached more easily.

The amendments will be related to the provisions of section 4 of Act No. 90-14 of 2 June 1990 so as to take into account the conclusions of the Committee of Experts and the removal of any constraint on the establishment of federations and confederations irrespective of the sector that the unions cover.

Similarly, the amendments will relate to the provisions of section 6 of the Act, which will be drafted in conformity with Convention No. 87, taking into account international experience in relation to the nationality of workers in the establishment of a trade union, in accordance with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Moreover, the provisions respecting the protection of trade union delegates will be strengthened to reinforce the freedom of trade union delegates to exercise trade union rights.

To this effect, the draft amendments to Act No. 90-14 of 2 June 1990 will be submitted to social dialogue with all the organizations of employers and workers. This draft legislation will be given priority in accordance with the procedures established in this respect.

The schedule for the examination of this draft legislation will be communicated to the International Labour Office taking into account the current situation in Algeria.

With regard to the registration of unions in practice, it should be noted that the Government has been engaged in a process since 3 April 2019 of processing the files concerning the applications for registration made by unions.

In this context, the Ministry of Labour, Employment and Social Security has contacted those concerned with a view to requesting them to supplement the files, either through the provision of missing administrative documents or removing observations made previously. A schedule of meetings has been drawn up and implemented, and is being continued.

Working meetings have been held and clarifications provided in relation to the administrative files of founder members and the statutes of the trade union organization.

These measures have resulted in the registration of 11 new trade union organizations, including one employers' organization, which brings the number of registered organizations to 75 trade unions and 42 employers' organizations, or a total of 117 organizations, compared with a total of 101 in June 2018.

With reference to the organizations referred to in the report of the Committee of Experts, it is also necessary to provide the following information.

With regard to the Autonomous Union of Attorneys in Algeria (SAAA), the Autonomous Algerian Union of Transport Workers (SAATT) and the Higher Education Teachers Union (SESS): following communications disseminated in the information media to which they did not reply, those concerned were invited by mail to contact the Ministry of Labour, Employment and Social Security to be informed of the measures taken by the Government.

The Government will make use of every channel to contact those concerned to accompany them in bringing their files into conformity.

With regard to the file for the General and Autonomous Confederation of Workers in Algeria (CGATA), the Government had indicated that its President was not an employee. Moreover, the planned confederation does not have any registered union among its affiliates.

With reference to the allegations of violations of Convention No. 87 made by the Confederation of Productive Workers (COSYFOP), the National Union of Industrial Workers (SNSI) and the National Union of Energy Workers (SNT ENERGIE), the Government had provided full information and documentation refuting the allegations made by persons who had obtained the status of registered unions without being in compliance with the legal and statutory provisions setting out the rules for the convening of the decision-making bodies of these unions and without the presence of any members or affiliates of the unions.

With regard to the cases of the reinstatement of employees of the administration, whose dismissal was a result of anti-union discrimination, the Government described the situation, through its delegation, during the work of the Committee in June 2018. There have been significant changes in the situation due to the follow-up action taken on these cases with the institutions and enterprises concerned. This follow-up action has resulted in the settlement of 83 of the 86 cases raised and detailed information was provided to the high-level mission.

The total number of workers concerned is 86, in the various sectors (57 workers reinstated; 9 workers compensated; 1 worker in retirement; 12 whose situation is being regularized; 3 dismissed for professional or criminal offences; 3 cases pending before the competent jurisdictions; and 1 case who is not employed in higher education. That makes a total of 83 cases resolved.

The Government also wishes to specify that the processing of the files for the establishment of the following unions (the Autonomous National Union of Workers in Paper and Packaging Manufacturing and Transformation, the Autonomous National Union of Wood and Derivatives Manufacturing Workers and the Autonomous National Un-

ion of Workers of EUREST Algeria) showed that the territorial coverage of these unions is of a local nature (at the level of the *wilayas* or communes). Consequently, they can be registered at the level of the *wilaya* (department) capital or the commune in accordance with the provisions of section 10 of Act No. 90-14 of 2 June 1990. The persons concerned have been informed and contacted.

The Government recalled that the Autonomous National Union of Electricity and Gas Workers (SNATEGS) was dissolved voluntarily and unanimously by its founder members at a general assembly held on 17 October 2017, in the presence of a bailiff, who prepared an official notification for this purpose. The notification was addressed to the Ministry of Labour, Employment and Social Security, which noted it, and a full report was sent to the International Labour Office. This report was provided to the mission that visited Algeria.

In this context, it should be noted that the Council of State dismissed the application by Mr Raouf Mellal, in the case of the voluntary dissolution of SNATEGS (Council of State ruling No. 18/2436 of 19 July 2018). The Ministry of Justice also indicates that no ruling has been handed down recognizing that Mr Mellal is the President.

The Government indicates that, with regard to the allegations of acts of intimidation and violence against workers and their organizations, that workers and their organizations exercise freely the rights and freedoms recognized by the Constitution and the right to peaceful demonstration in compliance with public order.

Finally, it is important to note that Algeria received the high-level mission based on the terms of reference proposed by the ILO and that all the conditions were met for the mission to be carried out with the various sectors and administrations and with the socio-economic partners.

Discussion by the Committee

Government representative – I can assure you, Chairperson, that my delegation will spare no effort to facilitate your task in directing the discussions in a constructive climate imbued with serenity and will contribute actively to reinforcing the supervisory machinery of our Organization with a view to the just application of international labour Conventions.

Allow me to express the surprise of my Government at seeing Algeria included on the list of individual cases, even if it is with great pleasure that we are meeting our friends the Workers', Employers' and Government delegates from the world over in this very important forum.

At the 107th Session of the Conference in June 2018, the Committee made recommendations concerning the application of the Convention in our country. It requested the Government to engage in broad consultations with the economic and social partners concerning the draft Labour Code, to review certain provisions of Act No. 90-14 respecting the establishment of federations and confederations, the recognition of the right to establish unions without discrimination, to ensure the unrestricted exercise of freedom of association and, finally, to provide explanations on the reinstatement of dismissed unionized workers and the dissolution of the Autonomous National Union of Electricity and Gas Workers (SNATEGS).

The Committee also decided to send a high-level mission to report on developments relating to the implementation of its recommendations. The acceptance by my country of the high-level mission is a strong indication of the commitment of the Government of Algeria to the promotion of fundamental principles and rights at work and international labour standards, as affirmed by the ILO, which has always expressed appreciation of the efforts made by Algeria in this regard. Preparations for the visit by the mission and its work were organized under perfect conditions. That proves and confirms the full commitment of my country to the implementation of the decisions through permanent and high-level contacts to examine and study jointly the best approach to giving effect to the conclusions of the honourable Committee.

I now turn to the questions, observations and recommendations issued and drawn up by the Committee. With regard to developments and the assessment made since the last session, the following points should be recalled: the Committee requested the acceptance of a high-level mission, which was granted; the mission was to work in full freedom, which was the case, as noted in the report of the mission, which expressed its gratitude to the highest Algerian authorities for the welcome extended and their cooperation throughout its visit; terms of reference were drawn up by the Office and my country gave its agreement without any reservations both for the proposed interviews with ministerial departments and with workers' unions and employers' organizations. No obstacles or difficulties were encountered and the report emphasizes this by indicating that all the conditions were fulfilled for the proper functioning of the mission.

The high-level mission recalled the importance of the legislative reform process that is being undertaken in Algeria for the reinforcement of trade union pluralism and in practice the Government has never neglected the recommendations of the Committee of Experts.

In this context, we reiterate to the honourable Committee the information provided to the high-level mission concerning the adoption by the Government of a new approach for the introduction of the requested amendments, particularly in relation to certain provisions of Act No. 90-14 on the exercise of trade union rights.

This approach consists of disassociating the amendments requested to that Act from the overall process of the finalization of the Labour Code, which will allow time to be gained in the adoption procedure, as only certain provisions of a single Act will be involved, rather than an examination of a text as substantive as the Labour Code, which contains over 750 sections.

In the context of this approach, the amendment of the provisions of section 4 of Act No. 90-14 has already been commenced with a view to giving effect to the recommendations of the Committee of Experts relating to the establishment of "federations" and "confederations", thereby allowing a clarification of the provisions of section 4 in relation to section 2 of the same Act.

With regard to section 6, its amendment will aim to allow foreign workers to establish and join trade unions of their own choosing, and we are available to benefit from all the international experience available in the ILO in this respect.

With reference to the draft Labour Code, my country places importance on an inclusive approach through which the desired consensus can be reached between the various partners and the Government. This concern is all the more legitimate for the partners in view of the importance and impact of the Labour Code on the world of work. It is also important to recall that no difficulties in the management of socio-occupational relations in the world of work have been reported, as Algeria has had a body of laws and regulations since 1990 and there is not therefore a legal void in respect of labour regulation.

Moreover, the socio-economic partners in my country explained in June 2018 that they were in agreement with the action initiated by the Government for the finalization of the Labour Code.

Finally, it is important to emphasize that the regulations that have been in force since 1990 are in conformity with the main principles of the Conventions. They do however require updating following several years of implementation and in light of the amendments proposed by the ILO,

the implementation of which will be pursued in close consultation with all of the socio-economic partners.

With regard to the registration of trade unions, as reported to the high-level mission, modifications and/or amendments will be proposed to the texts respecting the exercise of the right to organize to make the rights more effective and consolidate them. The mission had proposed to make available to us certain examples of international experience in this respect, which will allow us to have specific examples as a basis for going forward.

Moreover, in accordance with the new measures decided upon by the Government last April relating to the acceleration of registration procedures, 20 new organizations have been registered, including 13 workers' trade unions and 7 employers' organizations, bearing in mind that the total number of organizations registered is now 121, compared with 101 in June 2018. It is important to note that this procedure for the registration of unions constitutes important progress and has affected organizations in both the administrative sector and the economic sector.

Concerning the SNATEGS, all the details have been transmitted, supported by documentary evidence of the self-dissolution of the union by its own founder members in the presence of a bailiff, without any interference by the administration.

Reference has been made to alleged obstacles to the exercise of trade union rights and acts of intimidation. In this respect, it is important to emphasize that trade unions exercise freely the rights and freedoms recognized in the Constitution and the right to peaceful demonstration in compliance with public order.

Proof is to be found in the demonstrations organized by corporations and the population which are held in my country in a peaceful framework without any impediment, which is being noted at the international level as an example.

Concerning the cases of the dismissal of workers and trade unionists, measures have been taken. The number of workers concerned was 86. Today, 83 of the cases have been resolved and information on them is reproduced in the report of the high-level mission, which held talks on this subject with the representatives concerned, including the Ministry of Justice. We will continue to address the remaining cases and we are open to any international documentation and experience from the ILO, as proposed by the high-level mission, to reinforce and improve the management of this type of situation.

Finally, my country reiterates its commitment to the fundamental labour freedoms defined by international Conventions in this respect. It will ensure the defence and pursue the promotion of trade union rights.

With reference to social dialogue, everyday activities related to the negotiation and conclusion of instruments for the management of industrial relations between the social partners (employers and workers) show that up to now 18,588 collective accords and 3,841 collective agreements have been signed at the enterprise level, and 82 collective agreements and 167 collective accords at the branch level.

In addition, tripartite pacts and agreements at the national level, adopted following dialogue and social consultation meetings between the Government and the economic and social partners, have resulted in the implementation of various programmes relating to the world of work, the reinforcement of social protection and social dialogue and action for the establishment of permanent consultation.

This all shows that freedom of association is exercised normally in my country, and that Algeria is committed to human rights, respect for international Conventions and standards, the promotion of social dialogue and the sharing of successful experience and good practices at the international level.

In conclusion, we consider that the explanations and information that I have just provided and presented to the honourable Committee provide a firm demonstration of the Government's will to improve procedures, reinforce the protection of the right to organize through the accelerated amendment of Act No. 90-14 and the better management of individual cases. All of that forms part of the implementation of the recommendations of the June 2018 session.

In this respect, I would also like to inform you that the Government is committed to regularizing in the short term all the applications for the registration of unions lodged with the administration.

I therefore request the Committee to take these advances and progress into consideration, as well as the projects and programmes that are envisaged, which will be given effect in line with the new dynamic in my country. I repeat, the projects and programmes envisaged, which will be given effect in line with the new dynamic in my country and I emphasize that the concerns of the Committee are also those of the Government, which will ensure that they are addressed.

Worker members – Since our last session, a wind of freedom and hope has blown through Algeria. It has brought with it a number of changes, but particularly promises for the future. The country is currently experiencing a phase of transition and our hope is to see the legitimate aspirations of the population realized very soon.

It is in this context that the Algerian Government finally accepted the visit by the high-level contacts mission recommended by our Committee last year. The report of the mission updates and specifies certain observations, but also refers to very worrying new elements.

It is important to go over these various aspects.

With regard to the new Labour Code, which has been in draft form since 2011, that is for over eight years, it has still not been adopted. The report of the mission indicates that there have been no consultations with the representatives of employers and workers since 2017. We nevertheless learn that the Government wishes to change its approach by proceeding first with the revision of certain provisions of the preliminary draft of the Labour Code that are considered to be priority. The reform will be carried out more broadly later. It is clearly necessary to ensure that this new approach helps to produce results rapidly.

In any case, it cannot serve as a pretext for delaying forever the reform of the remaining parts of the Labour Code. The process has been going on long enough, and Algerian workers do not have the time to wait eight more years.

We are bound to deplore once again that there has been no improvement in relation to section 6 of Act No. 90-14 of 2 June 1990, which restricts the right to establish a union to persons of Algerian nationality, from birth or acquired for at least ten years.

As recalled by the Committee of Experts in its General Survey on the fundamental Convention, this implies that all those who are resident on the territory of a State, whether or not they have a residence permit, shall benefit from the trade union rights set out in the Convention, without any distinction on the basis of nationality.

Nor has there been any change in the provisions that have the effect of limiting the establishment of federations and confederations.

We note that, in the information provided by the Government, it undertakes to make the necessary changes on these points. That constitutes progress, but we want the Government to progress from words to acts.

In this regard, the report of the mission notes that, in the same way as for certain parts of the preliminary draft of the Labour Code, the Government will give priority to the amendment of Act No. 90-14. However, a commitment of this type is not sufficient. As suggested by the mission, it

is necessary for this to be accompanied by a precise schedule setting out the various stages, with the involvement of the representatives of employers and workers.

We note in this respect the commitment made by the Government to provide a schedule for this work to the Office. We insist that the Government does not make use of this option as another delaying tactic.

The mission also noted a problem that the Workers' group has constantly denounced in this Committee. It can be seen in practice that the Government adopts arbitrary decisions concerning the registration of unions. Accordingly, certain confederations have been refused registration on the grounds that they have affiliates from several sectors, whereas others in the same situation have indeed been registered. It is necessary for the Government to adopt a coherent position by proceeding to the registration of organizations that cover several branches, occupations or sectors and, if necessary, to amend the law.

Another fundamental problem which was also noted by the mission concerns the application of certain provisions that have the effect of limiting freedom of association in practice. This is related to the absence of effective protection against trade union dismissals and discrimination, as well as the difficulty of obtaining reinstatement once a favourable court ruling has been obtained. It also relates to the limitation of access to trade union office through the requirement to be an employed person to hold office.

This situation raises two major problems of compatibility with the Convention. On the one hand, the dismissal of a trade union officer means that the status of employee is lost, which opens the way for interference by the employer in the activities of trade unions. On the other hand, and more broadly, this requirement also constitutes interference by the authorities in the operation of trade unions which, under the terms of the Convention, have the right to choose their representatives freely.

We are bound to note with regret that the Government absolutely does not appear to be aware of this issue since, in the information that it has provided to our Committee, it indicates that the General and Autonomous Confederation of Workers in Algeria (CGATA) could not be registered because its President is not an employed person. We call on the Government to take advantage of the amendment of the Act that it has announced to resolve this point by removing this requirement.

The Government also confirms its refusal to recognize certain organizations on the grounds that they have taken over the status of registered unions without being in compliance with the respective legal provisions and statutes. This is additional proof of the interference practised by the Government in the internal affairs of trade unions, as it is assuming the right to decide what is in conformity with the statutes of an organization and what is not.

The Government also claims to have requested the organizations to update their files, but the procedure takes an enormous amount of time. For example, the Higher Education Teachers' Union (SESS) has been waiting since 10 April for confirmation to be issued of its registration.

As noted by the Committee of Experts in its report, the registration of unions continues to give rise to other problems in practice. These consist of the particularly long delays in the registration of unions and the refusal by the authorities to register independent unions without giving reasons. This has been going on for many years. We have just seen a specific illustration of this problem.

The mission also noted this point and was able to see that in many cases decisions to refuse registration are dismissive, with no reasons being given, and therefore arbitrary. It should be recalled that, under the terms of Article 2 of the Convention, the establishment of an organization is not subject to previous authorization. In passing, it should be specified that, due to this non-recognition of several organizations, they are excluded from participation in tripartite structures and consultations and, as a result, have not been consulted on the various reforms and revisions.

As recalled by the Committee of Experts in its General Survey on the fundamental Conventions, the requirement of certain formalities prior to registration is only compatible with the Convention on two conditions:

– that it does not confer upon the competent authority a discretionary power to refuse an application for registration; and
– such a requirement does not constitute an obstacle such that it results in practice purely and simply in prohibition.

The situation in Algeria is in practice an illustration of these two situations: the authorities have discretionary power to refuse registration, and non-registration is similar to prohibition. In practice, without registration, the union is not recognized and is not therefore consulted. It does not have even the most elementary rights, such as the right to open a bank account or to hire premises.

Moreover, it is telling to note that unrecognized organizations are those which have recourse to the ILO to defend their rights. Indeed, prosecutions have been brought against an organization and a union official on the basis of elements contained in a complaint made to the Committee on Freedom of Association.

It should be noted that the Government is persisting in its position with regard to the dissolution of the SNATEGS. It maintains that it was the subject of a voluntary dissolution and pretends to ignore the fact that court rulings have been handed down determining the identity of those responsible for the organization and that those really responsible were not the ones who undertook the dissolution.

In passing, we are bound to be astonished at the facility with which a union can be dissolved, when its establishment and registration require so many formalities and a very long period of time.

We invite the Government of Algeria to guarantee security and fundamental freedoms for all trade unionists, and particularly those who responded to and met the mission.

We also call on it to cease having recourse to practices of cloning and the creation of fake unions. This type of practice undermines the credibility of the Government, which nevertheless claims that it wishes to re-establish confidence with the ILO and its supervisory bodies.

I referred a few moments ago to the problem of trade union discrimination and the issue of reinstatement. The high-level mission was able to observe on the basis of specific cases how difficult it is for a dismissed trade union officer to obtain reinstatement. We note that trade unionists who are members of organizations that have not yet been registered are dismissed. Since, under the terms of the current national legislation, which is not in conformity with the Convention, it is necessary to be an employed person or a public employee to hold trade union office, these persons de facto lose their status as trade unionists, which makes their reinstatement impossible.

Furthermore, in several cases, trade union officers who obtain court rulings for their reinstatement have to deal with employers who refuse to give effect to the rulings. In other cases, workers are reinstated on the condition that they cease their trade union activities. They are therefore the victims of blackmail and are required to choose between their livelihood and their trade union rights. In this regard, the report of the mission observes that freedom of association is not guaranteed in practice outside recognized unions.

In concluding, we are bound once again to deplore the gulf that exists between the situation in Algeria and the principles and values of the ILO. Nevertheless, and in contrast with the previous sessions, this time we have reasons

for hoping that important changes could be made in the near future, despite the bad will shown by the Government. Until recently, many of the things that seemed inconceivable in the country have become a reality. But the road is still long and only the determination of the population will be decisive. In any event, our determination will remain intact to defend the trade union rights of workers and create the conditions for a better future.

Employer members – I would like to thank the distinguished Government delegate for his submissions before us today. The Employers begin by recalling that this case has been discussed in the Committee in 2014, 2015, 2017 and most recently in 2018. The case has primarily concerned issues relating to obstacles to the establishment of workers' organizations, including the registration of trade unions in law and practice in Algeria. In prior considerations of this case, the Government has repeatedly indicated that these issues would be addressed by a new Labour Code. The Employers' group notes positively that following the 2018 Committee's conclusions, the Government accepted a high-level mission which, as Worker members have described, took place in May 2019. The Employers welcome the fact that the mission took place and we are of the view that now work must be done as a follow-up to the high-level mission. We also welcome the Government's comments today regarding the high-level mission as evidence of its commitment to full compliance with international labour standards, as well as its demonstration of the Government's willingness to engage in high-level contact and collaboration between the Government and the ILO. The Employers are also encouraged to hear that the Government is committed to making amendments to the Labour Code, in consultation with the most representative workers' and employers' organizations. We also welcome the Government's comments today, specifically discussing its efforts to implement the Committee's conclusions of 2018. Therefore, overall, there are a lot of very positive measures to point to in this case. We agree with the Workers' spokesperson that we are encouraged, that a number of changes have been made, and that the future seems promising. The Employers do note, it is with cautious optimism that we make these statements. The Employers note that the Government has made a commitment to revise the Labour Code and that the Labour Code is in a drafting stage, but we also must be cautious in noting that this process has been ongoing since 2011. The Employers' group notes with concern that no consultation with the most representative workers' and employers' organizations has taken place in Algeria since 2017. Clearly, this aspect must change. We understand the Government's submissions that new legal reforms consist of reforms of the Law of 2 June 1990, as well as efforts to strengthen the provisions relating to the protection of trade unions specifically, and that a timeline of the Bill has been communicated to the ILO in terms of a workplan, as well as the commitment in that workplan to consultation with workers' and employers' organizations. We understand that some of the measures that have taken place is that since 3 April 2019, the Government has initiated a process for registration of trade unions that has resulted in 11 new registrations of trade union organizations, including also one employers' organization. Also, we understand that there has been a commitment from the Government to engage with interested parties regarding the Autonomous Union of Attorneys in Algeria (SAAA), the Autonomous Algerian Union of Transport Workers (SAAT) and SESS. We also understand that the Government has provided information and documents regarding the allegations of the Confederation of Productive Forces (COSYFOP), the National Union of Industry Sector, and the National Union of Energy Workers. So we note that these efforts are being made and would encourage this to continue. Therefore, the Employers' group notes that the Government must take this opportunity to reaffirm its commitment to take all of the necessary measures to complete the reform of the Labour Code, without further delay, and that it should also reaffirm its commitment to complete this process in consultation with the most representative national employers' and workers' organizations without further delay.

Worker member, Algeria – With a view to contributing to giving a clear picture of practices relating to trade unions in Algeria, particularly in the context of the Convention that we are examining, I would like to provide the following information.

Trade union pluralism has been recognized since the events of 1988 and was set out in the Constitution of 1989. An Act on freedom of association was adopted in 1990, which resulted in the establishment of a number of unions in several sectors, including the public sector. Supporting documents still exist. The General Union of Algerian Workers (UGTA) submitted a paper on the establishment of a number of unions. There are over 60 unions in Algeria, and there is no doubt that the ILO mission that visited Algeria recently has all the documentation on this. Recently, 20 additional unions have been registered, which therefore increases this number.

With regard to the discussion on freedom of association, we cannot deny that trade union pluralism is a reality in Algeria, as attested by the UGTA. If there was a policy against unions, the number of unions in Algeria would not be so high and the prisons would be full of trade unionists.

On the basis of the information provided by the UGTA, we can say that unions are perfectly free to participate in tripartite consultations. The UGTA was founded in 1956 at the time of the national liberation movement, and it therefore has the status to participate in tripartite negotiations in all sectors of the economy and of services. We therefore wonder whether all employers and workers participate through their unions in this level of tripartite dialogue, irrespective of their level of representation. All the unions that exist in the public service also participate in these tripartite dialogues, which are organized by sector in accordance with the Algerian Labour Code.

The tripartite mission met a number of dissident trade unionists who have left the UGTA. It listened to them at length, and this is an important element in the history of our trade union movement, which was the victim of the martyrdom of 400 trade union activists, with their Secretary-General at their head. Logic requires us to wonder about the role of the mission and whether it could interfere in the internal affairs of trade unions.

There is no union today that has witnessed such interference. The question that has been raised by the tripartite mission is whether interference will be brought to an end, which is an element that leads us to question the real intentions of those who endeavour to use the structures of the ILO, which this year is celebrating its Centenary, by making use of the law to defend lies.

For this reason, the UGTA, as an organization with a very long history of honesty, calls for a re-evaluation of the issue based on the facts as they are, and not how they are presented by certain parties to pursue undeclared objectives, which run counter to the interests of the trade union movement in Algeria and other countries of the world.

Algeria today is seeing peaceful demonstrations calling for change. That was also noted by the tripartite mission that visited Algeria, which welcomed the good faith of the Government in honouring its commitments, including the approval of the registration of 20 unions recently. Algeria has nevertheless been included once again in the list of individual cases.

But the Algeria of yesterday has not been the same country since 22 February. Today, Algeria is seeking stability to protect the interests of workers.

Employer member, Algeria – On behalf of the Algerian delegation of public employers, I wish to confirm the readiness of our organization and its commitment to the principles of international bodies, including the ILO. Our country adheres to the principal recommendations, particularly by ratifying the eight fundamental Conventions.

We note with satisfaction the progress made in social matters by my country, although some matters still remain to be specified. We draw the attention of your august assembly to the efforts and action already taken, and we ask you to take into account the commitments made by our Government and to note the proposal to establish a schedule for the implementation of these recommendations.

We thank you for the assistance provided by your Organization, particularly by sending a high-level mission which has enabled us to envisage a better future, particularly by developing social dialogue through the tripartism that my country has adopted as its approach. We insist on the progress made and also call for account to be taken of the political changes that are occurring in our country and which appear to us to augur well for a better future at the economic and social levels.

I wanted to make this contribution to say that it is not a case of just noting the measures to be taken, but also the fact that there has been significant progress, particularly as a result of the political changes that are happening at the moment in my country.

Government member, Senegal – We wish to thank the Algerian delegation for the responses that it has provided to the concerns expressed in the report of the Committee of Experts concerning the application of the Convention. Senegal welcomes all of the measures adopted recently in Algeria in the current context that is characterized by profound changes at the political, economic and social levels, despite this particularly sensitive period of transition that it is experiencing.

Moreover, certain achievements that appear to us to be fundamental should be emphasized: the acceptance by Algeria of an ILO high-level mission, which visited the country from 21 to 23 May; the commitment made by the Government to bring the national legislation into conformity with ILO standards and the consultation underlying the drafting of the national legislation; and the social dialogue which appears to have been established in the country, as indicated by tripartite and broader consultations.

Senegal encourages Algeria to continue its commendable efforts for the implementation of the Convention and to engage, whenever necessary, in consensual reforms that guarantee economic and social stability.

Finally, the Government of Senegal urges the Office to continue providing support to the stakeholders so that they can support inclusive dialogue at the national level and productive tripartism to preserve the higher interests of the country.

Worker member, Spain – One year ago in this same room, I referred to the report of the European Union (EU), of 6 April 2018, on the state of relations between the EU and Algeria under the renewed European Neighbourhood Policy. In point 3, it indicated that Algerian autonomous trade unions were experiencing difficulties in registering and holding meetings, despite the ratification of the Convention. In point 6, it added that the promotion of social dialogue, particularly through the development of autonomous trade unions, should also be among the improvements made to the economy and the labour market.

Starting from these fundamental premises, one year on, we observe that the repression of independent unions in Algeria continues to be constant, with arbitrary dismissals, the suspension of trade union leaders and the brutal repression of peaceful protests, as indicated by the successive editions of the Global Rights Index of the International Trade Union Confederation (ITUC).

The Algeria of a year ago is not the Algeria that we know today, and this element cannot be overlooked by the Committee. For months, the Algerian people, and with them the independent unions, have been out in their masses on the streets to protest against the fifth mandate of Mr Bouteflika, in a context of the strong mobilization by students and other sectors of Algerian society. At the beginning of this mobilization, and with a trade union movement that was still awaiting legalization, the President of the CGATA, Rachid Malaoui, today with us in Geneva, said that Algeria and its trade union movement were at a crossroads.

And it is in this convulsed political and social context that the ILO high-level mission visited Algeria last May, with many illogical limitations. Even so, we welcome the urgent call made to the Government of Algeria in the report of this important ILO mission to proceed on an urgent basis to the registration of the CGATA, the Algerian Union of Employees of the Public Administration (SAFAP) and the SESS, and to provide the necessary facilities for these procedures. The CGATA has not yet succeeded in obtaining its official registration in Algeria, with its leaders and members suffering harassment at various times.

The Government is continuing to make use of the same methods of arbitrary dismissal to prevent the operation of unions, under the pretext of the absence of registration of these organizations. We have all seen in recent months how the people of Algeria have decided to take back their place, honour and dignity.

The outcome of the debate in this Committee should be commensurate with the dignity of the Algerian people, which is fighting for its democratic freedoms. It should require the Government of Algeria to comply with the Convention and should endeavour to avoid us coming back again in 2020 to this room to note that nothing has changed.

Government member, Burkina Faso – My country reaffirms its commitment to the principles and values set out in this Convention. The question of the defence of freedom of association is a fundamental concern of our Organization. The promotion of freedom of association has been the ILO's main concern since its Constitution of 1919, to the Declaration on Fundamental Principles and Rights at Work of 1998, passing through the Declaration of Philadelphia of 1944.

The Government of Algeria is under examination by our Committee concerning the implementation in law and practice of certain relevant provisions of the Convention, which it ratified in 1962. My country's delegation notes with satisfaction the useful information provided by the Government of Algeria concerning the various efforts made by this fraternal country to give full effect to the principles contained in the Convention. It is happy to note that, on all the issues raised by the Committee of Experts, Algeria has already initiated consultations, provided certain responses and indicated its will to make the necessary modifications to ensure the full application of the Convention in practice. For this reason, we encourage the Government of Algeria to pursue its efforts and to request ILO assistance in the context of the planned reforms.

Observer, IndustriALL Global Union – I am happy and honoured to be speaking to you on behalf of IndustriALL. My colleagues from the Trade Union Confederation of Productive Workers (COSYFOP) and myself met the high-level mission in May. What we have lived through following the conclusions adopted by the Committee in 2018 has been horrible. There have been convictions, cases of imprisonment and arrests. I myself was brutally arrested on 23 April 2019 and I suffered psychological and physical torture at the police station. I was stripped and handcuffed, and made to sit on an iron chair to be interrogated about my trade union activities. I have noted that each time conclusions are adopted by the Committee, there is an increase

in repression and threats against my colleagues and myself to convince us to accept the administrative dissolution of SNATEG by Order No. 296 of 16 May 2017 of the Ministry of Labour.

Moreover, during the discussion of this case by the Committee in 2017, the Government representative stated that no administrative order had been issued to withdraw the registration of the SNATEG on 16 May 2017, and the same Government representative today repeats that he was right concerning the annulation of the order, which should never have existed.

With regard to the alleged voluntary dissolution, and following the loss of all the trials against us by Mr Boukhlafa Abdallah, the Ministry of Labour lodged charges against me for usurping my functions, in April. The Ministry used its influence to obtain a conviction against me. With reference to the COSYFOP, registered with the Ministry of Labour under No. 30/1991, the Ministry declared that the executive bodies of the COSYFOP have been convened unlawfully.

I can confirm to you today that there is no internal dispute that the Algerian Government can use against the COSYFOP to attack its credibility. We are not requesting the Government of Algeria to register us, or offer us facilities. What we are requesting is to bring an end to this oppression against unions, these arbitrary practices that raise obstacles to the protection of the right to organize and freedom of association. The high-level contacts mission called on the Government to bring an end to the practices of oppression, particularly with the unions and persons who met the mission. And that is why I want to tell you what happened to one of our comrades, Mounit Batraoui, who met the high-level mission, who is today suffering intimidation and harassment. Moreover, the dismissed trade unionists have not been reinstated and the website of COSYFOP has been censured. The Government should be reminded that the Ministry of Labour is a partner for the unions, and not their hierarchical superior or a judge who decides on the legitimacy of congresses and elections, particularly as the law prohibits the administration from interfering in the internal affairs of unions.

Government member, Bolivarian Republic of Venezuela – The Bolivarian Republic of Venezuela welcomes the full information provided by the honourable representative of the Government of Algeria in relation to its compliance with the Convention. We appreciate the progress made in the framework of freedom of association and protection of the right to organize.

It should be recalled that at the last session of this Committee, we expressed concern that complaints were being considered in this case from persons or organizations which do not belong to the world of work, which is not relevant, and particularly if it is all for political purposes. We need to take into account the situation that Algeria is experiencing. The weight that has to be given to the acceptance by Algeria of the visit of a high-level ILO mission is undeniable. The mission visited the country from 21 to 23 May 2019, which demonstrates the Government's interest in collaborating with the supervisory mechanisms of this Organization.

This Committee should take into account the fact that the Government of Algeria is reforming and adjusting its legislation in conformity with ILO Conventions and the recommendations made by the Committee of Experts.

We encourage the Government of Algeria to pursue the legislative amendments envisaged in relation to trade union federations and confederations, the nationality of workers when establishing unions and the protection of trade union delegates in the context of their trade union activities, among other matters.

We trust that the conclusions of this Committee resulting from this debate will be objective and balanced, which will undoubtedly mean that the Government of Algeria will be able to take them into consideration and value them within the framework of its action to give effect to the Convention.

Worker member, Congo – I am taking the floor on behalf of the workers of the Congo and those of the Organization of Trade Unions of Central Africa (OSTAC) on the case of Algeria in relation to Convention No. 87, which was ratified by Algeria in 1962.

After hearing and having understood the substance of the intervention by the representative of the Government of Algeria, we can note that Algeria has ratified the eight fundamental Conventions and that, following the ILO high-level mission that was carried out from 21 to 23 May this year and the exchanges that followed on legislative reforms concerning the legislation in question, it has been called before our Committee again. There are therefore grounds for believing that the action taken to amend and supplement certain provisions of the Labour Code (Act No. 90-14 of 2 June 1990) in practice constitute progress that is to be welcomed. The draft amendment to the Act, which will be subject to social consultation with all the organizations of employers and workers, may therefore be seen as a strong signal that Algeria will henceforth be in conformity with the provisions of the Convention. We therefore feel that things are moving in a positive direction in Algeria, and the will of the authorities responsible for labour and employment is under scrutiny.

The ILO high-level mission was undertaken on the basis of terms of reference proposed by the ILO. Let us therefore give Algeria the time and opportunity to give effect to the provisions of the Convention and for the dismissed workers to be reinstated, for which the related procedure is well advanced, according to the information provided by the Government.

Government member, United States – In 2018, the Committee expressed concern regarding the Government's progress in addressing the freedom of association situation in Algeria, as this issue has been discussed for more than a decade across the ILO supervisory system.

The Committee urged the Government to take measures to ensure that workers and employers could operate freely from intimidation and to establish a transparent trade union registration process consistent with international labour standards. In that regard, we note the Government's acceptance of a high-level mission to the country in May 2019. We welcome this development and look forward to reviewing the mission's report in detail.

In the meantime, we urge the Government to continue to implement the 2018 Committee's conclusions, particularly:

- ensure that the registration of trade unions in law and in practice is in conformity with the Convention;
- process pending applications for the registration of trade unions which have met the requirements set out by law and allow the free functioning of trade unions;
- ensure that the new draft Labour Code is adopted in consultation with the social partners, especially the most representative;
- 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;
- amend section 6 of Act No. 90-14 in order to recognize the right of all workers, without distinction whatsoever, to establish trade unions; and
- provide further information on the expedient reinstatement of employees of the Government, terminated based on anti-union discrimination.

Government member, Egypt – We have listened with great attention to the Algerian Government's statement and the fact that the Committee of Expert's recommendations

have been taken into account. We feel that the situation in Algeria is positive and that the country finds itself at a crossroads. We must take into account the efforts made by the Government, which always participates in social dialogue, despite the difficulties occurring in our brother country. We believe that the Government of Algeria will create a positive environment. The Government of Algeria wants to work on social dialogue and ensure that trade union pluralism exists in the country.

In 1990 the Law was revised and it is still under revision today. We feel that this country deserves encouragement and we must congratulate Algeria, and ensure that it may move ahead. The situation is promising and we need to provide Algeria with more time.

Government member, Syrian Arab Republic – We have read and listened with great attention to the statement made by the Government of Algeria. We feel that the efforts undertaken are of a serious nature and that the future is promising. Measures have been taken to allow the Government of Algeria to fulfil the recommendations of the Committee of Experts so that it may fully respect the Convention. The in-depth reforms in Algeria are being undertaken in a serious manner. We feel that the high-level mission of the ILO to Algeria was successful and that all these efforts made by the Government are positive. Let us also recall that the right to work and the non-discrimination or non-differentiation between Algerian workers and foreign workers are all being taken into account. The Algerian Government is making great efforts to adopt reforms. The high-level mission was welcomed warmly in Algeria and that is why we believe that the Algerian Government should be considered as worthy of our trust. It requires more time and the context is difficult despite the technical assistance provided by the ILO.

Observer, Public Services International (PSI) – The Government of Algeria is stubbornly refusing to take the necessary measures. For example, the bailiffs of the SNAPAP Justice Federation have been the subject of arbitrary and unjust dismissals following a general strike, without up to now receiving compensation for the prejudice suffered or the payment of their salaries. Similarly, the national coordinator of the SESS was arbitrarily arrested on 13 July 2016 and then found innocent, as his file was empty. These are the types of intimidation to which we are subjected.

Moreover, following the establishment of the SNAPAP chapter in the University of Belgaid, the President of the University exerted pressure on the delegates to withdraw the chapter and launched judicial proceedings to prevent the creation of a union chapter. A complaint was lodged against the person responsible for coordination at the level of the *Wilaya*, Salim Mecheri, with a view to decapitating the union.

Furthermore, Mellal Raouf, Kouafi Abdel Kader, Ben Zein Suleiman and Suleimani Mohammed Amin Zakariya Benhadad were convicted to sentences of imprisonment because of their statement to the press. The same also applies to the Autonomous National Union of Electricity and Gas Workers. We are being dragged before the courts, despite the rights from which we should benefit.

With regard to the registration of the CGATA, we heard the Minister, but it should be known that the Government of Algeria, the employers and many others have made false statements at each session of the Committee. In fact, the Ministry of Labour refuses to register a number of unions, which once again proves the stubborn persistence of the Government. This Government disdains the recommendations of the Committee of Experts, also in relation to the CGATA and a good number of other unions, including the SESS, which organizes higher education teachers. That is why I wonder and I ask you whether real trade union freedom exists. The Minister provides lists of unions that do not exist in practice, and I urge him to provide the names of their leaders. It is my belief that these unions do not exist. They are ghost unions.

Government member, Mauritania – We congratulate the Algerian delegation for its exhaustive and relevant report on the implementation of the Convention. We welcome the fact that Algeria received the ILO high-level mission, which demonstrates its will to engage in constructive cooperation with the ILO for the implementation of its international Conventions.

The report presented by Algeria indicates, on all the matters raised, that the authorities have offered satisfactory responses and taken appropriate measures, in accordance with the relevant ILO Conventions and the recommendations of its supervisory bodies. In conclusion, in light of the specific situation that Algeria is experiencing, it would be desirable for all its partners to support it constructively by recognizing its efforts to give effect to all the recommendations of the ILO and to promote social peace.

Worker member, Argentina – The Confederation of Workers of Argentina (CTA Autonomous) joins with its other comrades in asking the Government of Algeria to give effect immediately to the recommendations of the ILO mission and proceed to the immediate and unconditional registration of the CGATA and the other independent trade unions.

The report of the Committee of Experts notes with concern the list provided by the ITUC and the CGATA of nine trade unions which had applied for registration and in the end dropped their applications due to the demands of the authorities and the time that had elapsed without obtaining registration.

We wish to remind the Government of Algeria that the Declaration on Fundamental Principles and Rights at Work of 1998 clearly establishes that the fundamental rights, such as those set out in the Convention, must be respected by all member States even if they have not ratified the respective instruments, and all the more so in this case as Algeria ratified the Convention in 1962.

In this respect, the recent registration of 11 new government trade unions is indicative that the Government only grants registration to those organizations that do not lodge complaints, which shows the low level of respect in which the Government of Algeria holds the ILO and its recommendations.

We also remind the Government that the exercise of lawful trade union activities and the right to organize should not be dependent on the official registration of these organizations. In this respect, we recall that the Convention, in Article 2, provides that workers and employers, without distinction whatsoever, shall have the right to establish and to join organizations of their own choosing without previous authorization.

We also openly denounce the brutal repression by the police of the street demonstrations which occurred some days before the ILO mission and the detention of our trade unionist comrades. This makes the situation worse and, in addition to being in violation of freedom of association, in this case there were violations of public freedoms which are the necessary prerequisite for the existence of freedom of association.

We also denounce the recent threats issued by the Minister of Labour of Algeria, Mourad Zemali, against the independent leaders of the CGATA and its affiliates a few days after the arrival of the ILO mission, accusing them of being behind the “stigmatization” of the Government of Algeria in relation to the Committee.

The lack of respect of the Algerian authorities for ratified Conventions is clear when we hear the Government promising to amend section 4 of the Labour Code without setting out a specific schedule for doing so.

Considering that the Labour Code has been stalled for over 20 years for these same reasons, we call on this Committee to demand that it is now completed with the greatest urgency.

Government member, Egypt – I would like to begin by thanking the head of the Algerian delegation for the important information given to us here. This was information relating to steps taken by the Government in seeking to ensure application of the Convention.

We are convinced that the reforms undertaken by Algeria whether to current legislation or in other areas is a reform that is worthy of understanding and respect. We also believe that all of this is in line with the spirit and nature of the Convention. I would note further that Algeria welcomed a high-level mission from the ILO earlier this year and the Government has told us that they are working to adapt structures in the country and to bring them fully into line with the terms of the Convention.

We also note the ongoing administrative reform that is very far-reaching. We have heard about the work being done by the Government and that is something that we commend. We welcome also the fact that the Algerian Government is firmly committed to social justice and peace. The representative of Algeria stated clearly that reform is under way, that amendment of legislation is under way and that this is in line with the recommendations of the Committee of Experts on the provisions of the Convention.

It has also been stated that trade unionism is being promoted without any hindrance in the country. Therefore the Government is seeking to fully implement the Convention that has been ratified. We know that a timetable has been prepared, that this has been transmitted to the Office and all of this shows that Algeria is serious about assuming its responsibilities in terms of social dialogue and is willing to do that.

We welcome what has been achieved thus far and we also welcome the work that is currently under way to ensure that freedom of association can be fully enjoyed in Algeria. We thank the Government of Algeria for all that it is doing, the serious approach to reform that it is taking and we are convinced that fruitful positive results will be achieved.

Observer, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) – We deplore and denounce the constant instrumentalization of the cloned unions of our affiliate the National Autonomous Union of Public Administration Personnel (SNAPAP).

In its conclusions, the high-level mission specifically referred to cloning, the creation of fictional fake organizations, without names, legitimacy, as one of the anti-union practices systematically used by the Government of Algeria.

Every time the SNAPAP establishes a chapter in a particular administration, the security services, with the assistance of the local administration, pressurize delegates to persuade them of the prohibition on joining any other union than the cloned SNAPAP, under threat of reprisals. The national security services have once again exerted pressure on the owner of the new headquarters of the SNAPAP to cancel the rental agreement.

SNAPAP has already been compelled to leave its previous national headquarters in view of the pressure exerted on the previous landlord and as the union had to exist for several months without electricity following the decision of SONELGAZ, the public gas and electricity company, in the middle of winter. The case is currently before the courts.

The IUF strongly supports the recommendations of the mission and we call for the implementation of specific and urgent measures to ensure that Algerian women and men workers can exercise their fundamental rights in an environment exempt from interference and intimidation, and there I am quoting the report.

Government member, Turkey – We would like to thank the Algerian Government for the detailed response they have provided. We welcome the Algerian Government's willingness to engage in dialogue and provide more information. We take note of Algeria's efforts to work closely with the ILO in several fields. As a member of the ILO, Algeria has ratified 42 Conventions, including all fundamental and three priority ones. The Algerian Constitution and its national labour legislation enshrine the right to organize and strike for all citizens. The Algerian Government is also committed to solve the problems regarding labour relations and conditions in the country. We think it is worth mentioning that measures taken by the Algerian Government towards enriching social dialogue demonstrates the Government's willingness and commitment to continue its efforts to further improve the conditions of freedom of association and the protection of trade union rights.

Algeria accepted the visit of the ILO high-level mission in May 2019. It has a committed effort to strengthen and adapt its current legislative framework to bring it into line with the ILO standards. We encourage the Algerian Government to continue to undertake further steps in this regard. We believe that within the social dialogue mechanism, recent amendments relating to freedom of association made by the Algerian Government will promote the rights and freedoms of the trade unions. For these reasons, we join the request that the Committee should take into account all the efforts made by Algeria in consultation with the social partners.

We believe that Algeria will continue to work with the ILO and social partners in the spirit of constructive cooperation regarding the ILO and the international labour standards and comply with reporting obligations and the ratified ILO Conventions.

Government member, Zimbabwe – Zimbabwe takes the floor to thank the Government of Algeria, the spokesperson of the Workers' and the Employers' groups and other delegates for their submissions. These have put the issues under discussion into perspective. The Zimbabwe delegation takes note of the documents from the Committee of Experts on Algeria and the issues raised therein on the violation of the Convention. The delegation of Zimbabwe notes with satisfaction that the Government of Algeria has commenced widespread reforms that are aimed at complying with both the Convention and the comments by the Committee of Experts. We are aware that the legislative reform is a process and, as such, Algeria needs to be given time to make the necessary changes in law. Further, we note the fact that the Government of Algeria has responded to the comments by the Committee of Experts in respect of registration of trade unions. In its report, Algeria submitted that it has registered 75 workers' unions and 42 employers' unions since the revision of the Law. This is a positive sign indeed that Algeria is willing and indeed ready to work with the ILO, the workers' and the employers' unions in finding a lasting solution to the issues outlined by the Committee of Experts. Based on the submissions made by the Government of Algeria, the delegation of Zimbabwe is pleased with the positive stands and progress made in complying with the recommendation of the Committee of Experts. It is our considered view that the Government of Algeria has responded positively and in detail to specific issues raised by the Committee of Experts. To this extent, the delegation of Zimbabwe urges the ILO to continue to avail technical assistance to the Government of Algeria in all its efforts to comply with the Convention and observations by the Committee of Experts.

Government member, Brazil – Brazil thanks the Government of Algeria for the presentation of detailed information

for the consideration of this Committee and for the preliminary information on the case provided by the Government and available on the Committee's web page. Brazil notes that this case has been brought to the attention of this Committee on multiple occasions. This excessive exposure does not contribute to the aim of promoting the goals of the ILO Conventions. Rather, a universal review in which all governments from all regions of the world, both developing and developed, were called to appear periodically to this Committee, would serve more cogently and credibly the universal goals of ILO's core Conventions. In the last few years, Algeria has been placed on the shortlist in 2014, 2015, 2017, 2018, and now again in 2019 (five times in six years – all in relation to Convention No. 87). Algeria's case is another reiteration of the regrettable practice, to single out developing countries.

The lack of due notice, the opaque nature of the selection of cases, and the negotiation of conclusions, seriously hinder our efforts to build constructive dialogue and give meaningful consideration to the submissions of various parties. A strong, effective and legitimate ILO, adapted to the contemporary challenges of the world of work and multilateralism, is of interest to all – governments, workers and employers. This should and can be achieved by means of cooperation, dialogue and partnership.

Brazil takes good note of the willingness of the Government of Algeria to cooperate with the ILO, as demonstrated by its submissions to, and engagement with this Committee, and its clear efforts to adhere to international labour standards and review its national legislation as appropriate.

Brazil reiterates that only well-defined standards, to which a Government has agreed through the formal ratification process, should ground any questions or requests for clarification before this Committee. The Office, this Committee and the ILO as a whole should recognize the important role of governments, national institutions and organizations in the interpretation of standards with a view to accommodating national circumstances and capabilities.

Observer, International Trade Union Confederation (ITUC) – I am speaking on behalf of the CGATA, to which the SESS is affiliated. The CGATA reminds the Committee that Algeria is living through a period of great political instability as, since 22 February, the people have been coming out in their millions each week to demand a second Republic. We therefore consider that the representatives of the Government here have no legitimacy to represent the Algerian people.

Moreover, the trade union confederation UGTA, which has always played the role of the trade union close to the authorities, is bitterly criticized by its members, who are constantly assembling to demand its return to real trade unionists. Its Secretary-General has been prevented from leaving the national territory by decision of the real power in Algeria, that is the army, to sacrifice some of those guilty in our country in a vain attempt to calm the people of Algeria.

Turning to the recommendations of the Committee of Experts and the failure to comply with the Convention, we emphasize that the high-level mission visited the country during a period of political instability. All of the credibility of the ILO, and particularly the Committee, is at stake, as the high-level mission clearly reported that it is the trade unions that have complained that have been refused registration. The mission recommends the Government to proceed with the registration of the CGATA and the SESS on an urgent basis.

The visit showed that a high number of trade unions have been refused registration, which indicates that many trade unions have been afraid to appeal to the ILO in light of the repression suffered by the CGATA and its affiliate, the SESS. Another affiliate, the SNAPAP, has suffered from cloning, which has been denounced here on many occasions.

Not only has there been no progress in terms of the consultation of the social partners on the draft Labour Code, but the authorities have just invented a new way of putting off action by saying that certain provisions will be corrected without revising the whole Labour Code. We have been waiting for 18 years for the promised Labour Code, because the first complaint was in 2001. Now, a new procedure has to be followed for who knows how many more years. It must also be noted that the dismissed trade union delegates have not been reinstated, despite the promises made.

We trust in the Committee to restore our rights. We demand the immediate and unconditional implementation of the Committee's recommendations. We demand the determination of strict time limits for the registration of the CGATA and the SESS, as well as for the reinstatement of the dismissed trade union delegates and the amendment of the Labour Code.

Government member, Namibia – Chairperson, Namibia welcomes the information provided by the representative of the Government of Algeria on the implementation of the Convention. Namibia is pleased to note the ILO high-level mission's visit that took place from 21 to 23 May 2019. The ILO high-level mission was able to meet with some ministerial departments and social partners and collected documents and evidence on the situation of trade unions.

Further, the Government of the Republic of Namibia notes that the Government of Algeria remains committed to give effect to the comments from the Committee of Experts with regard to legislative reforms. The increase in trade union registration from 101 in June 2018 to 121 in June this year, as per the submission by Algeria, it is an indication that registration of trade unions in Algeria conforms with the Convention, both in law and in practice. We therefore call upon the ILO to continue providing technical support to Algeria. Finally, this Committee should take note of the progress made by the Government of Algeria in its conclusions.

Government member, Sudan – The delegation of Sudan would like to thank the Government representative for the information provided regarding the fulfilment of the requirements of the Convention, which Algeria has ratified in 1962.

My delegation believes that the Algerian Government has made great efforts to facilitate the work of the high-level mission as well as implement reforms. This is worthy of congratulations, as the country is undergoing difficult times. The Government of Algeria has committed to fully respect Convention No. 87, and the number of trade unions registered has risen a great deal in one year. Chairperson, we are of the opinion that the Government of Algeria must receive assistance to fulfil its reforms, and deserves technical assistance.

Government member, Mali – Following the points made by the Minister of Labour of Algeria, it is important for the Government of Mali to express its total support. However, we invite him to pursue and reinforce the efforts made with a view to calming the social climate.

Government member, Cuba – My delegation reaffirms the importance of continuing to promote tripartism and social dialogue in all countries with a view to resolving the differences that arise in the world of work and promoting better protection for the rights of workers and trade union freedoms, which must be a constant objective for everyone.

We therefore encourage the Government of Algeria to pursue its efforts for this purpose, while recognizing the steps taken up to now. We hope that the legislation protecting these rights will continue to be strengthened. We also emphasize the need to continue promoting, within the

framework of the ILO, measures and programmes of technical assistance for countries which make space for governments to take action with the intention of resolving the challenges faced by the world of work in an environment of cooperation and exchange.

Government member, Lebanon – Taking into account the information provided to us by the Government of Algeria in its detailed and full response concerning the implementation of the provisions of the Convention, we congratulate the Government of Algeria on the great efforts made and all the measures taken at the legislative level and in terms of the reforms that have been embarked upon and the practical measures that are currently being implemented.

We commend and encourage the Government of Algeria to reinforce tripartite dialogue with the social partners. We urge the Government of Algeria to engage in consultations with workers' unions in the framework of the reform of the Labour Code to ensure that it is in conformity with international Conventions.

We also urge the International Labour Office to strengthen cooperation with the Government of Algeria through the provision of more technical cooperation to consolidate the progress that has already been made.

Government member, Ethiopia – Ethiopia would like to thank the Government of Algeria for the information it provided. We have heard from the report of the Government of Algeria that it is working towards amending its relevant bills in consultation with the social partners and the timetable for the review of the bill will be communicated to the ILO Office. We are also informed by the Government of Algeria that there exists a conducive environment for workers to organize in trade unions of their choosing and freely exercise the rights in conformity with the Convention.

The Government of Algeria further indicates its acceptance and openness for the visit of the ILO high-level mission which in our view is a sign of interest that it attaches to the promotion and implementation of the Convention in point. From the foregoing, my delegation is convinced that progress is made in Algeria in conformity with the recommendations of the Committee. In light of the progress made and change taking place in Algeria towards aligning its national legislation with the Convention in point and the prevailing positive environment for trade unions to exercise their rights, we encourage the Government of Algeria to step up its effort to work closely and collaboratively with the social partners in the spirit of promoting social dialogue, to affirm its commitment to the full implementation of the Convention in law and in practice and we also look forward for the ILO's technical support in this regard.

Government member, Niger – Niger commends the Government of Algeria for the detailed information provided in relation to the observations of the Committee of Experts. Niger also welcomes the will shown by Algeria to collaborate with the ILO supervisory bodies by receiving the high-level mission following the 107th Session of the International Labour Conference. Despite the situation that is being experienced by the country, it must be noted that considerable efforts have been made to give effect to the Convention.

To ensure the continuation of these efforts, the ILO must continue to provide assistance to its Algerian tripartite constituents so that they can make progress. Finally, we pay tribute to all of the efforts and the progress made in the implementation of the Convention and we encourage the Algerian constituents to continue on this path.

Government representative – It is with great pleasure that I take the floor again to thank all the speakers – Governments, Workers and Employers – who have expressed support for my country, those who have requested further information and those who have called for efforts to be made. I would also like to thank the high-level mission that visited Algiers and which succeeded in ensuring the neutrality of its report. It was my duty and that of my Government to do so.

We have noted the questions and requests, as well as the proposals made. Accordingly, while recalling and emphasizing once again the commitment of the Government to take action in the context of a rapid and organized process that coincides with the new dynamic of the country, the results achieved up to now, since the last session in 2018, show that specific progress has been made.

A process has been initiated, particularly with the commencement of the revision of Act No. 90-14, and I repeat that a process has been initiated, the settlement of almost all the individual cases of dismissal (83 out of 86), a commitment to pursue the long-standing consultation on the Labour Code, which will be complete. I indicated in my communication that the provisions of sections 6 and 4 will be covered. That is a commitment.

With regard to the registration of trade unions, the commitment has been made and all the applications made will be dealt with.

We will continue our cooperation with the ILO to complete and ensure the completion of all these projects and processes. The willingness of the Government of Algeria is total, and we will ensure that all these programmes are completed to achieve the expected objectives. These are not promises, but commitments, and we have explicitly addressed, as I have just said, the provisions respecting federations, confederations and nationality for the establishment of a trade union.

We are currently looking towards the future, and the assessment that has been provided is beginning to bear fruit. The list of organizations registered was brought to the knowledge of the direct contacts mission, and we can resubmit the list of trade unions today to this Committee, for both the administrative sector and the economic sector, together with all the necessary information.

We accepted the high-level mission, even though certain of those who called for the mission in 2017 and 2018 refused to meet it in 2019. This raises questions concerning their attitude. I leave the Committee to interpret this in full freedom.

The Government once again emphasizes its complete availability and its respect for the ILO to make progress, and we will ensure together that the expected objectives are achieved, while emphasizing that the Government of Algeria protects all of its citizens, without exception, and that those who have portrayed themselves as victims are able to travel within and outside the country. They are even in this room. There is no repression.

In conclusion, I call on all of us to ensure that cooperation with the ILO is reinforced with a view to the completion of the programmes. And I call for justice in the approach adopted to the examination of this case.

Employer members – The Employers' group has taken careful note of the Government's submissions and looks forward to considering these submissions in further detail alongside a more detailed analysis of the report of the high-level mission. We also took careful note of the discussion today in our Committee and welcomed the active participation of those who took the floor.

The Employers' group welcomes the Government's commitment to work towards compliance with the Government's obligations in accordance with the Convention following the high-level mission and, in particular, welcomes the Government's commitment to do so in a rapid manner. The Employers' group, therefore, takes this opportunity to encourage the Government to take all of the necessary measures to complete the reform of the Labour Code without further delay and in making this recommendation, we encourage the Government to commit to this process in a

time-bound manner. This reform process, in the Employers' view, should be completed alongside good faith consultation with the national employers' and workers' organizations, as well as in a spirit of commitment to ongoing social dialogue in the country.

Worker members – I give thanks to the delegates who have participated in this debate for their support. The Government of Algeria has now been promising for several years to adapt the legislation to bring it into conformity with the Convention, and the Workers' group calls on the Government to provide the Office, as soon as possible, with a precise schedule indicating the stages of the priority reform of Act No. 90-14 and the preliminary draft of the Labour Code.

We also invite the Government to take the occasion of this reform to introduce a series of amendments. We insist in particular on the following elements: first, the adoption of provisions that guarantee effective protection against trade union dismissal and discrimination; second, ensuring the rapid reinstatement of trade union delegates once a favourable court ruling has been handed down; and, third, the abolition of the requirement to be a salaried employee to be able to hold trade union office.

These elements are not exhaustive and we call on the Government to give effect to all of the recommendations contained in the report of the high-level mission

We also invite the Government to proceed with the registration of all trade unions that are awaiting recognition, and particularly the SESS, CGATA and SNAPAP.

Finally, we call on the Government to provide a detailed report to the Committee of Experts containing the draft amendments so that the Committee can examine them at its next session in November.

Algeria is at an important crossroads in its history, and no one can predict the path that it will follow. It is essential to seize this opportunity to lay the foundations for a society based on liberty and to write a history of equality and dignity. In short, it is a matter of sowing justice to reap peace.

Conclusions of the Committee

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

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.

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;**
- **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.**

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.

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)

Written information provided by the Government

Belarus has staunchly and consistently supported the prohibition and eradication of forced labour.

The prohibition of the use of forced labour is enshrined in the country's most important legislative instruments.

Article 41 of the Constitution prohibits forced labour, with the exception of work or services required under a court ruling or in accordance with the legislation on emergencies and the martial law.

The prohibition of forced labour is also covered in article 13 of the Labour Code of the Republic of Belarus.

The Government of Belarus has paid great attention to the comments made by the Committee of Experts. Taking into account the position of the Committee of Experts, it was decided to repeal Presidential Decree No. 9 of 7 December 2012 "On Additional Measures for the Development of the Wood Processing Industry" (hereinafter referred to as Decree No. 9). Presidential Decree No. 182 of 27 May 2016 has been adopted, according to which Decree No. 9 was declared invalid.

In order to study the legislation of Belarus and the practice of its application for compliance with the provisions of the Forced Labour Convention, 1930 (No. 29), the technical advisory mission of the International Labour Office visited Belarus from 19 to 23 June 2017. The Government of Belarus provided the mission with all the necessary assistance in organizing their work. The mission's report on the results of its work was submitted to the Committee of Experts.

Taking into account the analysis of the norms of national legislation and the results of consultations with the ILO mission, the Government of Belarus considers that Presidential Decree No. 3 of 2 April 2015 "On the Promotion of Employment of the Population" (as amended on 25 January 2018) and the Law of 4 January 2010 "On the Procedure and Modalities for the Transfer of Citizens to Medical

Labour Centres and the Conditions of Staying in Them" (as amended on 1 September, 2017), which are mentioned in the CEACR's conclusions of 2019, do not conflict with the provisions of Convention No. 29. These documents are aimed at addressing such socially important tasks as the promotion of employment of the population and the fight against drunkenness and drug addiction. The approaches used in these regulatory legal acts meet the requirements of justice and are socially justified.

Presidential Decree No. 3 of 2 April 2015 "On the Promotion of Employment of the Population" (as amended on 25 January 2018)

Presidential Decree No. 3 of 2 April 2015 "On the Prevention of Dependency on Social Aid" has undergone conceptual changes.

On 25 January 2018, Presidential Decree No. 1 was adopted, according to which Decree No. 3 was redrafted in a new version and given a new title – "On the Promotion of Employment of the Population".

Now Decree No. 3 does not include any provisions on the payment, by unemployed citizens who are able to work, of a fee for financing public expenditures, or rules imposing administrative measures in the event of non-payment of the tax.

The main task of the updated Decree No. 3 is to create more favourable conditions for citizens' employment in the regions of the Republic. Decree No. 3 is aimed at providing citizens who want to find a job with maximum assistance in finding employment, stimulating employment and self-employment of the population, as well as creating conditions to stimulate legal employment.

As part of the implementation of Decree No. 3, the local authorities have significantly intensified their activities in order to assist all the interested citizens in finding a job.

At the level of each region, all available opportunities exist so that all citizens who, for whatever reason, do not work but want to work, will be assisted in finding employment.

The local authorities assist citizens in finding vacant and newly created jobs, organize training for popular professions and provide an opportunity to participate in paid public works. Citizens are informed about the benefits of legal employment.

In order to coordinate the work aimed at the promotion of employment, 150 Permanent Commissions (hereinafter referred to as the Commissions) have been established and carry out their activities in the regions. The Commissions include deputies, heads and specialists of local administrations, representatives of trade unions and other non-governmental organizations.

Unemployed citizens, including those who lead an antisocial lifestyle, are invited to attend the meetings of the Commissions in order to be provided with assistance in finding a job.

Between January and March 2019, the Commissions held more than 1,500 meetings; 2,200 citizens were offered jobs, of whom 764 people agreed with the proposed options and were employed.

More than 4,500 people were sent to the labour, employment and social protection agencies to be provided with assistance in finding employment, of whom 2,300 were registered as unemployed.

There are 248 special agencies in the Republic which are sending jobseekers to participate in paid public works; 8,400 citizens took part in such works on the basis of referrals from the labour, employment and social protection agencies.

A large-scale information campaign is being carried out to assist citizens in finding employment. Information about the labour market situation, employment and self-employment opportunities, retraining, legal aspects of labour relations, upcoming job fairs and new workplaces is constantly covered in the media (leading state print and electronic publications, television and radio).

Active work is being done to create new jobs and provide employment for citizens. In order to create favourable conditions for that, a number of documents have been adopted providing for measures to improve the business climate, create conditions for the revitalization of business activities, stimulate business activity and attract investment.

As a result of this work, there is a positive trend in the creation of new enterprises (the growth rate is 108.7 per cent) and the registration of new individual entrepreneurs (the growth rate is 108.8 per cent).

The measures taken have led to positive results: the unemployment rate of citizens of working age, calculated in accordance with the ILO methodology, has decreased (February 2019 – 4.5 per cent; 2018 – 4.7 per cent; 2017 – 5.6 per cent).

An important task, the solution of which is promoted by the implementation of Decree No. 3, is the creation of conditions that encourage citizens (including those involved in the shadow economy) to engage in legal employment with the payment of taxes.

To this end, Decree No. 3 contains a direct financial incentive: citizens who are able to work and classified as not involved in the economy, are to pay for a range of housing and communal services at prices (tariffs) that ensure full reimbursement of economically justified costs for the provision of these services, i.e. that are not subsidized by the State from the budget (hereinafter – full tariffs).

From 1 January 2019, this refers to hot water supply; from 1 October 2019, to gas supply (if individual gas heaters are installed) and heat supply.

Decisions on payment by citizens of services at full tariffs (or exemption from such payment) are taken by the Commissions.

Before making a decision on the matter, the Commission carefully analyses the situation of each citizen and works with each person individually to assist him or her in finding a job (the Commission offers vacancies, sends them to the state employment service agencies, organizes training for the profession in demand). When making a decision, the Commission also takes into account the difficulties that the person encounters in their personal life.

It should be noted that many groups of people are excluded from the category of citizens not involved in the economy, to whom provisions on payment of services at full tariffs apply. In addition to all citizens who are legally employed and legally engaged in other types of activities, groups of people who do not have a job for objective reasons or due to special life circumstances are totally excluded from the category of citizens not involved in the economy.

Thus, the category of citizens who are not involved in the economy excludes the registered unemployed, the disabled, legally incapable persons, pensioners, spouses of military personnel and diplomatic workers, persons raising children under 7 years of age (a disabled child under 18 years of age, three or more minor children), students in full-time education, people whose employment has been terminated (six months from the date of dismissal), graduates of educational institutions (until the end of the calendar year), citizens under medical and dispensary supervision, people who work or receive education abroad and many others.

As of May 2019, 6.4 per cent of citizens of the average annual population of working age are classified as not involved in the economy. At the same time, only 0.8 percent of able-bodied citizens, who are owners of housing units and pay for housing and communal services (hereinafter

referred to as HCS), were included in the lists of citizens who are charged for hot water services at full tariffs.

As for the difference in tariffs for hot water for citizens who are considered to be involved and not involved in the economy, the payment for HCS for a standard apartment (48 sq. metres, three persons), in which only one able-bodied citizen who is not involved in the economy lives, taking into account the full tariff for hot water, from 1 January 2019 increased by 6.33 roubles (US$3). When two able-bodied citizens who live in the apartment are not involved in the economy, the payment for HCS increased by 12.66 roubles (US$6).

Thus, the main goal of the implementation of Decree No. 3 is to provide all citizens who are able to work and want to work with maximum assistance in finding suitable legal employment.

Those citizens, who do not work for some objective reason or due to special life circumstances, as well as those who are in difficult life situations, are supported by the State and pay for HCS at subsidized tariffs.

The introduction of full tariffs for HCS for citizens who are not involved in the economy is an exclusively stimulating measure aimed at those people who are very likely involved in the shadow economy and, accordingly, hide their income.

The Law of 4 January 2010 "On the Procedure and Modalities for the Transfer of Citizens to Medical Labour Centres and the Conditions of Staying in Them" (as amended on 1 September 2017)

The Law of the Republic of Belarus "On the Procedure and Modalities for the Transfer of Citizens to Medical Labour Centres and the Conditions of Staying in Them" (hereinafter referred to as the Law) regulates issues related to the transfer of citizens suffering from chronic alcoholism, drug addiction or substance abuse to medical labour centres.

It should be emphasized that forced social isolation as well as medical and social rehabilitation of citizens in the medical labour centres is a necessary measure, which is taken to prevent unlawful behaviour of persons who are suffering from addiction to psychoactive substances, and provide them with the necessary assistance for adaptation in society.

Not all individuals experiencing these problems may be transferred to medical labour centres, but only those who have repeatedly, three times or more in the course of a year, disturbed public order and been found in a state of intoxication from alcohol or caused by the use of drugs or other intoxicating substances. One further condition is that the individuals have already been warned about the possibility of returning to the centre if they commit further violations, but have nevertheless committed administrative offences for similar violations within a year of that warning.

In addition, citizens may be sent to the medical labour centres if they are obliged to compensate the child-rearing expenses incurred by the State and have violated work regulations two times during the year through alcohol or other substance abuse, and have furthermore been warned of the possibility of being sent to the centre, and yet have reoffended within a year of that warning.

Citizens are sent to medical labour centres for a period of 12 months following a court ruling. The court may decide to extend the period of time spent in the centres or to curtail it by up to six months.

Before being transferred to the centres, all persons undergo a medical examination in outpatient addiction treatment organizations to establish whether they have appropriate indications and do not have any contraindications to be placed in the centre.

Citizens are placed in the centres for their medical and social rehabilitation, which includes providing them with medicines, medical and psychological assistance, raising their cultural level and creating conditions for self-education, restoring and maintaining family ties, and other measures.

For citizens who lead an anti-social way of life, one of the most important means that ensure their social reintegration is labour activity. According to the Law, medico-social readaptation activities also include vocational guidance, vocational training, retraining, advanced training and labour.

Citizens placed in the centres are employed at republican unitary production enterprises subordinate to the Department for the Execution of Punishments of the Ministry of Internal Affairs (hereinafter referred to as the Department) and other organizations located at the territory of the centres. Decisions regarding their employment are made based on their age, ability to work, state of health, specific skills and qualifications. Citizens placed in the centres are paid and granted leave from work and social leave in accordance with labour laws.

Vocational training, retraining and advanced training of such citizens are carried out for one or several professions in production workshops of the centres, at republican unitary production enterprises subordinate to the Department, in vocational schools located in the territory of the centres, in other organizations at the location of the centres.

Citizens placed in the centres are systematically informed by the personnel about employment opportunities and professions that are in demand on the labour market. They are encouraged to receive a profession while they are staying in the centre. State labour, employment and social protection agencies are also involved in vocational guidance of the citizens placed in the centres.

The centres are successfully implementing such a form of work as the "School of Readaptation". Meetings with representatives of government agencies and public organizations are organized to motivate the citizens placed in the centres to lead a law-abiding way of life, to encourage them to get a profession and to clarify some issues that may arise when they leave the centre.

In the framework of the "School of Readaptation", representatives of the labour, employment and social protection agencies on a quarterly basis provide relevant information on employment issues (registration as unemployed and receiving unemployment benefits, availability of vacancies, employment due to reservation, opportunities for training and retraining, support in business organization, participation in paid public works, moving to another locality for the purpose of employment, etc.).

In the Republic, work is constantly being carried out to develop the best practices for the rehabilitation and readaptation of citizens suffering from alcohol addiction.

The state institution "Republican Scientific and Practical Centre for Mental Health" conducted a study in order to develop a comprehensive programme of medical rehabilitation for persons placed in the centres. Taking into account the results of the study, the Ministry of Health and the Ministry of Internal Affairs have launched a pilot project, in which the method of comprehensive medical rehabilitation and occupational therapy is applied.

The comprehensive rehabilitation method allowed the achievement of a number of positive results: normalization of the affective sphere, stopping thirst for alcohol, correction of long-term effects caused by prolonged alcohol abuse, increased motivation to work.

In the future, it is planned to use this method in all the medical labour centres. This will increase the efficiency of psychosocial rehabilitation of citizens suffering from alcohol addiction, improve the quality of their life and help them to restore their social status.

Discussion by the Committee

Government representative – Thank you for giving us the opportunity to bring to the attention of the Committee information on the observance by Belarus of the Convention.

The basis for this discussion are the comments made by the Committee of Experts. In the comments, the Committee of Experts picked up two legal documents from our country. One, a Presidential Decree No. 3, of 2 April 2015, on preventing social dependency. Since January 2018, that has been carrying a new name on promoting employment. The Committee of Experts also commented on a Law of 4 January 2010 on people in labour therapy and rehabilitation centres and the conditions of staying in them.

I would like to draw particular attention to the fact that the Committee of Experts in their comments did not raise the question to the effect that the legal texts in their entirety or in any particular part infringed the provisions of the Convention.

The Committee of Experts looked at extracts from the Government's answer and also took information from the Belarussian Congress of Democratic Unions which gave a different picture than we gave. The basic recommendation of the Committee of Experts to the Government was that it continue to provide information on the application of this Decree and the Law.

We believe that this confirms that the Government of Belarus has carried out a very thorough analysis of the situation and taken the necessary measures to ensure that all the comments of the Committee of Experts made earlier are taken into account. Therefore, taking into account the report of the Committee of Experts, this statement will provide comments on the application of Decree No. 3 and the Law of 2010.

The Presidential Decree about preventing social dependency has had conceptual changes made to it. In January 2018, Decree No. 1 was adopted and that redrafted Decree No. 3 and changed its name. It is now called, "Promoting employment". So, the provisions of the decree on preventing social dependency relating to financial levies have been repealed.

Provisions about people who are able-bodied but are not working paying a levy for the financing of state services and provisions about them being administratively liable if they do not pay the levy have been withdrawn.

The new decree is designed to help those who want to find work, to get a job and get involved in legal employment and self-employment. As part of implementing the decree we have stepped up the work done by local authorities in every region of the country so that they can help any citizens for whatever reason who are not working at the moment but want to work to find a job.

The local authorities have directed and continue to direct people who want to work to vacant and new jobs, help them to train for professions where there is a demand for labour and also help them to do paid community service. They also provide information about the advantages of being legally employed.

In order to coordinate the work done to boost employment in all regions of the country we have 150 standing commissions. The members are MPs, people from local administration, specialists, representatives of unions and other NGOs. In the course of this year, these commissions have helped 4,000 people to find a specific job – 8,000 were directed to employment services in order to get further assistance in seeking work.

We are working actively in order to set up new jobs and get people into them. We have adopted various roles and enacted provisions to make this easier, to improve the business climate and to create conditions conducive to the development of entrepreneurship. As a result, we have seen new businesses established and running and we have seen more people registered as being self-employed. The increase there has been about 109 per cent. As a result of this, and as you would expect, the level of unemployment has come down. This year unemployment stands at only 4.5 per cent; by comparison in 2017 it was 5.6 per cent.

Implementing Decree No. 3 has also helped to create conditions which encourage people to find a legal job and pay their taxes. Decree No. 3 provides direct material incentives for this. People who are able-bodied and capable of working but who are not working have various types of utility and public services at a level which will enable recovery of the cost of providing them without any state subsidy. Since 1 January of this year, that has applied to the water supply and from 1 October this year it will apply to the supply of gas and heating. Decisions about citizens paying the full rate for these utilities are taken by the commissions to which I referred earlier. Before taking a decision, they very carefully analyse the situation of each individual citizen and they work to help them find a job as well. They also take into account any difficult personal circumstances that somebody might be facing. We exclude from this category of people, people who are not working for genuine reasons or because of their living circumstances – that means physically and mentally disabled people, pensioners, the spouses of diplomats and serving soldiers, people who are raising children under the age of 7 and disabled children up to the age of 18, three or more minors, students who are studying by day, people who have only lost their job or been dismissed for under six months, recent graduates, people who are being treated in hospital or as outpatients, and those who are studying abroad or working there. I would also like to say that people who are registered in the employment service as unemployed are also not included in this category of people who are not wanting to work.

In May this year that category included just over 6 per cent of the population of working age. When a decision is taken to include a person on this list and a person who has to pay in full for certain utilities at the full rate, we must take into account the fact that this accounts for under 1 per cent of the total.

For such people, the increase in the amount they pay for their services is just over 6 Belarusian roubles, that is approximately US$3. So the main goal of Decree No. 3 is to help all those able-bodied people who want to work to find a job in the legal economy and to do it. People who for genuine reasons are not working because of their circumstances or are in difficult circumstances are offered support by the State and pay for the utilities and public services at a level which is subsidized by the State. Therefore, we are taking an appropriate approach to those citizens who need financial support from the State. That is understood, if somebody does not need to work or does not want to because they do not want to pay their taxes then that is fine but they can pay for their utilities or public services at the full rate – use the service, pay what it costs.

Now turning to our law on labour therapy and rehabilitation centres and the conditions of staying in them; this law deals with issues related to those people who are chronic alcoholics, drug addicts or abusers of other substances, and therefore in these centres.

Let me emphasize that the enforced isolation of citizens is a measure that is necessary to prevent criminal behaviour by people who are dependent on psychotropic substances and to ensure that they can get the necessary assistance to help them reintegrate into society. We can send to these centres only those people who have repeatedly three or more times in a year caused public disorder when they were under the influence of alcohol, drugs or other intoxicating substances.

One of the conditions for this is also that after such offences these people were already warned about the possibility of being sent to a rehabilitation centre but have been found administratively liable for further offences in the following 12 months. They can be sent to these centres for only 12 months on the decision of a court and the court can extend that time or reduce it down to six months. Medical treatment is provided. People in these centres are helped to recover and be socially reintegrated. They are provided with medical treatment with psychological assistance and they are given the opportunity to educate themselves. Furthermore, we help them to reconnect with their families. Often they have lost contact with them. Work is also one of the things involved. According to the law, medical and social rehabilitation includes vocational guidance, vocational training, retraining, skills acquisition and improvement and work. People in these centres do work consistent with their age, their ability, their health and any qualifications they may have. Payment for their work and the provision of holidays is provided in accordance with the labour legislation. Vocational training, retraining and skills acquisition in various professions in jobs is provided in production units and workshops in the centre.

Since the law has been in operation since 2010, over 7,000 people have received such retraining in these centres and this has been successful. People in these centres have regular meetings with representatives of NGOs and state officials to see how motivated they are, to check their behaviour and to provide them with work and training. People in the centres are regularly provided with updated information on getting a job by the employment service, for example they are taught how to register as unemployed and receive welfare benefits, about where there are jobs available, where and how they can continue with their vocational training, the State support that is available for the organization of entrepreneurial activity and other issues.

In Belarus, work is done constantly on improving best practices in rehabilitating and assisting people who are dependent on alcohol. For example, we have a national centre on psychiatric health which is doing research into the development of a comprehensive programme for the medical rehabilitation of people who are in these centres. On the basis of the research done, the Ministry of Health, together with the Ministry of Internal Affairs, has started to implement a pilot project to ensure that in many of these centres we follow a method for comprehensive medical rehabilitation which includes work. The effect has been positive as far as the psychological and emotional states of people in the centres are concerned. We are working on that too. We have a new method which is proving effective and we intend to introduce it in all the centres.

It is clear that what was stated by the Committee of Experts about the Presidential Decree on promoting employment in Belarus and our law on the labour therapy and rehabilitation centres and the conditions they are in prove that these are not out of step with the provisions of the Convention. Our laws are aimed at dealing with social issues such as unemployment and fighting alcoholism and drug addiction. The approaches we have taken in our law and in practice are in accordance with the principles of justice and we believe they are socially justified.

Employer members – I would like to thank the distinguished Government representative for her submissions before the Committee. This additional information has been a helpful explanation of the two primary issues that continue to exist in this case. This case involves a fundamental Convention, Convention No. 29 on the prohibition of forced labour and has been subject to observations by the Committee of Experts in 2015, 2017 and most recently in 2018. The case has been discussed in the Committee in 2016 and in 2018, and an ILO technical advisory mission visited the country in June 2017.

We recall that the Convention deals with the commitment of a member State to suppress the use of forced labour, and forced labour is defined as work "which is exacted under menace of penalty and for which the said person has not offered himself voluntarily". Clearly, there have been a number of aspects of this case that have been discussed in prior years, including the former Decree No. 1 that has been repealed, as well as a variety of other decrees. This case now really deals with two issues, and that is, first, the Presidential Decree No. 3 and second, the Law No. 104/3 of 2010. I thank the Government delegate for her explanation today, the elaboration on the changes that Decree No. 3 has undergone, and the explanation of the conceptual changes made to the Decree to shift its focus to the promotion of employment. So, to shift the focus from imposing an administrative levy or if there was an inability to pay to require work if an individual was not working, rather a conceptual shift instead to the promotion of employment for those who are unemployed. The Employers' group welcomes the Government's submission that the provisions regarding the administrative liability or levies have been withdrawn from Decree No. 3 and that the focus now of this Decree is designed to help those individuals who want to find work to do just that.

We appreciate the statistics of the people who have been assisted as a result of the Decree involving the promotion of employment, and also find it very positive that there is a focus within this new Decree on the promotion of entrepreneurship, so the promotion of employment and the promotion of entrepreneurship. In our view, this aspect of the case has really moved from a concern about the contravention of Decree No. 3 as non-compliant with the Convention. It has moved away from that kind of an assessment and this now in the Employers' view seems that Decree No. 3 now is in compliance in that it does not exact forced labour. So, we would suggest that this case has now moved into the monitoring phase in which what we would be doing is ensuring that the Decree does not revert back to a scenario where there is, in fact, forced labour exacted but rather stays within the conceptual framework of the promotion of employment. The Employers' group would, therefore, suggest that the Government be encouraged to report on the implementation of Decree No. 3 in practice only during the regular reporting cycle, not in a special manner, in order to confirm these changes and upon the receipt and confirmation of this information, this aspect of the case could be closed in our view.

The situation is a little less straightforward with respect to the Law of 2010 where we understand that citizens suffering from chronic alcoholism, drug addiction or substance abuse may be sent to medical labour centres as a result of a decision by the court and that such people who are interned in medical labour centres have an obligation to work. I appreciate the Government Minister's submission on the effort to focus on both vocational guidance, vocational training and work as a component of medical rehabilitation, and the study and the learning that is being done on the connection between work and rehabilitative efforts. So, I say this is a little less clear because it is possible that a situation that has been described could result in forced labour but there is no evidence at this moment that that is, in fact, the outcome, and so in our view, this aspect of the case has also moved into the monitoring phase. In this regard, we would encourage the Government to provide information so that the Committee of Experts can assess that, in fact, the application in practice of this Law is not resulting in the exaction of forced labour. So, in this regard, we would also suggest that the reporting of this aspect – because it simply has moved into a stage where it could result in a violation, not it is resulting in a violation – that the obligation of the Government has shifted to, once again, its regular reporting cycle. So, of course it is important that

the Government remain committed to ensuring that it is not exacting forced labour in contravention of the Convention's obligations, but we think that the current status of the matter is very positive and we would certainly encourage the Government to continue to focus on the promotion of employment and the promotion of entrepreneurship in the country.

Worker members – The case of Belarus is not unknown to our Committee. In 2016, it was a double-footnoted case indicating the gravity and persistence of the problems in Belarus. In 2018, the same problems had to be raised again as no significant improvement had been noted in the country, despite the technical advisory mission of the International Labour Organization that visited the country in June 2017.

The case of Belarus is also known to all of the ILO supervisory mechanisms. For example, Belarus was the subject of a Commission of Inquiry in 2003 in relation to violations of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Once again this year, we are having to address the situation in Belarus in relation to the Forced Labour Convention, 1930 (No. 29), as there is every indication that the situation has not improved.

The first Article of the Convention provides that "Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period." Forced or compulsory labour can take different and varied forms, with the result that the Convention was updated through the adoption of the Protocol of 2014 to the Forced Labour Convention, 1930, so as to cover the new forms of forced labour.

Presidential Decree No. 3, previously called the Decree "on the prevention of dependency on social aid", now rebaptized as the Decree "on the promotion of employment of the population", provided for a special tax to finance government expenditure. Any person who had not worked for at least 180 days in the last year had to pay the tax. We described the tax as a veritable levy on the poor. If a person was unable to pay the tax, she or he was liable to an administrative penalty in the form of a fine or administrative detention with compulsory community service.

It appears that in the meantime Presidential Decree No. 3 has indeed been amended. We expressed the hope last year that this amendment of Decree No. 3 would bear witness to a real desire to combat unemployment, and no longer to take measures against the unemployed. We fear that this hope is disappointed. And we do not consider that this aspect of the case is now in conformity with the Convention, in contrast with the Employers' group.

Presidential Decree No. 3, as amended by Decree No. 1, provides for a new form of financial penalty. Citizens who are able to work contained on the list of persons who are not working will have to pay a higher price for public services, which will not exceed the economically justified cost of such services. The list of people who are not working will be drawn up by the Permanent Commissions established to coordinate the application of Presidential Decree No. 3, as amended.

We therefore observe that we are still in the same logic that prevailed before the amendment of Decree No. 3. Only the arrangements governing the financial penalty have been somewhat modified. The Government of Belarus does not appear to have changed its policy as outlined by the President in 2017, which we criticized when the case of Belarus was examined last year by our Committee. It is also important to note that this financial penalty applies to services that are of prime necessity.

The definition of citizens who are able to work is very broad and appears to be left to the discretion of the Permanent Commissions, as there is no means of appealing their decisions. Some 250,000 persons are concerned by this new form of financial penalty. The information provided by the Government prior to the Conference enumerates a number of categories of persons excluded from the concept of "unemployed persons who are able to work", and who are not therefore liable to the financial penalties. No reference is made in the information provided to the legal provision which enumerates these categories. It would be useful for the Government to provide this information to the Committee of Experts so that it can examine these provisions. It seems to us that these measures go beyond measures for the promotion of employment and impose excessive penalties on persons in difficulty.

We reiterate the call we made last year to the Government of Belarus to review this policy and to make real efforts to combat precarity and poverty, rather than penalizing the poor and vulnerable. We are still convinced that a policy of this type aggravates the problem of gender inequality, which should be a matter of special attention.

There is also another worrying issue in Belarus, namely the medical labour centres. The objective of these medical labour centres is to receive persons who are not leading a life that is in accordance with Government's idea of a healthy lifestyle. It also appears that the Permanent Commissions are authorized to determine the need to send to these centres citizens who are leading an antisocial way of life. Once again, we see the arbitrary nature that can be taken on by the concept of an "antisocial way of life".

According to the Government, these are only persons suffering from chronic alcoholism, drug addiction or substance abuse and who have repeatedly, three times or more in the course of a year, been subject to administrative procedures for offences committed under the influence of these substances. They must also have received one warning of the possibility of being sent to a centre if they commit further violations within a year of the warning. Following these administrative procedures, and if all the conditions are met, they may be sent to a medical labour centre following a court ruling.

The category targeted appears to us to be a particularly vulnerable group of citizens of Belarus who are in need of real medical and social assistance, rather than being forced to work. The time spent in the medical labour centres can be very long, between 12 and 18 months. Those who are sent to the centres are under the obligation to work. The Government describes these centres as centres in which many services are provided to the persons sent there to facilitate their reintegration.

However, the information that is reaching us paints a much more sombre picture of the situation: the centres are more like detention centres that fall outside the context of criminal prosecutions and which have no link to the offences that are committed; rehabilitation services are not compulsory, but work is imposed as an obligation; persons in the centres can be placed in a disciplinary cell for ten days if they refuse to work; the use of physical force is also authorized to compel internees to work.

As we can see, this picture is much less flattering than the situation that the Government has just described. In 2017, a little fewer than 7,000 persons suffering from addictions were subject to forced labour in the centres.

The Government also provides figures on the numbers who have received vocational training in the medical labour centres since the entry into force of the Law of 2010. The number is 2,945 persons. As we know that in 2017 alone slightly under 7,000 persons were detained in such centres, the figure of 2,945 persons since 2010 who have benefited from vocational training seems marginal and

leads us to doubt even more the rehabilitation role that the Government attributes to the centres.

It appears from the information provided by the Government prior to the Conference that these medical labour centres fall under the responsibility of the Department for the Execution of Punishments of the Ministry of Internal Affairs. In light of the objectives that are claimed for the centres, they should instead come under the responsibility of the Ministry of Health. The persons at whom the centres are targeted would merit real social support and medical care, rather than being forced to work.

It would also appear that when children are sent to public establishments, their parents have to reimburse the expenses incurred by the State for their maintenance. If they are unable to pay such sums back, and they suffer from any form of addiction, they may also be detained in a medical labour centre.

Last year, we raised the issue of parents who already have work, who run the risk of having work imposed on them by the Belarus authorities. Such a decision by the authorities may even have the effect that the persons concerned are dismissed from their jobs, which leaves them totally at the mercy of the arbitrary decisions of the Belarus authorities. It is therefore very clear that such a conviction is senseless, counterproductive and disproportionate.

The many and persistent failings in relation to the Convention in Belarus are a matter of particular concern. We cannot finish our intervention without highlighting the link between the flagrant lack of freedom of association in Belarus and forced labour practices. Freedom of association is essential in order to enable workers to organize and to ensure respect for their fundamental rights.

In this regard, we wish to recall that recommendations were issued concerning the application of Conventions Nos 87 and 98 following the Commission of Inquiry. Many of them have not been fully implemented to this day. It is therefore urgent for the Government to give full effect to the recommendations of the Commission of Inquiry.

Employer member, Belarus – We believe that the purpose of the practical steps taken by the Government of Belarus to implement the recommendations, which it received from the ILO in 2018, is to solve the problems which were raised before and help us all to achieve progress and mutual understanding. An advisory mission of the International Labour Office has provided technical assistance which we accepted. Furthermore, the ILO has worked together with state officials, employers' and workers' organizations.

Decree No. 3 on preventing social dependency has been thoroughly overhauled. On 25 January last year, its new drafting was adopted and its name was changed; it is now entitled the Law on Promoting Employment. It contains comprehensive measures to provide maximum assistance to those in Belarus who wish to work but currently do not find a job. The main role in doing that has been given to the local authorities, MPs and unions. It contains no provisions providing for forced and/or compulsory labour. The issue of a special levy to finance state services is not now in contradiction with the provisions of the Convention.

All workers, whatever their employment status in Belarus, are guaranteed the fundamental rights of workers – wages sufficient to ensure satisfactory living conditions; legally guaranteed working hours; health and safety at work. The Decree also aims at creating circumstances where working in the shadow economy illegally is no longer profitable. Laws have been adopted to make it simpler to get into business in Belarus and that has also helped people to find employment.

As Employers, we recognize our social responsibility in helping to get certain categories of people in Belarus into work and helping them to be reintegrated into society. For that purpose, we have Decree No. 18 on state protection of children from disadvantaged families referred to in the comments by the Committee of Experts. We encourage work, yes, but paid work. We are not in a situation where work is being forced upon people as a punishment; it is to help people return to a dignified healthy lifestyle and to find employment.

As Employers, we have been cooperating with the State even as we understand that sometimes it is very difficult to find this particular group of people paid employment. They need work which is appropriate to their state of health and, in so far as that is possible, on the basis of whatever qualifications they may have obtained in the past. As and when necessary, they are also provided with vocational training, retraining and help to obtain further qualifications. Despite the fact that this does put additional burdens and responsibility on businesses and companies, we do feel that, for the time being and given the state of our society, Decree No. 18 and its provisions remain necessary.

The employers of Belarus would like to stress that, at the moment, we do not believe that the laws, rules and regulations of Belarus contain any elements which would say we are engaging in forced labour. They are there to help us tackle social issues, such as protecting children, fighting alcohol dependency and drug addiction, and promoting employment and that is fully in line with Article 1 of the Employment Policy Convention, 1964 (No. 122).

We remain firmly attached to close cooperation with the International Labour Organization and this Committee in the hope that we can make further progress on the basis of mutual understanding and respect.

Worker member, Belarus – I represent the delegation of Belarusian workers and we are deeply shocked that Belarus is on the list of cases because the issue of forced labour apparently is not one that applies to Belarus. We have a prohibition in the Constitution and the Labour Code of the Republic of Belarus. Trade unions today have the authorities to ensure that the law is being applied. Technical inspections are possible and on the basis of our work in this area we can state confidently that in our country there is no basis for forced labour, nor is there any factual evidence demonstrating that it is taking place.

With regard to the Committee of Experts' comments we have closely read the report, but with regard to two questions raised by the Committee of Experts, I would like to say the following: Decree No. 3 – we, the Workers, have full information in this regard and I can say confidently that there are no grounds for a consideration of the case of Belarus in this context, both in terms of law and practice. We note that the Belarusian Government has taken into account the Committee of Experts' recommendations in this area. Decree No. 3 has adopted provisions exclusively for the promotion of employment and the Employer representatives have also participated in consultations allowing also to draw attention to another aspect.

Firstly, today there is no talk of administrative penalties on unemployed citizens and secondly, it is necessary to consider that the standing committees are carrying out activities in order to benefit local individuals and help them in finding employment. In practice, we can see that they are created and working in each town and region of our country. The main role of the standing commissions is to help in the finding of employment and there are many cases that we can demonstrate where standing commissions have provided practical help in finding work. What is important is that these commissions work locally where people live so that they can understand the situation of each individual and each case is considered on its individual merits. Any individual who does not have work is offered a number of possibilities. Individuals can continue free education and training or they can get state support, including for accommodation. I would particularly like to emphasize that individuals can also turn down all of the proposals which are offered and in such cases they are not denied any services,

they just pay the full cost of these services without state compensation and this is a very low increase in the price which does not have a significant impact on individuals' budgets. In order to counter the level of activity in the informal economy, this provides an incentive to transition to the formal economy. To give an example: if you have an apartment where no one is working, the increase in bills for that month would only be US$3, whereas the average income is $500. But I would particularly like to emphasize that the socially vulnerable category of individuals who cannot work are exempt from such payments and the Decree lists a range of categories who do not have to pay for services economically at justified costs. Such individuals are subjected to the decision of the authorities about whether they can be exempted if they find themselves in a difficult situation. We have many examples of this in practice.

The results of the work of the standing commissions is something that we see in trade unions as being effective. We see a comprehensive individual review of the problems of each individual in the commissions and we see the fact that the measures being taken are having a positive effect. Unemployment fell in 2017 to 5.6 per cent, and in February 2019 the level of unemployment was 4.5 per cent. I would like to ask the question: What is wrong with these approaches? What is being done wrong? Decree No. 3 in law and in practice promotes employment. This helps individuals achieve a job legally and leave the informal economy. Consequently, they have a legal wage, a pension and social security. For us trade unions this is particularly important.

This law in no way forces labour upon individuals. It simply promotes employment for all citizens equally. Secondly, it assists social reintegration for individuals in medical labour centres. Unfortunately, like for any country, there are citizens in Belarus who suffer from substance abuse and they find it difficult to integrate in society. This affects individual families and those who are close to them. Such individuals benefit from assistance and one thing that benefits reintegration into society is useful occupation. In light of this view, helping people reintegrate in normal life is something that these medical labour centres can help in. It only treats or only helps those individuals who have repeatedly committed offences and suffer from some form of substance abuse. The reference to these centres only takes place following a court decision. Quite often we see families themselves refer individuals to the authorities so that they can get such rehabilitation treatment. It is necessary that such individuals are given a health check, they are given medical and health support, and given state financial support. The citizens, during the period in the centres, are paid a minimum wage. This is a generally established approach and the individuals, while they are in the centres, do not lose touch with their families or friends. They can carry out vocational training. They can improve their qualifications which helps them to reintegrate on their return to society. So, in this way, we see a comprehensive approach, a multi-faceted approach that helps individuals overcome their problems.

What I would like to draw attention to is that the overriding objective is the rehabilitation and reintegration of individuals suffering from alcohol abuse or drug addiction. The main objective is to get them back into society. There is nothing here which relates to forced labour. This is an approach which is bearing fruit. Positive results. People going back to their workplaces and their families. This is work which is useful for individuals, families and society as a whole. So, in conclusion, allow me to say that the Federation of Trade Unions has no complaints about forced labour. Nor do we know of any cases of forced labour. We do not believe there are grounds for considering this case.

We are working actively with the international organizations. We see the Government fully taking into account of the recommendations that have been made by the ILO and is working hard to put them into practice. So what I suggest is that we take a positive, practical, objective approach on the basis of confirmed information, and that we take a balanced and objective decision accordingly.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries the Republic of North Macedonia, Montenegro, Albania as well as the EFTA country Norway, member of the European Economic Area, align themselves with this statement. The European Union and its Member States are committed to the promotion of universal ratification of the eight fundamental ILO Conventions and their implementation as part of our strategic framework on human rights. Compliance with the Convention is essential in this respect.

The European Union is committed to support Belarus to take tangible steps to respect universal freedoms, rule of law and human rights including labour rights. In this respect, notwithstanding the fact that the European Union has withdrawn tariff preferences from Belarus with its Generalized Scheme of Preferences, this scheme for serious and systematic violations of ILO fundamental Conventions, an active dialogue with Belarus has been engaged in the multilateral context of the Eastern Partnership, as well as bilaterally through the European Union–Belarus Coordination Group and the EU–Belarus Human Rights Dialogue. This dialogue is to be strengthened through the EU–Belarus Partnership Priorities which are currently being negotiated.

Cases of forced labour remain a persistent phenomenon in Belarus. That practice has been denounced in different forums such as the Committee on Economic, Social and Cultural Rights and the Human Rights Council, which have made several recommendations to eliminate it. We note with regret that this case is being addressed at the Committee for the third time since 2016. In 2016, the Committee had urged the Government to constructively engage with the ILO at the highest levels to resolve this issue before the next sitting and to avail itself of the ILO's technical assistance.

We welcome the fact that an ILO mission took place in 2017, that the Government has positively engaged with the Office and that some progress has been achieved. We welcomed the Government's decision to discontinue the implementation of Presidential Decree No. 3 of 2 April 2015. This Decree has now been replaced by Presidential Decree No. 1 of 25 January 2018. We took note of the fact that, according to the Committee of Experts' report, the former levy to finance government expenditure on persons who have not worked for 183 days in a year has been replaced by an obligation for unemployed citizens who are able to work to pay higher prices for various utility services. We believe that further investigation and examination needs to take place to report whether this new system could unduly penalize already vulnerable persons. We would like to request more information from the Government on that issue, since approximately 250,000 persons are targeted by these new provisions. We call on the Government to ensure that the implementation of this Decree does not go beyond employment promotion and that no excessive penalties are imposed on persons already living in a difficult situation in order to oblige them to perform work.

We also note in the report that medical labour centres remain an issue in the country in application of Law No. 104-3 of 2010. Indeed, section 16 of this law allows the use of physical force in order to coerce interned persons to perform labour. According to the Belarusian Congress of Democratic Trade Unions, human rights defenders evaluate these medical labour centres as detention or imprisonment outside the framework of criminal prosecution, where medical measures are provided on a purely voluntary basis, while

work is imposed as an obligation. Placement in those centres is applied to persons facing administrative charges for having repeatedly disturbed public order under the influence of alcohol and other intoxicating substances but also to people who have committed disciplinary offences at work under the influence of alcohol or intoxicating substances. It also applies to parents judged "dysfunctional" who have to reimburse state expenditure on the maintenance of their children placed under state care.

Against this background, we would like to request more information from the Government on the implementation of Law No. 104-3, including the number of persons sent to those centres in 2018, the reasons why they were sent and the judicial process leading to those sentences. We also highlight the need for the Government to provide medical and psychological support to all persons in need in these centres, as this is critical for their rehabilitation and reintegration at work and in society.

We welcome Belarus' engagement and cooperation with the ILO Office and encourage the Government to continue to avail itself of the ILO's assistance to ensure that the provisions and practices previously mentioned do not amount to forced labour.

The European Union and its Member States remain committed to their policy of critical engagement with Belarus and will continue supporting the country in meeting its obligations towards full respect of the fundamental international labour Conventions, including Convention No. 29.

Government member, Nicaragua – We thank the Government representative for the information provided to the Committee. We welcome the efforts made by the Government to ensure the effective application of the Convention, and to enforce and support the prohibition and eradication of forced labour. We emphasize that the prohibition of the use of forced labour in Belarus is set out in the highest legislation in the country, which demonstrates its determined commitment to complying with all of its obligations under the Convention and the relevant international instruments.

We note with satisfaction the opening of the country to genuine and constructive dialogue, as well as the high level of cooperation between Belarus and the ILO in relation to the application of the Convention, including receiving a technical advisory mission from the International Labour Office in July 2017.

Belarus has addressed the concerns raised by the Committee of Experts in its report and has taken practical measures in this respect. We firmly believe that Belarus is on the right track in terms of compliance with the Convention, and we call for recognition of the many measures taken by the Government of Belarus, to which we offer our firm support.

Observer, International Trade Union Confederation (ITUC) – I represent the Belarusian Congress of Democratic Trade Unions (BKDP). We thank the Committee of Experts for the analysis of Belarus and the application of the Convention. The situation in Belarus in our view is still very complicated. Labour relations are not governed by the Labour Code but the decrees of the President. One of the decrees means that all workers are put on short-term contracts. Instead of a civilized form of recruitment you get some kind of transition to forced labour because workers cannot leave their jobs voluntarily.

Another system is the excessive punishment for workers in the form of a fine which again has the characteristics of forced labour. Thus, for small offences, workers can be deprived of three-quarters of their salary which is already one of the lowest in Europe. And, the so-called social parasitism decree which makes citizens subject to discrimination in terms of payment for local basic services.

There are still forced labour practices in medical labour centres where they send alcoholics. The name of these centres should not lead one to believe that there is any medical therapy there. That is not the case. The system is essentially a continuation of the totalitarian regimes of the last century's 30s which housed drug addicts and alcoholics. We also see families whose children have been taken away subject to forced labour because they have to carry out work. We see the re-education of undesired social elements. So, again, we see this case before the Committee which is important because there are still many elements of forced labour. We see the use of instruments being used to impose excessive fines. At the same time, further challenges are being put to the principles of the ILO. We have one of the worst systems in the world and we would like the ILO to call on the Government to put an end to the practices of many years and respect the rights of trade unions and the citizens by respecting the provisions of the Convention and the ILO.

Government member, Bolivarian Republic of Venezuela – The Government of the Bolivarian Republic of Venezuela welcomes the presentation by the Government representative. We welcome the fact that the Government of Belarus is highly committed to the prohibition and eradication of forced labour within the framework of the Constitution, national legislation and the Convention. There can be no doubt about the importance that the Government of Belarus is according to the comments of the Committee of Experts, and even in 2017 the Government accepted and provided the necessary collaboration for an ILO technical advisory mission which visited the country to examine the law and practice with a view to full compliance with the Convention.

We emphasize the specific changes made by the Government of Belarus to the legislation and decrees within the framework of the Convention, and to raise employment levels and to establish the conditions to improve the climate for entrepreneurship. We have noted the official policies of the Government of Belarus for the rehabilitation and reintegration of citizens who suffer from alcoholism and drug addiction. The Government of the Bolivarian Republic of Venezuela hopes that the conclusions of this Committee, resulting from this debate, will be objective and balanced, so that the Government of Belarus can achieve full compliance with the Convention.

Worker member, China – We have noted that Belarus has made great progress in this area. It has continued to improve its labour legislation, bringing it into accordance with the relevant provisions of the Convention. In January 2018, Belarus adopted Presidential Decree No. 1 aiming to promote employment and self-employment to respect the rights of workers and safeguard people's economic and labour rights. Belarus has established a social dialogue platform at the national level allowing trade unions to express the views of workers through mechanisms such as the National Council on Social and Labour Issues and the Council for the Improvement of Legislation in the Social and Labour Sphere. Belarus has also worked with the ILO in a constructive manner. In February 2019, ILO representatives participated in the conference "Tripartism and Social Dialogue in the World of Work" and the meeting of the Council for the Improvement of Legislation in the Social and Labour Sphere on the conclusion and application of tariff agreements in the Republic of Belarus.

Government member, Cuba – My delegation wishes to place emphasis on the elements reported by the Government of Belarus, which has provided information on the legislative measures adopted to give effect to the recommendations made at the time by the Committee of Experts. We welcome the measures adopted which demonstrate the good will of the Government of Belarus to comply with its commitments and obligations in relation to the Convention. We recognize the measures applied and the spirit of cooperation shown with the ILO, and that the measures adopted are intended for the good of the population.

Worker member, Russian Federation – I am taking the floor on behalf of the workers of the Russian Federation, and we fully share the concerns which have been expressed in the report of the Committee of Experts with regard to the situation of the Convention in the Republic of Belarus. We pay particular attention in Russia to the state of the law in Belarus, because it is a closely related State to the Russian Federation. We see that the situation of workers is worsening and that could be easily transferred to our own legal system.

At the last International Labour Conference, we expressed our concerns with regard to the labour relation systems in the Republic of Belarus, and the activities of the Government establishing the system for unemployed citizens who can be subject to fines and even administrative arrest. Following protests, these provisions were partially corrected.

In the new decree, since January 2019, citizens on a special list have to pay a higher price for communal services, which violates the principles of the Convention, and can be subject to further measures in the decree such as financial penalties. Also, there is a further category of workers who can be put in medical labour centres, where they are subject to mandatory labour.

The Republic of Belarus imposes short-term contracts on workers, not allowing unlimited contracts to be assigned nor any formalization of the labour relationship. At the same time, instead of allowing the state inspectorate to identify such cases as being in violation of the Law, Degree No. 1 of 2019 actually claims measures that allow this situation to continue.

We believe that it is necessary to recognize the burden that is being placed on the workers, and the delegates of the Russian Federation's workers believe that those individuals who have been persecuted for demonstration are being treated unfairly, and this creates a precondition for the violation of freedom of association in Belarus, which we have noted time and again in this hall.

The delegation of Workers of the Russian Federation calls on the Government of Belarus to take into account the comments of the Committee and to bring its law and practice into line with the Convention, in accordance with the conclusions of the Committee of Experts.

Government member, Uzbekistan – We welcome the open-minded attitude and active cooperation of the Republic of Belarus with the ILO on its compliance with the Convention. This is illustrated by the fact that in 2017 the Belarusians welcomed a technical advisory mission from the ILO to Minsk and cooperated fully with it in its work.

In response to comments made by the Committee of Experts, the Belarusian authorities have taken specific measures removing provisions from the law about able-bodied citizens who do not work having to pay more for their utilities and being brought to administrative responsibility if they do not. In our opinion, Belarus has achieved a lot in bringing down unemployment and in helping people who have no job to return to legal, working activity.

Government member, Viet Nam – Viet Nam welcomes the commitment and efforts of Belarus in the promotion of employment and the eradication of forced labour. We note that the prohibition of the use of forced labour is enshrined in the Constitution, the Labour Code and other legal acts of Belarus. We welcome the positive development in Belarus reflected through the increase of new enterprises and individual entrepreneurs and the decrease of the number of unemployed citizens of working age.

We appreciate the consideration of and practical steps taken by the Belarus Government given to the comments made by the Committee of Experts. Viet Nam encourages Belarus to further its cooperation with the ILO, dialogue with related stakeholders, and continue its commitment to the implementation of its relevant international obligations.

Employer member, Uzbekistan – Please allow me on behalf of the Confederation of Employers to welcome the efforts of Belarus at the government level and in the area of social dialogue, and support the measures that have been taken to review the issue. The Minister of Labour in Belarus has provided a detailed report on practical measures taken in accordance with the law of the country and fully in line with the provisions of the Convention and already reflected in the new draft of the decree from January 2019.

Furthermore, I would like to thank and support the Employer members for their constructive position on this issue. We highly value the openness, transparency, technical objectivity and the expert approach of the team of the International Labour Organization which we can fully support, and in their cooperation with the Government of Belarus in demonstrating the importance of tripartite consultation with the involvement of state bodies and the active involvement of levels of government. We believe that it is appropriate to record our positive attitude to the cooperation that is taking place and I would like to do so on behalf of my Confederation.

Government member, Lao People's Democratic Republic – On behalf of the Government delegation from Lao People's Democratic Republic, I welcome the progress made in the efforts of the Government of the Republic of Belarus to fulfil its obligation under the Convention and support the prohibition and elimination of forced labour. Lao People's Democratic Republic also welcomes the high-level with long-standing cooperation of Belarus with the ILO on the application of ILO Conventions, especially Convention No. 29.

We appreciate that the Government of Belarus has tried its most efforts in eliminating forced labour through implementing its most important legislation framework including the Labour Code and many other legal acts, and many practical steps are taken in this regard. The numerous actions taken by the Government of Belarus should be recognized.

We have a strong belief that the Government of Belarus – who already has a firm commitment to and long-standing cooperation with the ILO – the Belarus Government will very soon comply with the Convention. We extend our support to the Government of Belarus, and call for the case of Belarus on the application of the Convention to be removed in the near future.

Government member, Switzerland – Switzerland supports the statement made by the European Union and wishes to add some points. Switzerland welcomes the Government's collaboration with the International Labour Organization, and the progress achieved in the application of the Convention.

Switzerland wishes once again to express its concern with regard to the provisions of the national legislation of Belarus imposing compulsory labour on certain categories of workers. We note in particular that section 16 of Law No. 104-3 of 4 January 2010 on the procedure and modalities for the transfer of citizens to medical labour centres, which authorizes the use of physical force to oblige internees to work, is very problematic. Forced labour is a violation of human rights.

Switzerland therefore calls on the Government to continue its efforts for the elimination of this practice and to provide all the information requested by the Committee of Experts in its report. Belarus should also pursue its collaboration with the ILO with a view to bringing its law and practice into conformity with international labour standards.

Government member, India – We welcome the delegation of Belarus and thank it for providing the latest comprehensive update on the issue under consideration. India welcomes the continued willingness and commitment of the

Government of Belarus to fulfil its international labour obligations and to eradicate forced labour. We appreciate the positive and significant steps taken by the Government of Belarus, including by taking into account the observations of the Committee of Experts to amend its internal laws. These include the presidential decrees related to the Convention, issued after consultations with relevant stakeholders, especially the social partners, to realize the goals enshrined in its Constitution. We understand that the efforts of Belarus need to be in accordance with its national context and social economic priorities. In fulfilling its labour-related obligations, we request the ILO and its member States to fully support the Government of Belarus and provide any technical assistance that it may seek in this regard. The Committee should be a forum for constructive tripartite discussions aimed at improving compliance with international labour standards through a transparent, credible and objective process. We take this opportunity to wish the Government of Belarus all success in its endeavours.

Government member, Kazakhstan – Kazakhstan notes the willingness of the Government of Belarus to follow international recommendations to apply the principles of the ILO and put into practice the recommendations of the Committee of Experts on the Convention. In light of the measures taken by the Government to ensure and promote employment and promote entrepreneurship and reduce the financial burden on the population, we support the conclusions of the Employer members and many other delegations, recognizing that the measures taken by Belarus take into account the recommendations of the Committee of Experts in law and in practice and meet the requirements of the provisions of the Convention.

Government member, Islamic Republic of Iran – My delegation thanks the distinguished Government representative of Belarus for providing information on the latest situation of the application of Convention No. 29. We appreciate the efforts of the Government in fulfilling its obligations concerning this fundamental Convention. We are pleased to learn that prohibition of the use of forced labour in Belarus is enshrined both in the Constitution and in the Labour Code of the country.

My delegation is of the opinion that the Government has demonstrated its strong will and determination to make progress vis-à-vis the concerned issues. We invite the Committee to give due consideration to the efforts made by the Government. While supporting the measures taken by the Government of Belarus concerning the application of the Convention, we encourage the Government to continue to do so and the Office to render further necessary assistance to the Government in this respect.

Government member, Russian Federation – We are grateful to the Government representative for her exhaustive report on measures taken by her country to comply with its obligations under the Convention. We already looked at this question in this Committee last year. At the time, the Russian delegation suggested that we note the information provided by the Government with satisfaction, assess it positively and close the case. However, unfortunately, the same question has popped up on the agenda this year. I would like to emphasize that the Government of Belarus has done a great deal of work and continues to do so, taking into account the comments and recommendations made by the Committee thereby showing a high level of openness and constructive cooperation with the International Labour Organization.

In 2017, Belarus hosted a technical advisory mission from the International Labour Office and the Organization's representatives were given all necessary support and assistance to do their work. Specific steps have been taken to comply with the recommendations too. For example, Presidential No. 9 of 7 December 2012 which led to a rebuke from the Committee of Experts has been repealed. Major changes have been made to Presidential Decree No. 3 of 2 April 2015 too. It has now been renamed by the way, it is called "promoting employment". It no longer contains provisions compelling able-bodied citizens who do not work to pay a levy to the State and to risk being made administratively liable if they do not. These steps have been based on a comprehensive analysis of Belarusian legislation in the course of the discussion which took place in the Committee. We note the wide-ranging work done by Belarus to help people look for work and get a job and also to make it easier for people to bring their business out of the shadow economy and work legally. The State assists those citizens who cannot work for genuinely objective reasons because of their living circumstances or because they have family difficulties. Belarus has demonstrated in acts its readiness to comply with its international commitments under ILO Conventions. It has shown a high level of cooperation with the ILO and it is particularly important that it has been working in close cooperation with its social partners. We are certain that will continue. We do not see any further grounds for later consideration of this issue involving Belarus in the Committee.

Government member, Myanmar – Myanmar welcomes the positive steps taken by the Belarusian Government in promoting employment, as well as eliminating forced labour or compulsory labour in the country. We take note of the Government's efforts to promote employment in the country by taking systematic measures extensively. We recognize the Belarus cooperation with the ILO in implementing many Conventions, including Convention No. 29. Myanmar acknowledges the Government's efforts to ensure social reintegration of citizens who lead an antisocial way of life, through labour activity, by providing the medical, social re-adaptation activities, including vocational guidance and vocational training.

We are also appreciative of the Government's efforts to create new jobs for its people by adopting a number of laws to provide measures to improve the business climate, stimulate business activities and attract investment. Moreover, Myanmar welcomes the Government's efforts to assist citizens in finding employment and to raise awareness regarding decent work by carrying out an information campaign through the media. We are encouraged to see that these effective measures have led to positive results. The unemployment rate of citizens of working age has decreased from 5.6 per cent in 2017 to 4.5 per cent in February 2019.

We take note of the Government's legislative reforms, including the amendment of relevant laws which contribute to the elimination of forced labour or compulsory labour.

In conclusion, Myanmar expects that Belarus will be able to eliminate forced labour by continuing its current measures, further cooperation with the ILO and consultation with its social partners.

Government representative – Once again, allow me to thank you for giving us the opportunity once again to speak here and explain the position of the Government of Belarus on the matters being considered. And thank you also to all the participants in the discussion. We have analysed or we will analyse closely everything that is being said in this room. All of the constructive proposals will be taken into account in our future work.

I am not going to comment in detail about what has been said here today, especially those points which go beyond the scope of the Convention. A number of speakers addressed the issue of short-term contracts. This is something that we have already discussed in detail. As we have already seen, the Committee of Experts has looked at this. They have identified there is no violation of the provisions of the Convention. Once again, allow me to address those points which I believe are the most important.

First of all, I would like to draw attention to the members of the Committee on the relation of the Government of Belarus to the comments of the Committee of Experts. The legal act which the Committee of Experts referred to has now been changed. This is Decree No. 9 on additional measures for employment. The Report of 2017 noted with satisfaction the changes, and we can also say, perhaps more importantly, that there are no questions from the Committee of Experts about the Convention being violated by the Decree. The Committee of Experts asked the Government to continue reporting on the application of the Decree.

I would particularly like to emphasise that as a review of the issues pointed out last year, there have been further requests to the Government to provide further information which we have always done. We provided detailed information in our report which was addressed to the Committee of Experts in autumn last year. I would also like to recall that in 2017, in Belarus, there was a mission from the ILO which looked at the application of the Convention. It was provided with all necessary information. So we are convinced that the rules of the Decree, or the provisions of Decree No. 3 and the other related measures, including the specific revisions identified by the Committee of Experts, do not contravene the provisions of the Convention. There are a number of social missions which are served by these instruments such as the campaign against substance abuse, and the promotion of employment.

Once again, the provisions relating to penalties have been removed. The clear objective of these texts is to promote employment. There are no financial penalties. There are exclusively measures to provide help, and those who failed in – and there are certain higher prices paid for local services. With regard to the labour therapy centres, we are talking about people in need of medical help, and these centres provide social, medical and psychological services as well as rehabilitation. Occupational rehabilitation is also one of the elements of this treatment, and we need to recognize the positive effects of this. The level of alcohol consumption in the country is falling. We are willing to continue, and we will continue to inform the ILO of the application of these legal texts.

Worker members – I would like to thank all the speakers, and particularly the Government representative for the information that she provided our Committee.

We call on the Government to take all the necessary measures to bring an end to forced labour and to refrain from adopting legislation which could give rise to forced labour. Through the imposition of financial penalties on persons without employment, the Government of Belarus is running the risk of further marginalizing an already vulnerable group. We invite the Government to establish a real policy to combat unemployment and precarity and to cease its policy of taking action against persons without employment and those in a precarious situation.

It is therefore necessary to bring an end to the financial penalties, in whatever form they may take, that are imposed on the persons contained on the lists of those without employment who are able to work. If the Employers' group is still not convinced that this measure is still in violation of the Convention, which appears clear to the Workers' group, the suggestion made by the representative of the European Union to undertake an in-depth investigation to assess the new system should at least be accepted.

We also request the Government to provide information to the Committee of Experts on the number of persons contained on the lists of persons without employment who are able to work established by the Permanent Commissions and to indicate the criteria used to determine when a person is "able to work". The information provided prior to the Conference is not adequate in this regard. We therefore invite the Government to provide this information in time for the next session of the Committee of Experts, including details of the legal provisions that define these categories.

If the financial penalties against persons without employment and the compilation of lists of persons without employment who are able to work are not abolished, at the very least a judicial appeal procedure should be introduced against the decisions of the Permanent Commissions.

As requested by the Committee of Experts, we call on the Government to provide information on the effect given in practice to Law No. 104-3, including on the number of persons placed in medical labour centres and on the forced labour involved in the context of their rehabilitation.

We further request the Government to provide information on the jurisdictions that are competent to hand down a conviction to perform community work.

In order to be able to have a better understanding of the violations noted in medical labour centres, we ask the Government to provide information on the controls undertaken by the inspection services in the centres and their outcome.

We also request the Government to provide information to the Committee of Experts on what the Government representative called "labour therapy" in order to assess if, among other matters, the requirement of consent set out in the Convention is met in this context.

Moreover, we ask the Government to provide written information indicating the ministry that is competent for the medical labour centres and the exact functions that it is required to undertake.

With a view to bringing an end to all forms of forced labour, we request the Government of Belarus to prosecute any person who exacts forced labour and, if found guilty, to establish dissuasive civil and penal sanctions.

In order to accelerate the implementation of these recommendations, we request the Government to receive a direct contacts mission led by the ILO.

Employer members – I would like to begin by thanking the Government representative and those other members of our Committee that took the floor. I think that this was a very useful discussion of the case before us. I would like though to remind the members of the Committee that we are discussing Convention No. 29 in relation to forced labour and therefore references to Convention No. 87 or other international labour standards are out of place in this discussion as they do not form the basis for our consideration of this case.

I would recall that article 41 of Belarus's Constitution, and article 13 of the Labour Code as a starting legal framework, prohibit forced labour. So this is an important starting point as we discussed in our opening comments. This case has evolved and I would suggest that the understanding of the Belarus Government in respect of its obligations under the Convention have also evolved.

The Employers understand that at the current time, Decree No. 3 has been revised to focus on the promotion of employment and we understand that the provisions regarding administrative liability or levies or the requirement of compulsory work have been withdrawn from Decree No. 3, therefore allowing this focus to be truly on the promotion of employment. Therefore, in our understanding, the potential that this Decree can result in compulsory or forced labour, that issue has been removed. So, we, at the outset of our closing remarks, note in a very positive way the refocus and the conceptual change to focus on employment promotion – an effort that we believe to be valuable and important.

I heard some of the interventions focus on this question of whether there is fairness in respect of either the imposition of financial sanctions if one does not work or the fairness of having to pay a full rate of public utilities without state subsidy if one does not work. We would submit though that neither of those situations constitutes forced labour. And so, at the end of the day, that is not an issue we

think that merits further discussion and as a result we do not agree with the concept of an in-depth, detailed survey to assess this new system. We do not believe that is necessary at this time. Rather, we believe that the Government's obligations would be to report on the implementation in practice of Decree No. 3 in compliance with the regular reporting cycle only.

Turning to the issue of the Law of 2010 and individuals referred to medical centres in which the Employers' group understands that the focus of these centres is on the medical rehabilitation of those citizens suffering from addiction and that this happens as a result of a court decision or a court order. We understand that taking into account the social issues that this process is trying to address, part of these rehabilitative efforts include compulsory vocational skills training and compulsory work.

The Employers' group in this respect encourages the Government to submit information on the implementation of Law 104-3 of 2010 in practice, so that the Committee of Experts can have a better understanding of how compulsory work is deployed within the context of the medical centres. And here again we view that the Government's obligation would be to provide this information in connection with its regular reporting cycle.

So our view of this case is different than the Workers' perspective in this matter and we view this rather as an example of a government that has made efforts taking into account the feedback that has been provided in the technical missions as well as the discussion in our Committee and the observations of the Committee of Experts, that this is in fact evidence of a government attempting to come into compliance with its full obligations under the Convention and we believe it should be encouraged in this respect. Therefore, for these reasons, we also do not support a direct contacts mission as a result of this case at this time.

Conclusions of the Committee

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

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.

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

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.

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.

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.

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.

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.

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.

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)

Discussion by the Committee

Government representative – With reference to the report that we are called upon to present to this Committee, we have to point out in the first place that it must be noted that our State is characterized by the promotion of constant and unconditional dialogue with absolutely all the social partners. That is done with a view to the adoption of appropriate and balanced decisions to address the needs and interests of the community as a whole. It is carried out within the framework of a clearly democratic and participatory political system, in accordance with the provisions of our Political Constitution of the State since 2009, which reformed the country by incorporating the highest standards of social justice, in accordance with the will of a constituent assembly voted into power by the majority will of the Bolivian people.

The Government of President Evo Morales Ayma is a Government that develops economic and social policies in support of all women and men Bolivian nationals, but which also seeks to protect sectors that have historically been excluded and suffered discrimination. Accordingly, dialogue, consultation with the various sectors and the search for consensus are the methods that are used to govern, as respect for national and international law is a characteristic of our Government.

With regard to the comments contained in the report of the Committee of Experts, we have to note its observation that, while the Government affirms that consultations were held with the social partners, the Confederation of Private Employers of Bolivia (CEPB) and the International Organisation of Employers (IOE) claim the opposite.

Today, it would therefore appear that doubts have been raised concerning the word of the Bolivian State in relation to the holding of full consultations with the social partners. Of course, there are opposing opinions, but the facts are nevertheless clear. In the Plurinational State of Bolivia, minimum wage fixing is not a political measure at the discretion of the Government, but is the result of responsible dialogue with the social partners, as envisaged by the Convention, that is, dialogue with employers and with workers.

In this respect, it should be noted that on 25 March 2019, a meeting was held between the CEPB and President Morales and the Ministers of State, in which the discussion specifically focused on the fixing of the minimum wage for the present financial year. Another meeting was then held on 30 April 2019 with the private employers of the Plurinational State of Bolivia, in which wage matters were also examined. These facts, among many others, show the perseverance of the Government in engaging in full dialogue. Moreover, specifically in accordance with the Convention, which was adopted to supplement other ILO Conventions

relating to the protection of workers against unduly low remuneration, the Plurinational State of Bolivia applies a policy of the gradual and systematic increase of wages. The complaints of the employers, who participate in dialogue with the Government for the fixing of the minimum wage, therefore appears to be a complaint against social justice, which is a fundamental pillar of the Plurinational State of Bolivia.

The fact that we are appearing before this Committee today due to a complaint by employers means that employers are endeavouring to use the Convention to try and prevent the State from setting decent wage levels for workers. Basically, this appears to be a challenge against the economic model of the Bolivian State, which has been found to be successful, not by us, but by international organizations and the international community. The figures are clear and do not lie.

The central objective of the Convention, as set out in Article 1, is the establishment of a system of minimum wages which covers all groups of wage earners. The essential aspect of the Convention is therefore the fixing of minimum wages, and the tool used to achieve this objective is social dialogue through the machinery established democratically by the Bolivian State.

The Preamble to the Convention reaffirms the role of States in protecting disadvantaged groups of wage earners in relation to employers, that is, the protective role of the State in relation to workers which, in our case, is mandated by the Political Constitution of the State, and to which full effect is given.

Another aspect is the observation by the Committee of Experts that there are differences concerning the criteria taken into account for the setting of the level of minimum wages. Since 2006, the Government of the Plurinational State of Bolivia, under the leadership of President Evo Morales Ayma, has developed measures which have allowed unduly low wages to be increased, in full compliance with the spirit of the Convention, and in respect of mechanisms of dialogue and consultation with the categories involved within the framework of the Constitution and the machinery established by the legislation in force.

As a result, the Government of the Plurinational State of Bolivia has quadrupled the minimum wage, which in 2005 was 440 bolivianos (approximately US$63), which was one of the lowest levels in the region. The wage is currently 2,122 bolivianos (approximately US$300). This increase in the wage was determined taking into account the criteria set out in Article 3 of the Convention, that is: (a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; and (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

In this regard, it should be pointed out that the wage policy followed by the Government is proportional to the growth and production of the Plurinational State of Bolivia, which has also quadrupled as a result of the social, productive and community economic model. Indeed, since 2005, gross domestic product (GDP) has grown by US$9,568 million to over US$37,000 million in 2017. They are not therefore arbitrary increases, but increases based on the solid and growing economy in our country.

The World Bank has recognized that our country is among the leaders in the region in reducing wage inequality. According to the Gini Coefficient of Labour Income, over the last ten years the wage gap has improved from 0.53 per cent to 0.44 per cent as a result of the economic model. Extreme poverty was also reduced by 38.2 per cent to 15.2 per cent during the period between 2005 and 2018. Over 3 million persons have been taken out of poverty and our society is no longer a pyramid. Now, the majority of the population, 62 per cent, have average incomes which enable them to live well. These objectives are also set out in our Patriotic Agenda focused on 2025, which we believe are in accordance with the Sustainable Development Goals for 2030.

The wage policy that has been implemented has generated greater domestic demand, which has also been very beneficial for the private sector, where profits have been multiplied by four, rising from 8,663 million bolivianos in 2006 to 27,766 million bolivianos in 2017. This is because the economic model is based on the following pillars: the nationalization of natural resources and industrialization, the strengthening of domestic demand, the distribution of wealth and dynamic state investment, which guarantee results in terms of economic stability, employment generation, a decrease in the unemployment rate and the constant growth of the economy, which are contributing to reducing poverty and the levels of inequality.

As shown by these figures, private employers have benefited to a large extent from the economic, political and social stability and legal security provided by the Government of the Plurinational State of Bolivia in order to be able to invest and engage in new initiatives with the security that they will obtain optimum results.

It is the ineluctable duty of employers to afford security and social stability to the men and women workers who depend on them. Nevertheless, there are employers who provoke the premeditated failure of enterprises and abandon them. In this regard, we regret the unfounded accusations made by the Employers to this Committee, based on procedural arguments, with a view to limiting the just and equitable increase in the minimum wage, in accordance with the provisions of the Convention. We also regret the inclusion of this case in the list by the Committee. On the contrary, governments should be encouraged to improve the standards of living of their populations within the framework of the Convention and in light of the obligation to respect human rights.

The wage increase was determined taking into consideration the positions of both social partners, the workers and the employers, with whom the Government engages in dialogue and full consultations. For this purpose, working round tables have been established at the highest level of the Government with the representatives of the CEPB and have met on several occasions. Clear proof of this is provided by the national press. The full consultation required by Article 4(2) of the Convention refers to machinery for the fixing, application and adjustment of minimum wages, that is the legal design of the provisions that will govern the process of the determination of the minimum wage. The Government's wage policy is focused on reducing the enormous economic gaps and favouring categories that are traditionally excluded, that is those who earn the least, by increasing wages by above the inflation rate, while maintaining the sustainability of public and private investment. Annual increases are determined on this premise.

In this context, the Plurinational State of Bolivia firmly believes that the legal interpretation of the provisions of the Convention needs to be more rigorous and not lose sight of the fact that its spirit is the protection of wage earners in view of their intrinsic asymmetry with employers.

With regard to the institutional machinery, we are bound to recall that the determination of minimum wages in the Plurinational State of Bolivia takes place within the following institutional framework:

(1) article 49 of the Political Constitution of the State, which provides that the law shall regulate labour relations, including the fixing of general and sectoral minimum wages and wage increases;
(2) section 52 of the General Labour Act, which provides that the determination of the remuneration of wage

earners shall be carried out by the central Government;

(3) Presidential Decree No. 28699 of 1 May 2006, which provides that employers and workers shall agree freely on remuneration, which shall be above the national minimum wage determined by the Government.

The Constitutional framework is therefore established and has its origins in the Political Constitution of the State which, in the Plurinational State of Bolivia, is not only the outcome of consultation with workers and employers, but with the whole Bolivian people since, it should be recalled, the Constitution is the outcome of a constituent assembly and a confirmatory referendum.

In accordance with the machinery for the determination of minimum wages, since the last International Labour Conference in 2018, the Government has engaged in a series of full consultations with both sides with a view to setting the minimum wage and many other social policies. We now therefore have a balanced minimum wage which takes into account the position of both partners and the parameters indicated above. The Government of the Plurinational State of Bolivia is committed to continuing to hold these dialogue round tables with employers.

Worker members – Today we will examine the application of Convention No. 131 by the Government of the Plurinational State of Bolivia. This is the 16th observation made by the Committee of Experts on the subject of minimum wages in the Plurinational State of Bolivia since the Convention was ratified by the country in 1977.

An active debate is currently essential on what constitutes appropriate minimum remuneration to protect workers and their families from poverty and ensure stable remuneration in times of financial fluctuations.

As the representative of the Workers, we once again reaffirm that engaging in social dialogue in good faith is key to the implementation of an equitable and just economic policy at the national level. Such dialogue enables the Government and the social partners to work on a common strategy to promote decent work, inclusion and social justice.

As indicated by the Committee of Experts in its previous observations, the minimum wage system envisaged in the Convention is intended as a social protection measure to overcome poverty by guaranteeing decent levels of income, especially for unskilled workers and marginal groups.

The establishment of a minimum wage is intended to protect workers against the payment of low wages and to prevent exploitation, by guaranteeing that all men and women workers benefit from a fair distribution of the results of progress.

The Convention is based on the idea that it is necessary to protect wages, which are generally the only means of subsistence of workers, faced with the effects of market competition and to prevent a race to the bottom.

First, I wish to reflect on the debate in the Committee in June 2018 on the application of the Convention by the Government of the Plurinational State of Bolivia. During the discussion, the Government was requested to adopt a series of measures, and I quote, "the Committee urged the Government without delay 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; avail itself of ILO technical assistance to ensure without delay compliance with the Convention in law and practice; and accept an ILO direct contacts mission." As workers, we welcome the decision of the Government to increase the national minimum wage for 2018, through Presidential Decree No. 3544, with the result that the minimum wage rose from 2,060 bolivianos a month to 2,122 bolivianos a month.

During the process of wage negotiation, account was taken of various factors, including inflation, productivity, GDP, economic growth, the unemployment rate, market fluctuations and the cost of living. These elements were taken into consideration in accordance with Articles 3 and 4 of the Convention.

We also welcome the application by the Government of wage policies intended to preserve the real value of the remuneration of men and women workers with the lowest incomes and to protect their remuneration so that it does not lose value as a result of inflation. This policy of the Government of the Plurinational State of Bolivia is key to ensuring a just distribution of wealth and removing the greatest number of men and women workers from poverty.

We also applaud the reaffirmation by the Government that the ideal of equality is a fundamental pillar of a sustainable economy. We wish to reaffirm that open social dialogue plays an essential role in ensuring the sound design and adaptation of public policies to all aspects of the economic and social situation of a country.

Taking this into account, we consider it appropriate to encourage the Government to continue its major efforts to give effect to the Convention, which requires the holding of consultations in good faith with the representative organizations of employers and workers for the establishment, operation and adaptation of the machinery through which minimum wages are fixed and adjusted.

We emphasize the importance of the Convention and its application, with the incorporation of objective quantitative methods for the determination of the minimum wage in which the active participation is ensured of the most representative organizations of employers and workers in future decisions concerning wages.

Effective consultations and the full participation of the representatives of employers' and workers' organizations are essential to guarantee solid, sustainable and broadly accepted machinery for minimum wage setting.

Employer members – We thank the representative of the Plurinational State of Bolivia for the information provided to this Committee. The Committee of Experts has made observations on various occasions in which it noted with concern matters related to Convention No. 131. That was the case in 2013, 2014, 2017 and 2018.

This Committee examined the case last year, when it urged the Government without delay to: (a) carry out full consultations in good faith with the most representative employers' and workers' organizations with regard to minimum wage setting; (b) take into account when determining the level of the minimum wage the needs of workers and their families as well as other economic factors; (c) avail itself of ILO technical assistance to ensure without delay compliance with the Convention in law and practice; (d) accept an ILO direct contacts mission; and (e) submit a detailed report to the Committee of Experts in 2018.

Those conclusions were the product of a long discussion in the Committee during which the failings that justified such conclusions were determined. It is to be hoped of a Member of the ILO that the recommendations of its supervisory bodies are implemented in good faith. It is now our responsibility to determine the extent to which, if any, the Government of the Plurinational State of Bolivia has given effect to these recommendations, beginning with those that are of most concern to employers, that is the full consultations required before the determination of the minimum wage.

Indeed, the Convention is very clear in Article 4 on the need for the Government to engage in full consultation in

good faith with representative organizations on the establishment, operation and adaptation of the machinery through which minimum wages are set.

As we noted during the examination of the case last year, the Convention describes the consultations as full. To shed light on what that means, I would like to refer to the comments made by the Committee of Experts in its examination of the same case in the now distant year of 2009, when this problem arose. I quote: "While recalling that *consultation* should be kept distinct from *co-determination* or *mere information*, the Committee considers that the Government is under the obligation to create and maintain conditions permitting the full consultation and direct participation of the most representative employers' and workers' organizations in all circumstances. It therefore urges the Government to take appropriate action to ensure that the requirement for meaningful consultations set forth in this Article of the Convention is effectively applied, preferably in a well-defined, commonly agreed and institutionalized form."

The mere indication of the wage that it is intended to adopt, which we understand was the closest that the Government of the Plurinational State of Bolivia came to a communication to employers, cannot in any manner, in light of the above, be considered consultation, and still less full consultation. It is clear to us that for this to be the case, consultations have to be held in good faith with a view to identifying the concerns and aspirations of each of the parties and with the objective of achieving consensus, or as a minimum of incorporating the concerns and sensitivities of the partners into the decision that is finally adopted by the Government.

During the two meetings to which the representative of the Plurinational State of Bolivia referred, we understand that fiscal matters were discussed, and that the information provided in one of them was limited to the figure by which the Government was planning to increase the wage, without permitting discussion of the subject. In evidence of the lack of will by the Government, I refer to the notification published on 18 April this year, which I quote: "the Minister of Development Planning, Mariana Prado, confirmed on Tuesday to the Fides News Agency (ANF) that it had been agreed not to engage in tripartite negotiation with the participation of the private sector, and that the determination of the wage increase would be balanced." There was no consultation, and especially not full consultation, despite what the Government has said. What the Government of the Plurinational State of Bolivia did was to reach agreement solely with workers' organizations, in clear violation of the provisions of the Convention and the most elementary standards of this House concerning social dialogue, which is one of its pillars.

Indeed, we have seen a document concluded by the Government and the Bolivian Workers' Confederation (COB), dated 30 April this year, in which it is agreed, among many other matters, to reform the labour legislation and increase wages.

This situation was indicated to the Committee by us during the examination of the case last year, when we referred to public statements by high-level government officials to the local media in which open and categorical assurances were given that employers would not participate in decisions on minimum wages and that it is government policy to determine the increase in the minimum wage only with the workers.

Today, the facts confirm once again the reality of this policy, which is in violation of ILO standards and those of the country itself, as they have been incorporated into national legislation through the ratification of the Convention.

In the report that we are examining, and in others that have been produced for many years, the Committee of Experts requests the Plurinational State of Bolivia to give effect to its consultation obligations in relation to the determination of minimum wages. The response that we have seen has been the same.

This situation has to change, for the credibility of the supervisory procedures and because we have to ensure that the Members of the ILO comply in good faith with the Conventions that they have ratified. This has to be done in the most rigorous terms possible, in light of the retrograde attitude of the Government of the Plurinational State of Bolivia and the complacency of certain Worker representatives who do not see the evident dangers in this advantageous situation, which is nevertheless of little benefit, as it is undermining social dialogue and, in the final analysis, the rule of law in a country through the systematic violation of its laws. Sooner or later that will be to the prejudice of the population as a whole.

With regard to the second aspect, namely the non-compliance of the country in relation to the elements that have to be taken into account to determine the level of minimum wages, in accordance with Article 3 of the Convention, we have no indication that such elements were taken into consideration. Once again we are required to point out certain specific concepts of Bolivian legislation. There are two reference points for wages. On the one hand, there is the national minimum wage, which is universal for workers in all areas of the economy as the minimum level of remuneration that they should receive for a full day's work, in accordance with the regulations. On the other hand, there is the so-called "basic wage", which applies to all workers and cannot be lower than the minimum level referred to above, but which may be higher. This is therefore independent of the minimum wage and its determination is a consequence, in each specific case, of the individual or collective contract between employers and workers.

Article 49(2) of the Political Constitution of the Plurinational State of Bolivia specifies that the law is the suitable machinery for the determination of wages. The institutions that supervise the domestic constitutionality of the Plurinational State of Bolivia are those that must determine whether or not the Government has the legal power to intervene in the determination of wage increases by means of Presidential Decrees, as it has been doing in practice and, if so, whether they should also be the subject of consultation with the social partners, as we have been saying.

We have also expressed our reservations, as being in violation of the right of employers and workers to collective bargaining, of the requirement, under the terms of the ministerial decisions that are issued every year regulating wage increases, for the parties to negotiate an increase in the basic wage, for which a time limit is also set to reach agreement and for the submission of the agreement to the government authorities, under penalty of fines and sanctions for the employer for each day of delay, which places unfair pressure on the employer.

We have been noting that since 2006 the national minimum wage has been increased by more or less 300 per cent and the basic wage by 150 per cent, with both figures being well above inflation. Moreover, the official figures show a fall in GDP growth since 2014 and the International Monetary Fund (IMF) forecasts that this will continue until 2022.

The IMF predicts that the country and its economy will face a period of major challenges relating to complexities in key sectors such as hydrocarbons. Earlier figures suggested that the elements referred to in Article 3 of the Convention have not been taken into account in the determination of wages. If they had been considered, wages would undoubtedly not have been increased by the percentages noted above, as in practice happened in the public sector.

Finally, with regard to collaboration with the Office to resolve the problems that have been identified, the Committee of Experts regretted that the Government had not even replied to the request by the Conference Committee to send a direct contacts mission.

This shows once again the Government's attitude to finding a solution to the issues that we are raising. We have no doubt that the Government of the Plurinational State of Bolivia is deliberately refraining from consulting the employers' organizations in the country in relation to the determination of minimum wages. Nor has it any interest in collaborating with the Office. Indeed, it would appear to be indifferent to the situation of non-compliance with its obligations deriving from the Convention, as well as its impact on the national economy, with sources of decent employment being reduced, accompanied by an incessant growth in the informal economy, where no minimum wages of any type are guaranteed, and there is no other type of labour protection or social security.

We need to remind the Government of the Plurinational State of Bolivia, in the most severe terms, that it is in violation of its obligations under the Convention, and needs to take the corresponding action.

Employer member, Plurinational State of Bolivia – Over and above the complete astonishment with which we have heard the report by the government authorities containing a message that is absolutely not in accordance with the real situation, we are bound to recall that, as is known to the members of this Committee, at the 107th Session of the Conference held in 2018, in view of the complaints and protests made jointly by the CEPB and the IOE for many years, the failure of the Government of the Plurinational State of Bolivia to apply and comply with Convention No. 131 was finally examined. In view of its ratification by our country, the Convention certainly forms part of the constitutional bloc envisaged in article 410 of the Political Constitution of the Plurinational State of Bolivia.

In this light, it should be recalled that the complaint made by our employers' organization is based on the fact that the Government of the Plurinational State of Bolivia has been setting the wage increases to be applied, not only in relation to the national minimum wage, but also for the basic wage, without engaging in any consultations with employers' representatives, and particularly not in the form of the full consultations required by Article 4 of the Convention. Indeed, on the contrary, it has confined itself to setting such increases on the basis of the direct negotiations that the Government has been holding for all these years with the Bolivian Workers' Confederation (COB), completely ignoring the representatives of private employers, which have been required to assume the measures imposed upon them in this respect.

It should be noted that this is confirmed by ILO documents, including the various reports of the Committee of Experts in 2006, 2007, 2008, 2009 and 2010, among others, in which it indicated that the authorities of the Government of Bolivia should engage objectively in full consultations and that it was essential to draw a distinction between the concepts of consultation, co-determination and mere information, on which clear guidance is contained in Paragraphs 1, 4 and 5 of the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113). There can therefore be no confusion in the Committee between the action referred to by the Government relating to the holding of isolated meetings in which general discussions were held on various subjects, but which in no case amounted the compliance with the procedure of full consultation with specific reference to the determination of the national minimum wage. It is clear, not only that no documents exist showing that Bolivian employers were taken into consideration and invited to discuss this subject, but also that in recent years we have not even had the good fortune to have been received at any meeting in the Ministry of Labour, as the Ministry responsible for labour matters, and have certainly not had any meeting with the responsible Minister.

We must point out that between 2006 and this year, 2019, in view of the increases imposed by the Government, the national minimum wage has risen in overall terms by over 322 per cent, while the basic wage has risen by over 130 per cent. That has given rise to a multiplier effect that is insupportable for various enterprises as they provide the basis for the calculation of all the other elements that make up the wage structure, and this increase has to be reflected in the wage agreements that are also imposed by the Ministry of Labour through regulations setting out a deadline for such agreements, under penalty of the imposition of financial fines for delays in the event of failure to comply, which increase on a daily basis up to the equivalent of 40 per cent of the payroll. This situation undermines the legitimate voluntary negotiation referred to in Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which has also been ratified by the State of Bolivia.

It should also be recalled that at the last Conference, as indicated in the records of this Committee, in relation to the same complaint of failure to comply with the Convention, in contrast with what was said today by the representatives of the Government, and which runs counter to what we have been told, the then Minister of Labour of the Plurinational State of Bolivia, in defence, said precisely that: "The essential characteristic of the Convention [is] the fixing of the minimum wage, and not necessarily social dialogue". That means that, in the view of the authorities of the Government of Bolivia, social dialogue, which has always been promoted by this house, is not a component of the Convention. We therefore assume that this mistaken view was the reason why employers' representatives are excluded from any consideration in relation to the determination of the national minimum wage, thereby failing to take into account the views of Bolivian employers, which have constantly endeavoured to persuade the national Government to also take into consideration for the fixing of increases the criteria set out in Article 3 of the Convention, including economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

As a result of these events, and as recognized by those who preceded me in the 2018 Conference in their conclusions, the Committee expressed concern at the dysfunctional operation of social dialogue and called on the Plurinational State of Bolivia to ensure compliance with the Convention. It also requested it to avail itself of ILO technical assistance to ensure without delay compliance with the Convention in law and practice and to accept an ILO direct contacts mission.

However, unfortunately, one year after the adoption of the Committee's conclusions, none of the action requested from the Government has been undertaken. On the contrary, despite noting the proposal made publicly by the employers' confederation in this respect for 2019 that the increase in the minimum wage could not exceed 2 per cent, as the annual inflation rate was 1.51 per cent, the Government systematically refused to engage in full consultations with representatives of private employers, as borne out in the numerous statements made to the press in which the various Ministers and representatives of the Bolivian Workers' Confederation rejected any possibility of negotiation and tripartite discussion. On the contrary, as it has been doing all these years, the Government once again focused its attention on direct, single and exclusive negotiation with the Bolivian Workers' Confederation. Negotiation sessions were held with Ministers between 27 and 30 April 2019, which finally resulted in the authorities of

the Bolivian Government, under the leadership of their chief, and the leaders of the Bolivian Workers' Confederation, signing an agreement on 30 April 2019, which was read out at a press conference, and which set at 3 per cent the increase in the minimum wage and 4 per cent for the basic wage. In both cases, these increases were much higher than the accumulated inflation rate of 1.5 per cent.

This agreement is flagrant evidence of the failure of the Bolivian Government to comply with the Convention. Contrary to the message conveyed by our authorities, this has had an effect on the economy and is reflected in the level of informality in our country, which is over 70 per cent, and the disincentive for investment and the contraction of employment due to the total lack of certainty among employers, who are finding it impossible to adopt the necessary measures and take the action required to assume the cost represented by the discretionary increase in wages, which moreover is retroactive to the month of January each year.

Finally, I have to say that our organization is convinced that the basis for any rule of law is faithful and in-depth compliance with the law and the standards by which each society chooses to be governed. For this reason, we continue to believe that, following all the efforts made for our complaint to be finally considered, reviewed and decided upon by the Committee in 2018, its conclusions cannot be simply ignored and overlooked by the national Government, and that this failure of compliance has as its only consequence the need to provide a report year after year to justify the unjustifiable. We therefore call on the Government to understand the gravity of this lack of compliance in view of the need for all the member States of the ILO to be subject to the supervisory bodies of this Organization to ensure compliance with the Conventions ratified by each country, and the Plurinational State of Bolivia cannot be an exception in relation to the supervisory bodies.

Government member, Brazil – A significant majority of the countries in the Group of Latin America and the Caribbean (GRULAC) thank the Government of the Plurinational State of Bolivia for the information provided. We welcome the efforts made by the Plurinational State of Bolivia to take into account the positions of both social partners in setting the minimum wage, as well as the needs of workers and their families and economic factors. We also note the existence of national mechanisms for dialogue with workers and employers, which also cover the implementation of Convention No. 131.

Taking into account, as indicated in the Sustainable Development Agenda 2030 that sustained, inclusive and sustainable economic growth will only be possible if wealth is shared and income inequality is addressed, we welcome the information provided by the Government of the Plurinational State of Bolivia on the progress achieved in reducing wage inequality through a real increase in the minimum wage and the consequent positive effects on poverty reduction and economic growth.

We reiterate the importance of the Convention in supplementing the protection of workers against unduly low wages. We also emphasize that the Convention does not impose a single model on all ILO member States.

We take into account the information provided by the Government of the Plurinational State of Bolivia on the consultations held with representatives of employers and workers for the determination of the minimum wage based on criteria of balance and equity. We also note the progress achieved since the last International Labour Conference in terms of compliance with the Convention.

Finally, we encourage the Government of the Plurinational State of Bolivia to continue its efforts to strengthen its mechanisms for consultation with the social partners.

Government member, Nicaragua – My delegation thanks the Government representative for the report presented to this Committee. We commend the Government of the Plurinational State of Bolivia for having continued the consultations with the partners involved and employer representatives on wages, and for the establishment of the working dialogue round tables at the highest level of the Government with the representatives of the conference of employers in the country. We emphasize that the Government, in addition to taking into account the position of both social partners, considers the criteria set out in Article 3 of the Convention. We also welcome the fact that, as a result of the Government's conciliatory and inclusive wage-setting policy, the Plurinational State of Bolivia is among the most successful countries in the region in terms of reducing wage inequality, according to World Bank data. Similarly, we emphasize that Bolivia has taken the lead in economic growth in the region, tripling GDP per capita in the country over the last 13 years, with an increase of 12 per cent.

We encourage the Government of the Plurinational State of Bolivia to continue making efforts to achieve the effective and comprehensive development of the country with a view to good living.

Employer member, Argentina – As indicated by the previous speakers, ensuring tripartite social dialogue as a condition for the setting of the minimum wage offers a series of benefits that are globally recognized. In contrast, when its level is determined ignoring the situation faced by producers in each country, it can be transformed into an obstacle for the creation of genuine employment. At the 107th International Labour Conference in 2018, this Committee requested the Government of the Plurinational State of Bolivia, among other matters, without delay to carry out full consultations in good faith with the most representative employers' and workers' organizations and to take into account when determining the level of the minimum wage the needs of workers, but also other economic factors, such as inflation, levels of productivity and the requirements for the economic development of the country, in accordance with Article 3 of the Convention.

We are concerned that there has been no response to the request by the Office to send a direct contacts mission and that the decision was taken to go forward with a new increase in the minimum wage without consulting the constituents. This concern is greater due to the absence of information on the elements that were taken into consideration and the manner in which they were weighted for the determination of the level of the minimum wage.

The Employers hope that the Members of the ILO give effect in good faith to the Conventions that they have ratified and listen carefully to the recommendations of the supervisory bodies. The opposite would imply disregarding, and particularly failing to take advantage of the benefits of social dialogue at the various levels and disregarding the international standards that have been ratified, a decision that would in the end have an impact on the whole of the population.

In conclusion, we hope that this Committee will urge the Bolivian Government to receive a direct contacts mission and accept the comments of the supervisory bodies, taking advantage of the technical support of the Office to ensure the tripartite consultation of employers' and workers' organizations and to give due weight to the different economic variables that have to be taken into consideration for the determination of the minimum wage.

Observer, IndustriALL Global Union – I am speaking in the name of the IndustriALL Global Union, representing over 50 million workers worldwide. We have read the Committee's reports and recommendations on the application of the Convention, and, in particular, we have taken note of the recommendation to the Bolivian Government to carry out full consultations in good faith with the most representative employers' and workers' organizations with regard to minimum wage setting; and to take into account

when determining the level of the minimum wage the needs of the workers and their families.

We have heard reports from the Bolivian Workers' Confederation – la Central Obrera Boliviana (COB), that in 2019, the Bolivian Government held consultations and negotiations with the representative employers' organization and with the COB to establish and adjust the national minimum wage. As you may be aware, in Bolivia the minimum wage is the lowest amount a worker can legally be paid for his work, meaning that employers in Bolivia who fail to pay the minimum wage may be subject to punishment by Bolivia's Government. Our understanding was that this year, in 2019, the only proposal that came from the employers' organizations was to not increase, hence to "freeze" the national minimum wage, while on the other hand, the COB carried out ample national consultations with their membership and presented their proposals and set of recommendations to the Government.

In June 2019, the national minimum wage stands at 2,122 bolivianos per month, which is equivalent to US$306 per month. It may be useful to recall that between 2001 and 2019, the average minimum wage in Bolivia used to range around 1,009 bolivianos per month (roughly US$140 per month) and actually remained stagnant around US$55 per month in 2001. Hence, we note that since President Evo Morales took office in 2006, the minimum wage has increased over 300 per cent in the interest of workers. This latest increase in 2019, of around 3 per cent, is slightly above the inflation rate of 2.3 per cent (according to the IMF) and remains below the country's annual growth rate of around 5 per cent (as the World Bank says).

"Raising real incomes for workers to boost domestic demand remains one of the pillars of Bolivia's sustained economic growth, which has been keeping it as the South American leader in recent years." As the Vice-Minister of Labour Hector Hinojosa has reported, the consecutive increases of the minimum wages in the Plurinational State of Bolivia over recent years has corresponded to steady economic growth and the development of internal markets, as well as to the development of productive and service sectors.

Already several years ago, the UN Economic Commission for Latin America and the Caribbean (CEPAL) declared that: "Gradual increases in the minimum wage contribute to reducing inequality and have no significant adverse effects on aggregate employment." Taking into account the progress achieved during the recent negotiations on the national minimum wage between the Government and the COB, we consider that it is important to encourage the Bolivian Government to continue advancing and implementing social dialogue and to pursue all efforts to bring the employers to negotiate in good faith. IndustriALL trusts the COB will continue to support the implementation of a socially responsible and inclusive economic policy.

Government member, Bolivarian Republic of Venezuela – The Government of the Boliviarian Republic of Venezuela welcomes the presentation by the distinguished representative of the Plurinational State of Bolivia in relation to compliance with the Convention. We welcome the fact that, within the context of compliance with the Convention, the Government of the Plurinational State of Bolivia is taking into account the need to protect workers against low pay with a view to reducing extreme poverty and with the objective of ensuring that workers can provide for their own needs and those of their families, in the light of socio-economic factors.

It should be emphasized, as indicated by the Government of the Plurinational State of Bolivia, that it is developing dialogue and consultations with the sectors involved for the setting of the minimum wage. We are sure that the Government of the Plurinational State of Bolivia will continue to give effect to the Convention by setting the minimum wage with increases that continue to benefit the workers.

The Government of the Bolivarian Republic of Venezuela hopes that the conclusions of this Committee, resulting from the debate, will be objective and balanced, based on the explanations and information provided by the Government of the Plurinational State of Bolivia.

Employer member, Chile – The Committee is having to examine once again the case of the Plurinational State of Bolivia in relation to the implementation of Convention No. 131. We must regretfully note, as the Committee of Experts does in its 2018 observation, that the Government of Bolivia has not given effect to the recommendations contained in the conclusions adopted by this Committee last year.

In particular, it is a matter of concern that the Government of the Plurinational State of Bolivia is persisting in not holding full consultations in good faith with the CEPB, in its capacity as the most representative employers' organization. This situation, which has persisted for many years and has been the subject of various observations by the Committee of Experts since 2004, must be resolved as soon as possible to protect decent work and the sustainability of enterprise activity. The imposition of increases in the minimum wage without taking into consideration the diverse realities of private enterprise gives rise to uncertainties that can end up making formal activities by enterprises unfeasible. It is therefore important that, when setting the minimum wage, the criteria and proposals of employer and worker representatives are taken into consideration.

An April 2018 report by the ILO indicates that the informal economy employs over 60 per cent of the active population in the world. In this regard, the rate of informal work is also high in the Plurinational State of Bolivia. For this reason, it is important for the Government to enter into dialogue with all of the social partners to listen to their views and, in so doing, develop policies that promote formal and protected work. In this respect, the imposition of increases in the minimum wage without taking into consideration their impact on private sector activity can have the effect of pushing back the formalization of employment, thereby affecting the sustainability of formal enterprises.

For this reason, in the same way as the Committee of Experts in its observation in 2018, and its previous observations in 2004, 2006, 2007, 2008 and 2009, we respectfully call on the Government of the Plurinational State of Bolivia to proceed without further delay to hold full consultations in good faith with the most representative organizations of employers and workers on the setting of the minimum wage, and to respond to the request made by this Committee last year for an ILO direct contacts mission to visit Bolivia in the near future to try and determine the facts and examine in situ the possibilities for resolving the problems that have arisen.

Worker member, Bolivarian Republic of Venezuela – The workers of the Bolivarian Republic of Venezuela give our support to our comrades in the COB in all the action that they have taken to defend the wages of men and women workers from the onslaught of inflation. We support the Government of Bolivia, under the leadership of comrade Evo Morales, a worthy representative of the working and rural classes, in its efforts to maintain the purchasing power of wages and in the consultations and social dialogue undertaken with the participation of the COB and the CEPB. We emphasize that both the workers and the Government confirm that consultations and social dialogue were held for the setting of the minimum wage on 1 May 2018 and twice in 2019, and that the Employers indicate that they were not consulted.

In the Bolivarian Republic of Venezuela, employers are maintaining almost absolute silence on the rise in inflation, largely caused by the manipulated rise in prices that are not

in accordance with the structures of the cost of production, while they cry scandal when a Government that is committed to social justice and peace engages, through social dialogue, in wage increases that protect workers from the wave of inflation by maintaining the minimum purchasing power for subsistence.

This behaviour by the CEPB appears to be part of a repetitive cycle of employers' organizations affiliated to the IOE, which focus on confronting governments that promote policies of social justice, maintain a policy of productive growth, guaranteeing the adjustment of the distribution of wealth, providing social security for formal and informal workers and promoting decent and rural work, as the Government of Bolivia is doing.

We draw attention to the adoption of measures of interference in the internal affairs of Bolivia which, far from being a means of promoting social dialogue and peace, are being converted into a public relations and media campaign to generate international disapproval of the Government and society in Bolivia, as has occurred recently with the sister Republic of Nicaragua and also with the Bolivarian Republic of Venezuela, by seeking to obscure the immense social progress and giving rise to subsequent and continuous measures of pressure. In conclusion, we support and encourage the Government of the Plurinational State of Bolivia to continue developing social dialogue.

Government member, China – The Chinese delegation has listened carefully to the statement made by the representative of the Bolivian Government. We have noticed that in recent years the Bolivian Government has established a consultation mechanism on wages for employees, a dialogue mechanism with social partners and policies related to the determination of wages benefiting both employers and employees. The wage gap between workers and the number of the poor have been effectively reduced and the per capita GDP, the number of enterprises and the size of the middle class have continued to expand. We believe that the Bolivian Government has demonstrated positive political will and made tangible efforts to comply with relevant international Conventions. The Chinese delegation supports the Bolivian Government's continued dialogue with the partners concerned and hopes that the ILO will provide necessary technical support to the Bolivian Government.

Government member, Cuba – The Government of the Plurinational State of Bolivia has indicated that a mechanism for direct tripartite consultation has been established for the determination of the minimum wage and also for social dialogue with the respective social partners. It also reported that social dialogue includes specific consultations, through working round tables established at the highest level. It has told this Committee that it took into account the position of both partners in the process of increasing the minimum wage. For that reason, it considered the needs of workers and their families, the cost of living, economic factors, levels of labour productivity, among other relevant aspects. The Government's wage policy has had positive effects by reducing unemployment and promoting public and social investment, all for the benefit of its people. The results described are clear and show the Government's political will and commitment to comply with the Convention. They must therefore be allowed to apply their measures in an environment of cooperation and exchange, without pressures which could distort the Government's policy of the protection of social justice.

Worker member, South Africa – I am speaking on behalf of the Southern African Trade Union Coordinating Council (SATUCC) concerning the application of Convenion No. 131 by the Plurinational State of Bolivia. Regarding the Employers' claim that increases to the minimum wage in the Plurinational State of Bolivia are increasing the informality, it would be important to ask the Employers on what data they are basing this allegation.

Although unfortunately there appears to be no available data on the evolution of informal economy activity in the past three years, the Plurinational State of Bolivia's Ministry of Economy and Public Finances has reported that informality has fallen substantially over the last two decades in the Plurinational State of Bolivia, from 68 per cent in 1991 to 46 per cent in 2015. Furthermore, the largest share of the fall in informality was recorded precisely between 2006 and 2015. This fall corresponded precisely to the steady increases in the minimum wage in the Plurinational State of Bolivia that have taken place since 2006. The Ministry also reported that the decline in informality was the second largest among 158 countries studied, after Uruguay.

At the international level, several studies, in particular a paper from OECD economists on the effect of minimum wages in ten emerging economies, concluded that minimum wages do not appear to increase informality. In fact, studies show that minimum wage is helping to address issues of working poverty.

Taking into account the progress in the recent negotiations on the national minimum wage between the Government and the COB, we consider that it is important to encourage the Bolivian Government to continue advancing social dialogue and to pursue all efforts to bring the employers to negotiate in good faith.

Government member, India – My delegation welcomes the delegation of the Government of the Plurinational State of Bolivia and thanks it for providing the latest comprehensive update. We appreciate the inclusive economic development agenda being actively pursued by the Government of Bolivia while taking positive steps to fulfil its international labour obligations related to decent work and social justice. This includes minimum wages that are fully aligned with the object and purpose of the Convention, availing the flexibility provided in it in accordance with its national context and priorities. The steps taken by the Government of the Plurinational State of Bolivia towards a balanced wage policy and social dialogue mechanism, especially with those representing the more vulnerable, have brought tangible and substantial reductions in national wage gaps and poverty levels and have raised the standard of living of its people, in addition to other benefits to the general economy and society creating a win–win situation for both the employers and workers. We request the ILO and its member States to constructively engage with, and fully support, the Government of the Plurinational State of Bolivia including through the work of this Committee in realizing its labour-related socio-economic goals as well as in fulfilling its labour-related international obligations. We take this opportunity to wish the Government of the Plurinational State of Bolivia all success in its endeavours.

Government member, Argentina – The Government of Argentina once again reaffirms its commitment to this Organization, as well as to social dialogue in its Centenary year. We give thanks to the representatives of Governments and the various social partners who have taken the floor on this item. We listened carefully to the intervention by the Government of the Plurinational State of Bolivia in which it provided details of the action taken to achieve an economy that is growing, stable and generates employment, and which has therefore substantially reduced the unemployment rate and decreased poverty.

The Plurinational State of Bolivia adopted Convention No. 131 taking into account the need to increase the protection of workers against low wages. As a result, the wage-fixing policy in this country has had benefits, both for the private sector and for workers. The World Bank has recognized that Bolivia is among the leading countries in the Americas in the reduction of wage inequality.

With Convention No. 131 and its effective application, the Plurinational State of Bolivia is taking action in the world of work to give workers an identity and dignity. It is also following the principles of the Sustainable Development Agenda 2030 and, as a future full member, is aligning itself with the principles of the Social and Labour Declaration of the Southern Common Market (MERCOSUR), which include the requirement to establish a minimum wage.

Argentina encourages the Government of the Plurinational State of Bolivia to maintain its efforts to strengthen mechanisms of full consultation with the social partners, thereby ensuring their full participation in setting the minimum wage and definitively resolving this complaint. It suggests that it accepts the direct contacts mission, as it said it would in the Conference last year, with a view to assisting, supporting and ensuring that all the social partners feel that they are participating in the progress indicated by the Government of Bolivia.

Worker member, Nicaragua – Before beginning my intervention, I wish to convey our solidarity to the Government, the people and the family of the miner who died today following an accident in a mine in Chile, and our solidarity with the family.

In life, we come across options that govern us – the ideal, the reality, the desirable and the possible. In which options do we place the case that we are examining here? The ideal for employers is for there to be no increase in the minimum wage, the reality is that men and women workers require better incomes to improve their lives. In this respect, the Government is taking the best option and as a result is continuing to reduce poverty.

When employers use consensus as a veto, as in the present case, it is necessary to find a bilateral or unilateral way out. From the experience of the model and alliance, consensus and dialogue practised in Nicaragua, when the minimum wage is set in the tripartite commission, if the workers and employers do not reach agreement, the Government determines the percentage wage increase that will be applied and, even if we do not like the result, we abide by the decision.

The Government of the Plurinational State of Bolivia, under the leadership of President Evo Morales, has developed the economy through sustained growth, the highest in the Andean region, with social programmes that have resulted in the reduction of poverty. It has been demonstrated that, with higher incomes, women and men workers have greater purchasing power, which facilitates the exchange and movement of goods, strengthening the market, which in turn results in greater sales and profits for employers. As a result, when the latter oppose decisions designed to distribute wealth, they are acting against their own interests.

The Employers repeatedly bring before the Committee governments that endeavour to apply national laws that restore adequate wage rights which are in accordance with standards of living. As workers, we recognize that tripartism is a required model to seek good labour relations, and we therefore urge the Government to continue reinforcing tripartism in accordance with the Convention.

Government member, Algeria – I first wish to thank the Government of Bolivia for the information provided concerning the setting of the minimum wage. Algeria is of the view that the considerations expressed by the Government are totally praiseworthy and that work must continue on establishing the criteria for setting minimum wages. That is in line with the objectives of the Convention in terms of the setting of minimum wages, as well as the provisions of Article 3 of the Convention, which takes into account in particular the needs of workers and their families, and all the related economic factors.

In practice, the Convention contains several flexible provisions in relation to the adoption of adequate criteria for the setting of minimum wages as a function of the situatiion in each country. That is why Algeria considers that the Government of Bolivia has assumed its responsibility to guarantee that economic and social conditions are taken into account in the setting of minimum wages.

In conclusion, consultations with workers and employers and the commitment to give effect to the Convention can have the best impact in terms of the setting of minimum wages, but that has to happen within the framework of the work that is already under way.

Employer member, Honduras – Today once again we are protesting against the terrible lack of respect by the Government of the Plurinational State of Bolivia towards employers in the country. We regret that, despite the clear conclusions adopted by this Committee at the 107th Session of the International Labour Conference in 2018, the Government of the Plurinational State of Bolivia has not given effect to them, thereby showing its lack of respect for the ILO supervisory bodies.

It cannot be possible for the Plurinational State of Bolivia to continue setting minimum wages while disregarding technical criteria such as inflation and productivity indices, among others. It is even more serious and worrying that minimum wages are determined without engaging in full consultations with employers' representatives, who have the commendable responsibility of generating decent jobs in this country. We wonder how decent jobs can be created if the entity that is responsible for protecting the rights set out in international labour standards is precisely the one that is failing to comply with their provisions. The Government of the Plurinational State of Bolivia has introduced disproportionate increases that are out of line with the economic situation in the country between 2006 and the present.

The increase in the national minimum wage has reached the accumulated rate of over 300 per cent, as the overall result of the increases made each year, which is giving rise to higher rates of informality in the country.

It is not only a question of the failure to comply with the requirement of consultation for the setting of minimum wages, in accordance with the Convention, nor the requirement derived from a technical provision of a Convention; it is a serious failure to respect the fundamental principles that inspired the creation of the ILO.

It is not possible for the Committee of Experts to regret in its report the follow-up to the conclusions of the Conference the previous year, and that the Government of the Plurinational State of Bolivia still has not replied to the request by the Committee to send a direct contacts mission.

The situation in the Plurinational State of Bolivia is very serious, and we therefore categorically call for it to be included in a special paragraph of the General Report to place emphasis on the worrying situation in Bolivia.

Worker member, Argentina – I am speaking on behalf of the General Confederation of Labour of the Argentine Republic (CGT-RA), the Confederation of Workers of Argentina (CTA Workers) and my confederation, the Confederation of Workers of Argentina (CTA Autonomous). The Committee of Experts noted that the Conference Committee urged the Government without delay to carry out full consultations in good faith, taking into account the needs of workers and economic factors, in accordance with Article 3 of the Convention, to avail itself of ILO technical assistance and to accept a direct contacts mission.

The Committee of Experts noted that the Government indicated in its report that the minimum wage had been increased and that socio-economic factors were taken into account, such as inflation, productivity and consumer price indices, and that informal consultations were held with both the CEPB and the COB. The Government also indicated that both parties maintained their positions, and the matter was therefore resolved accordingly.

In its conclusions, the Committee of Experts regretted the lack of authorization for a direct contacts mission. It is important to note that, in its analysis, the Committee of Experts only refers to formal matters as illustrations of the failure to comply with the conclusions. However, beyond formal matters, we believe that there has been significant progress in economic factors, as well as in the introduction of the minimum wage which, in our view, is a substantial part of the subject covered by the Convention.

Consultation can be informal, joint, individualized, regular, simultaneous and, in any case, in accordance with the customs and usages of each government. In this respect, Recommendation No. 113 does not establish any specific form for it to be carried out and, similarly, the Committee on Freedom of Association, in Case No. 1533, does not make any reference to a specific form of consultation. Consultation is not an institution referred to solely in Convention No. 131, but also in many international standards, including Conventions, Recommendations and Declarations, which refer to consultation as part of a system of tripartite relations. Consultation forms part of the system proposed by the ILO 100 years ago. It involves seeking common ground between parties whose interests are naturally opposed, but it is not, as maintained by the Employers, collective bargaining. Convention No. 98 is not applicable. It would be desirable for the Committee of Experts to engage in a more general analysis in its conclusions concerning Convention No. 131, taking into account the results achieved and examining whether they are in accordance with the institution of a minimum wage.

It would be necessary to determine whether this very important instrument has fulfilled its purpose and whether it is in accordance with the needs of workers. And I believe that if it fulfils these conditions, the means by which consultations are held, even though important, are of lesser significance. We believe that, in this respect, there has been significant progress in the setting of the minimum wage, that the objective has been met and that there has been a sustained increase in real wages.

The setting of the vital and mobile minimum wage is of fundamental importance in establishing the starting points for collective wage bargaining and, in accordance with the Convention, no worker may remain below that level. For this reason, the vital and mobile minimum wage has been, throughout the history of capitalism, a tool that States can use to confront crises. It is fundamental when applying anti-cyclical policies and we hope that the history of the last 100 years will include this institution and that the Convention will be included in the fundamental ILO Conventions.

Government member, Uruguay – Although Uruguay forms part of the significant majority of GRULAC countries which have made a previous intervention, it wishes to take the floor in its national capacity. Our Government places special value on certain of the indicators referred to in the report, such as the improvement in the Gini Coefficient, the increase in real wages and the reduction of extreme poverty, which shows that government decisions have been adopted with a view to improving wages, leading to a better quality of life for the population.

Moreover, we recognize the efforts made by the Bolivian Government to promote social dialogue and find a satisfactory solution for all the parties through collective bargaining, in accordance with the context and characteristics of the country.

It may be recalled that Article 3 of the Convention sets out criteria that have to be taken into consideration when determining minimum wages: the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups; as well as economic factors, including levels of productivity and the desirability of attaining and maintaining a high level of employment.

In this light, and taking into consideration the role of wages in subsistence, we understand that, in relation to the conclusions of the last session of the Conference, the Government of Bolivia has made significant efforts to promote agreements that encompass all workers, giving priority to the well-being of the population and the needs of workers who earn lower wages. They have resulted in important progress for Bolivian society.

We encourage the Government and the social partners to continue along the path of dialogue to find solutions that are satisfactory for everyone and to continue providing protection and ensuring benefits for Bolivian society.

Employer member, Brazil – This is a case that we know well in this Committee and for which we requested the Government of the Plurinational State of Bolivia to take the necessary measures to achieve conformity with the Convention. Employers in the Plurinational State of Bolivia have not had social dialogue as established by the principles of the Convention for the setting of minimum levels of wages for over ten years.

The Committee has repeatedly called on the Government of the Plurinational State of Bolivia to hold the necessary tripartite consultations, listening effectively to employers, as required by Article 1 of the Convention; to set minimum wage levels following full consultations with the social partners, but this has not happened, which has led this Committee to make recommendations along the same lines in recent years. On a total of eight occasions since 2006, the members of this Committee have called for a response in practice to the claims of the employers of the Plurinational State of Bolivia.

It is a matter of great concern for employers that, for many years, no tangible evidence has been provided of the full consultations held with the social partners, and particularly employers in the Plurinational State of Bolivia, as the conclusions of the Committee have been requesting for a long time.

Brazilian employers call urgently for the re-establishment of tripartite social dialogue in the Plurinational State of Bolivia so as to comply in practice with the Convention, in view of the risk of making the serious levels of informality in the country worse. We also urge the Government of the Plurinational State of Bolivia to give effect to the recommendations that this Committee made in 2018 with a view to achieving a definitive solution, complying with the requirements of the Convention and engaging in effective and full consultations with Bolivian employers.

Government member, Egypt – We would like to thank the representative of the Government of the Plurinational State of Bolivia for the information which has been given to the Committee relating to the mesures taken by the Government for the application of the provisions of the Convention. We have heard reports of consultation that has taken place with the social partners to consider all of the elements of establishing the minimum wage. If we consider what we have heard and recognize the importance of a minimum wage for social justice together with all of the social partners, we have to recognize the value of the measures taken by the Government of the Plurinational State of Bolivia to effectively implement the Convention and would urge them to continue their dialogue with all of the social partners when deciding at what level to set the minimum wage. We think that these factors should be taken into account when drafting the conclusions.

Employer member, Uruguay – The Government has referred to the economic growth in the Plurinational State of Bolivia, its political and social stability, the decrease in poverty and the improvement in social conditions in general, especially for the most vulnerable. Social improvements are a very important achievement for any country,

particularly in our region of Latin America where the shortcomings are so great. We must emphasize and welcome any improvement in this respect. However, it bears no relation whatsoever to the observation made by the ILO and our Committee, and could even be omitted when drawing up the conclusions for this session.

Coming back to the facts, we see that it has not been possible to demonstrate the holding of "full" consultations with representatives of employers, as required by the Convention. On the contrary, we could say that the situation is more serious than when we examined this case last year. On 30 April this year, the Government concluded an agreement with the Bolivian Workers' Confederation in which, in addition to negotiating the minimum wage, matters were addressed relating to labour standards, production and the economy. There was no dialogue. Employers' representatives were not heard on any of these subjects. And the absence of dialogue for the establishment of a minimum wage is only an indicator that must act as an alert.

Based on the experience of the ILO, it is easy to anticipate what happens when, in one of our countries, over a long period of time, one of the social partners is ignored, excluded or rebuffed from the possibility of holding real dialogue. We hope that the ILO will provide specific support to the Plurinational State of Bolivia and that the Plurinational State of Bolivia will accept that support so that it can give effect to the Convention rapidly.

Government representative – At this stage, we have to clarify a number of aspects. First, we have indicated that during these 13 years of government we have managed to achieve economic stability for our country. This is reflected in such facts as, for example, the international crisis did not affect businesses in our country. Second, there has been absolute security for the financial system, which has grown considerably.

During the intervention by the Workers' representative, an allusion was made to a reference indicating that the IMF considers that the economy will be seriously affected. We have another IMF source which agrees that the Plurinational State of Bolivia will have the highest growth in the region in 2019. We believe that we are acting with sufficient responsibility. The qualification of the economic stability of our country was not by us, but by others who see from close up how we are managing the country. In this respect, we have received very positive reviews from the World Bank itself and the Economic Commission for Latin America and the Caribbean (ECLAC), which place emphasis on the economic development and economic stability of our country.

The Employers' representatives were clear in their indication that there were two meetings. Indeed, we also said at the outset that two meetings were held and that they touched upon the subject of wages. The Employers' representative said that the subject of wages was not addressed, and yet the Employer member of the Plurinational State of Bolivia, Pablo Carrasco, reported the subjects covered in the meetings and said that in the Plurinational State of Bolivia reference is made to a minimum wage and a basic wage. This shows that the discussions in these meetings referred to the subject of wages, the minimum wage and the basic wage. However, in this respect, it is also necessary to take into account the manner in which the media in my country reported these meetings. One media channel indicated, quoting Luis Barberi, President of the CEPB: "it was a very positive meeting where the private business sector, that we are leading in the CEPB, was able to express concern and also our position of working for the Plurinational State of Bolivia." More specifically, with regard to the subject of wages, another publication referred to Mr Barberi, and reported not only discussions of the minimum wage and the basic wage, but also of percentages. With respect to the percentage proposed by the employers and the percentage proposed by worker representatives, analysis was undertaken of the inflation rate, GDP growth and all the other factors. When the meeting ended, the President of the CEPB indicated, as reported in the media, that: "It seems to me a little higher than what we were thinking of, than what can be given, making efforts to be able to cover the erosion suffered by wages due to inflation, with us going from the 1.5 per cent inflation rate to 2 per cent, which was the proposal that we made." It is clear that in these dialogue forums the subject of wages was discussed, which was their purpose.

We assume with sufficient responsibility compliance with the Convention. In addition, we must note another aspect. In one of the interventions, it was said that in the Plurinational State of Bolivia close contacts and the entry of employers into the Ministry of Labour is not allowed.

Meetings were held with the very representative of the employers of the country in an economic forum, and more specifically, a meeting with the National Chamber of Exporters of Bolivia in the Ministry of Employment, in the premises of the Ministry of Labour, Employment and Social Welfare of the Plurinational State of Bolivia. It is clear that we do not close our doors: indeed, we keep our doors open and we are always available for any type of dialogue on any subject, because that is our democratic vocation.

We are concerned at the economic situation of the country and the situation of employers. For this reason, alongside the meetings that are held to set the minimum wage, we are implementing employment plans and programmes. When we implement these employment plans and programmes, we help employers in various ways: as we understand that the provision of training to a worker to be integrated into the workforce can represent a cost, the State subsidizes the process of the training of the worker. Another example is that we assume the cost of coverage by the social security scheme in the short term in the context of support programmes for employment. These are some of the ways in which we take measures to support and strengthen employers in the country.

In this respect, as the Bolivian State, we reiterate and reaffirm our democratic vocation, with our deep respect for integration processes, and we take sufficiently seriously the role played by the International Labour Organization. For this reason, we come to the Conference with the most absolute truth concerning democratic practices in the Plurinational State of Bolivia. Clearly, under the terms of our Constitution, it is our duty to comply with international conventions and, as we said, with regard to this Convention, we are also committed to continuing to engage in full dialogue with the social partners with a view to setting a minimum wage that is balanced and adequate.

Employer members – We respect the interventions of Governments, Workers and our colleagues the Employers. For a correct analysis of the case, we need to keep to the facts. The Government of the Plurinational State of Bolivia has not engaged in full consultations with the most representative, free and independent employers' organizations on the setting of minimum wages. That is a fact. The Government of the Plurinational State of Bolivia has a policy of not consulting employers' organizations. That is a fact. The Government of the Plurinational State of Bolivia concluded an agreement on wage increases solely with workers' organizations. That is a fact. The Government of the Plurinational State of Bolivia did not give effect to the call made by this Committee for the sending of a direct contacts mission. That is a fact. Some people in this room wish to minimize or simply deny these facts. That is also a fact.

The point at issue should not be whether or not the minimum wage must be raised in the Plurinational State of Bolivia. That needed to happen in the country through full

consultations with the social partners, which did not happen. That is also a fact.

We are pleased, however, to note the similarities between the positions of the Workers' group, the Employers' group and many of the Governments which intervened in the discussion on the importance of social dialogue and full consultation with the social partners, as well as the fact that in practice the good faith of all the parties must prevail in social dialogue.

We hope that the Government will take good note of these views and will make use of social dialogue as a tool for the development of good relations with employers and workers, and with the legitimate purpose of collaboration between the social partners and governments with a view to the design and implementation of policies for the benefit of society. In this regard, we endorse the concepts set out in Recommendation No. 113, which invites us to take measures appropriate to national conditions to promote effective consultation and cooperation at the industrial and national levels between public authorities and employers' and workers' organizations, as well as between these organizations, with a view to developing the economy as a whole, improving conditions of work and raising standards of living. The Recommendation also clarifies that consultation should have the general objective of promoting mutual understanding and good relations between public authorities and employers' and workers' organizations.

We also respectfully suggest that the Plurinational State of Bolivia should consider the ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). So doing would offer a firm demonstration of the vocation of dialogue that the Government representative has claimed during the discussion.

At this stage of the discussion, it has become very clear that the present case is considered to be serious by the Employers. It should also be seen as such by Workers and Governments which consider that States are called upon to honour their international commitments and comply with their own legislation. We are faced with a case of serious failure to comply with standards which require the holding of full consultations in good faith. The situation is to the prejudice of employers, but could eventually also be to the prejudice of workers, for which reason we are all called upon to defend equally the principle that has been violated.

The case is serious in view of the subject addressed, as we know that social dialogue is a pillar of the ILO. But it is also serious because it is a case of a conscious and deliberate omission. This Committee must place emphasis on this seriousness, as failure to do so would irremediably affect the credibility of the ILO standards supervisory mechanisms.

In 2018, we clearly expressed our concern at the statement made by the Government representative, who made it clear that there would be no change in the conduct that is in violation of the Convention. This is what happened in practice, as clearly illustrated during the discussion.

For these reasons, we propose that in the conclusions to the present case emphasis is placed on the gravity of the situation and the Government of the Plurinational State of Bolivia is urged once again to immediately engage in full consultations with the social partners on the setting of minimum wages, to report on the action taken to the Committee of Experts in its next report prior to its 2019 session. We also propose that a request is made for it to accept without further ado a direct contacts mission and the technical assistance of the Office.

Finally, in view of the gravity of this matter, we call for the conclusions on this case to be included in a special paragraph of the report of this Committee.

Worker members – As indicated during the course of the discussion, the minimum wage has played a relevant role in the socio-economic changes in the Plurinational State of Bolivia.

In the context of Latin America, the Plurinational State of Bolivia has made notable progress. According to updated 2019 data, the minimum wage in this country is in sixth place in terms of United States dollars. According to ECLAC data, forecasts for progress in Latin America in 2019 place the Plurinational State of Bolivia in third place. The growth rate is 4.3 per cent, which is much higher than the average of 1.7 per cent for the region.

And yet, it is argued that minimum wages have been increased by more than the accumulated inflation rate, which is precisely one of the functions that have to be fulfilled by minimum wages. The Committee of Experts itself, in its 2014 General Survey, indicated that: "Although the Convention does not specify the types of needs that have to be met, it should be borne in mind that the Preamble to the ILO Constitution proclaims that an improvement of conditions of labour is urgently required, in particular the provision of an adequate living wage." The Committee of Experts emphasized in Chapter I that the concept of living wage takes into account more than the satisfaction of food, housing and clothing needs, and includes the possibility of participating in the country's social and cultural life.

It is precisely the growing participation in national income that is affording access to full participation, or the path towards full participation, in the social and cultural life of the Plurinational State of Bolivia. It must not be forgotten that the minimum wage has to take into account not only the needs of individual workers, but also those of their families. As indicated in the Meeting of Experts in 1967, we must never overlook the fact that when we are dealing with wages we are not dealing with an economic abstraction, but with the source of livelihood of millions of people.

As an illustration of the virtuous effects of an adequate level of minimum wages, the Plurinational State of Bolivia has experienced a fall by half in chronic child malnutrition in little more than a decade, according to reports also prepared by ECLAC. But social progress is not limited to wage earners, and includes the community as a whole. According to Oxford Economics, La Paz is among the cities in Latin America that will grow the most in 2019, preceding the large urban areas in the region. As an explanation for this situation, we cannot fail to take into consideration that the Plurinational State of Bolivia is the country that has increased the minimum wage the most over the past decade in Latin America, without affecting the most relevant macroeconomic variables and without inflationary consequences, such as those that have affected the economies of other countries.

The process of dialogue in the Plurinational State of Bolivia takes place within the context of a policy for the elimination of poverty, and its extension must certainly be associated with the notable progress achieved over the past 15 years.

As workers we reaffirm the importance of social dialogue and the necessary and effective consultations with the social partners prior to the setting of the minimum wage, as well as the importance for the Workers' group of Convention No. 131. We note that there has been significant progress in this case. We therefore encourage the Government to accept the direct contacts mission recommended by the Committee in 2018, which would offer an opportunity to demonstrate the progress achieved.

We agree that effective consultations and the full participation of the representatives of employers' and workers' organizations are fundamental to guarantee solid, sustainable and widely accepted minimum wage-fixing machinery.

Conclusions of the Committee

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

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.

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.

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

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.

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

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.

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.

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.

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.

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)

Written information provided by the Government

Once again, it was with perplexity that Brazil heard the news that it has been mentioned in the preliminary list of countries that may be examined during the International Labour Conference in 2019.

To this end, as a general report, Brazil indicates below several issues that substantiate its dissatisfaction with the attitude of this International Labour Organization (ILO), especially because it is one of the countries that has ratified the most international labour Conventions and seeks, enduringly, in line with domestic legislation, to give the highest degree of effectiveness to such instruments.

The Committee of Experts on the Application of Conventions and Recommendations

First, it should be emphasized that the ILO Committee of Experts, whose primary mission is to monitor the effective application of international labour agreements – within the scope of the various members of the Organization – should heed the fact that the Conventions may receive different interpretations when they are applied individually by countries, especially due to the need for harmony between the international text and domestic legislation.

Having said that, Brazil yet again reaffirms that it has not violated any of the provisions of ILO Convention No. 98 when drafting Act No. 13467 of 13 July 2017.

Prevalence of negotiation over legislation (articles 611-A and 611-B of the CLT)

As previously mentioned in the documents sent by Brazil to this Organization, the provisions of articles 611-A and 611-B of the Consolidation of Labour Laws (CLT), brought to the legal system through Act No. 13467/2017, are in full harmony with the content of ILO Convention No. 98, especially with respect to Article 4 of the aforementioned Convention.

In this line of thought, built by the provisions mentioned above, Brazil aimed to increase the legal security of the collective instruments negotiated between workers and employers. To this end, it presented a list of labour rights that may be subject to collective bargaining. However, with the clear objective of safeguarding interests superior to collective bargaining, a specific provision was created whose list of topics cannot be included within the scope of collective clauses and also presents a series of rights enshrined in the 1988 Constitution of the Federative Republic of Brazil itself. It is, therefore, a modern legislation in the sense of demonstrating to social partners the scope of collective bargaining in a transparent manner.

The purpose of clarifying the matter that can be subject to collective bargaining perfectly respects all the content of ILO Convention No. 98 and, even more significantly, confers a high degree of concreteness to the Constitution of the Federative Republic of Brazil of 1988, which, since its enactment, promoted collective bargaining and established the recognition of collective labour agreements and accords as a fundamental right of workers.

It is also important to emphasize that since the advent of Act No. 13467/2017, the Judiciary, notably the Supreme Court of Brazil, has focused on several issues of that statute. However, no constitutional action was brought to the attention of the Supreme Court of Brazil on the issue of the prevalence of negotiation over legislation (articles 611-A and 611-B). In this regard, having passed through various constitutionality and conventionality judgments in the various committees of the Brazilian Parliament, and not having been dismissed under the Supreme Federal Court of Brazil, it is evident that such provisions are in line with the legal system and do not violate domestic and international laws. It is, above all, a democratic and sovereign action, whose main purpose is to enable collective, free and voluntary negotiations with legal certainty.

In terms of numbers of collective instruments, one should consider that the Mediator System, the system responsible for registering collective instruments negotiated by trade unions, demonstrates that collective negotiations

continue to be conducted and registered in numbers approximating to those anterior to the advent of Act No. 13467/2017. Specifically about the numbers, there was a total of 13,435 collective instruments signed in 2017; 11,234 in 2018; and 12,095 in 2019, taking into account the first quarter of each year. Therefore, if Brazil showed a drop of 16.38 per cent in the 2017–18 comparison, it showed an evolution of 7.11 per cent in relation to the year 2018–19.

The above finding, in turn, suggests that, although the regulatory framework requires a reasonable amount of time for the parties to get to know it and apply it in practice, negotiations did not experience an alarming decrease, as affirmed by those who are unaware of the actual data. In practice, therefore, articles 611-A and 611-B of Act No. 13467/2017 did not represent an obstacle to the continuation of collective bargaining in Brazil.

The exception to the single paragraph of article 444 of the CLT (individual negotiation)

At no time is Brazil unaware that the rule of negotiation has a collective character. However, after observing that a small portion of workers have greater bargaining power in relation to the employer, Act No. 13467/2017 decided to entrust greater force to individual negotiations, only in these cases. In this sense, the worker with a higher educational level and who receives a monthly salary equal to or higher than twice the maximum limit of the social security benefits of the Brazilian social security system, can stipulate contractual conditions that, in his view, are more advantageous for him.

On the other hand, as mentioned above, the possibility presented above reaches approximately 1.45 per cent of the workers governed by the CLT and 0.25 per cent of the Brazilian population. Thus, despite the voices that argue that individual negotiation has replaced collective bargaining, this statement is not true. What was sought with the device, one can recall, was to grant a select group of workers, holders of a greater bargaining power, with the possibility of entering into negotiations that will meet their individual interests in a more fruitful way.

Regulation of autonomous and self-employed workers (article 442-B of the Labour Code)

As is the case for all provisions in Act No. 13467/2017, the core function of article 442-B is to provide both self-employed and companies with legal certainty. In this field, the Brazilian Parliament, in perceiving the need to legislate on situations that have long existed in practice, understood that it would be advisable to regulate the situation concerning the self-employed, while excluding an employment relationship between the contracting parties.

It is obvious that Brazil's legislation has not distanced itself from the so-called principle of the primacy of reality. In this regard, it is not excluded that the competent authorities in Brazil can unveil genuine employment relationships beneath disguised service agreements. This is the reason why Brazil has enacted an ordinance by which full assurance is given that an employment relationship will be recognized where legal subordination between a professional and an employer exists. Once again, it is proved that the text of Act No. 13467/2017 has refined the view about the law while preserving the necessary legal certainty for all social actors.

Prevalence of collective accords over collective agreements (article 620 of the Labour Code)

Another question raised by the report of the Committee of Experts refers to the fact that Act No. 13467/2017 has introduced a rule in order to reinforce collective bargaining by means of taking due account of specific circumstances surrounding the workers of a given category at the company-level. Such provision's intent has been, therefore, to allow for the prevalence of the specific conditions (collective accords) over the general conditions (collective agreements).

In this light, it cannot be overlooked that the collective accord is much closer to the day-to-day life of the workers at the company level. Thus, the factual reality can be better translated by means of the collective accord, giving more density to the negotiated clauses.

All in all, it could be said that, instead of violating Article 4 of Convention No. 98, new article 620 of the Labour Code is in full compliance with that international standard. Convention No. 98, beyond any doubt, affirms the need that measures for the promotion of collective bargaining be appropriate to the national conditions. Hence, the Brazilian Parliament, while abiding by Convention No. 98, acknowledged the specificity of the collective accords over the collective agreements.

Conclusions

Out of respect for the ILO, Brazil has consistently provided detailed information on the substantive minutiae of a wide range of relevant provisions of Act No. 13467/2017.

In addition, as indicated on previous occasions, it should be underlined that internal issues of Brazil, with no bearing whatsoever on labour matters, cannot serve as a basis for requesting the country to present explanations on a legislation that was extensively discussed in Parliament and that has been gradually implemented in the context of legal relations between workers and employers.

In this sense, the inclusion of Brazil in the preliminary list, for the second consecutive year, is unwarranted. Nonetheless, Brazil has demonstrated that Act No. 13467/2017 did not infringe any international standards, in particular Convention No. 98.

Discussion by the Committee

Government representative – I stand before you today with a deep feeling of unfairness and injustice. The ILO has treated Brazil in an unreasonable, unfounded and unfair way spanning now for three years. Over this period, the Committee of Experts has fallen short of the most elementary standards of impartiality and objectivity. In 2017, the Committee of Experts issued pre-emptive, speculative observations on what was then still a bill under discussion in the Brazilian Congress. In 2018, having met in Geneva only a few days after the entry into force of the new Labour Code of Brazil, the Committee of Experts broke the cycle of presentation of reports in an unjustified manner, and considered the new legislation in breach of Article 4 of the Convention.

Despite Brazil's further information provided last year, the Committee of Experts hastened, once again, in 2019, by suggesting courses of legislative action for the country, based on mere assumptions and unwarranted prejudgements. Unfortunately, the shortcomings in the Committee of Experts have been compounded by the lack of transparency, objectivity and genuine tripartism. By being shortlisted twice in a row, for no technical or sound reasons on both occasions, Brazil illustrates how easily (and dangerously) the supervisory system of the ILO can be misused to the detriment of the Organization's legitimacy and effectiveness. A system that allows for a hasty analysis to become – by the political whim of a few – a case in the Committee is way below what is expected from an international organization like the ILO. This case shows that the supervisory system has to undergo a serious, profound and comprehensive reform, for the good of all constituents, as Brazil and GRULAC have been flagging in as many opportunities as necessary.

In brief, the Committee of Experts understands that the prevalence provision of collective bargaining, as provided for in article 611-A of Brazil's Labour Code, is too generic and runs counter to the objective of promoting free and voluntary collective bargaining set forth in Article 4 of Convention No. 98, as well as Articles 7 and 8 of the Collective Bargaining Convention, 1981 (No. 154). The analysis by the Committee of Experts in this regard is flawed on at least three accounts:

(i) the Committee completely disregards the conditions that led to the said labour reform in 2017;
(ii) the Committee's legal reasoning lacks any basis on the text of those Conventions; and
(iii) the evidentiary support used by the Committee is far from being thorough and unbiased.

Addressing the first flaw, I wish to point out that the Committee neglected to mention that, in Brazil, it was common in the past that the judiciary nullify labour clauses of collective agreements, or agreements in their entirety, without any objective legal reasoning. That situation created legal uncertainty and deeply disrupted the incentives for collective bargaining, leading to frequent complaints by trade unions and companies alike. Out of the 17,000 unions in Brazil, only one third had negotiated any kind of collective agreement, per year, before the labour reform. This is a rather dysfunctional system, choked by bureaucracy, and in desperate need for a new breath of life. Such issues became particularly pressing in a context of deep economic recession. An economy that condemns more than 40 per cent of its workers into informality, with an additional 12 million people out of jobs, resulting in two-thirds of its population being either in the shadow market or unemployed, without any social security protection. An economy like this cannot be seen as healthy in any way. By strengthening collective agreements, we open the possibility for each category to negotiate, collectively, the best terms to reconcile employment quality and increase of productivity, without affecting workers' rights. Who am I, behind a ministerial desk, to decide what is best for each worker? Who are we, here in Geneva, to decide, what is the best package of more favourable rights and benefits for one single category in complex negotiations? We must allow workers and employers to take responsibility and decide what is best for their own future. Benefiting from other international experiences, however, the labour reform in Brazil did not invest in temporary contracts, which remain used by only 1 per cent of the labour force. Rather, it resorted to increasing legal certainty to reduce turnover rates, improve productivity and to promote better working conditions. In a comparative international perspective, the labour reform in Brazil approximates it to institutions in force in developed countries, where collective bargaining can negotiate over legal provisions for different subject matters. Moreover, our Federal Constitution enshrines 30-plus rights that cannot be subject to reduction or suppression through collective instruments or individual negotiation and include, among others, the value of the minimum wage; the 13th salary; maternity leave; vacation; minimum remuneration for extraordinary service. None of these items have been touched by the labour reform. Therefore, there can be no doubt that the sum of the relevant provisions in the Constitution and the Labour Code provides for a system that ensures a large range of rights, while allowing more open collective negotiations on the periphery.

On the second flaw of the Committee of Experts, despite Brazil's arguments, that Committee simply reiterated its assumptions that Conventions Nos 98, 151 and 154 all contain a "general objective of promoting collective bargaining as a means of reaching agreement on more favourable terms and conditions of work than those envisaged in the legislation". This assumption is simplistic and could be interpreted as paternalistic, especially in the Brazilian context. Also, such an interpretation finds no basis on the texts of those Conventions. The Committee of Experts does not address the criticism of the Brazilian Government on the inexistence of a textual ground for the Committee's position and the inappropriate character of the recourse to *"travaux préparatoires"*.

As to the third major flaw in the analysis of the Committee of Experts, the report is prolific in references to non-specific, theoretical threats to the national labour system. The sole basis sustaining such references comes from unfounded inputs. As an example, the report uses expressions such as "labour productivity may have dangerous consequences", or "it is possible to derogate", or "legislation creates the conditions for downward competition", "article 611 is likely to result" and "could act as incentive to corruption".

The report also bases its assumptions on "first statistics" and on "various studies" which were never brought to the general public and scrutinized. These so-called "studies" are, in fact, newspaper articles or papers by a union-run and union-funded organization. Even the latter dedicated only a handful of paragraphs to the collective bargaining issue. All imputations made against Brazil stem from hypothetical analysis and suppositions readily received by the Committee of Experts, a body that should base its procedures in findings, not on speculations; a Committee that should always strive to work as an evidence-based mechanism and not to pass judgements on nations based on fragile information. Countries all over the world are basing the design of their public policies on readily available data and on analysis of regulatory impact. Solid technical grounds and economic studies should be the very minimum basis for any dialogue, positions or recommendations on countries' policies and legislation.

It is enlightening to analyse a 160-page study on the labour reform and collective bargaining in Brazil, recently published by FIPE, a leading economic research institution linked to the University of São Paulo.

All in all, the Committee of Experts assesses that the data provided by the criticizers would indicate a decline in the number of collective agreements after the entry into force of the labour reform. This is not a surprise as parties adapted to a new, more responsible system. What is a surprise is the difference between the actual figures and what was claimed by the Committee of Experts. While the workers claim a 45 per cent reduction of the overall collective agreements in 2018, the actual figures are 13.1 per cent. In the first four months of 2019, when a phase of adjustment at a high level of the negotiated agreements began, the number of agreements rose by 7 per cent, bringing numbers roughly back to what they were prior to the labour reform, as demonstrated by FIPE's study once again.

Therefore, negotiations did not experience an alarming decrease, as alleged by criticizers. More importantly, data shows the increase of negotiated clauses that establish more favourable conditions for associated workers. From a sample of 20 benefits, the FIPE's study shows that 17 of them are more present in agreements now than they were before the labour reform. As intended, collective agreements are indeed covering a broader set of interests.

The Brazilian labour reform has also been evaluated and scrutinized by other international organizations. The World Bank, for example, issued a study called "Jobs and Growth: The Agenda for Productivity", praising the reform's positive incentives to correct labour market inefficiencies, while providing more opportunities for labourers, especially the poor and vulnerable. A second study by the World Bank called "Competences and Jobs: An agenda for the youth" indicates that the reform contributed to increase legal certainty, creates incentives to more responsive and

responsible unions, while easing dispute resolution in the labour market.

The OECD and the IMF also praised the labour reform in Brazil and in their view the reform contributes to job creation and the diminishing of outrageous informality rates. These are all independent international organizations of renowned technical expertise. Certainly, a much more trustworthy source of information than one newspaper article.

In relation to the duty to conduct consultations, the Committee of Experts fails to indicate the relevance of the matter for the consideration of application of the Convention If at all, the Committee should address this issue in relation to the implementation of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which is not under consideration.

The allegations on this matter are even more absurd. Since 2003, collective bargaining has been extensively discussed with the social partners in Brazil. In 2016, before the reform reached congress, the Government indeed undertook "prior consultations" with all the central unions before finalizing and sending to Parliament the bill that already contained the collective bargaining provisions. I must register: the bill was signed and sent to congress in a presidential event in the main executive building with the presence of all employers' confederations and all but one of the central unions.

The two chambers of the Brazilian Congress held a total of 30 public hearings, with more than 120 specialists. Economists, lawyers, employers and the vast majority of the central unions participated in those discussions. Seven official regional seminars were also organized and dozens of private seminars, round tables and formal discussions were held throughout Brazil's vibrant civil society, a testimony to freedom of speech and social dialogue. Solely in the lower house, around 100 representatives were union- or worker-related and, at last, the reform was approved in both parliament houses by a large margin of roughly two-thirds of the representatives.

Prior consultations, together with a strong parliamentary activity of all groups, attests to the legitimacy of the process and full compliance with the Convention. More than 2,000 amendments were presented to the bill within Congress. Various significant aspects of the bill have indeed been altered in the interest of society as a whole, resulting in Act No. 13467, as is normal and should be expected in any democratic country.

By the way, this is the same Congress that evaluated and ratified 97 ILO Conventions. Questioning the capacity and legitimacy of the Brazilian Congress to discuss a labour reform is questioning its legitimacy in ratifying ILO Conventions and we understand that this is not the Organization's intent.

Of utmost importance is to note that around 30 judicial proceedings were presented to the Federal Supreme Court against points of the reform. None – I repeat, none – deal with collective bargaining. We call upon the necessary coherence and invite the criticizers to present their case to the Supreme Court, inquiring about the consistency of the labour reform with the Brazilian Constitution and with the Convention.

To conclude, considering that Brazil has ratified 97 ILO Conventions and that its performance in the context of the ILO's supervisory mechanisms is exemplar; recognizing the labour code of Brazil is one of the most complete in the world and that labour rights are enshrined in the Brazilian Constitution; considering that accusations against Brazil were based on fragile information and that the Committee of Experts should be an evidence-based mechanism; taking into account that Brazil has presented technical studies from renowned research institutions and international organizations; and taking stock that labour modernization in Brazil is still going on through the scrutiny of the Supreme Court, Brazil requests this commission to correct this historical mistake and refrain from issuing further recommendations on the Brazilian labour reform, while registering Brazil's full compliance with the Convention and the International Labour Organization.

Employer members – I would like to begin by thanking, on behalf of the Employers' group, the distinguished Government representative for his detailed submissions in respect of the aspects of this case. As the Committee is aware, the present case concerns a fundamental Convention, Convention No. 98, and is related to the wider issue of the 2017 labour market reforms in Brazil. The Committee of Experts, has observed that the adoption of the labour market reforms was not compatible with Article 4 of the Convention. However, in the Employers' view, the connection between the reforms and Article 4 of the Convention is weak; they are based on rather unfounded assumptions and flawed interpretations. In our view, there is no substantive issue with respect to Brazil's compliance with the Convention.

In terms of process, the Employers note that last year there was a discussion about the breaking of the reporting cycle that occurred by the Committee of Experts, and our deep concerns that the reforms that were adopted in the Consolidation of Labour Laws (CLT), were adopted only on 13 November 2017, and so when the Committee of Experts assessed this case at that time, there was not sufficient information and experience to be able to properly do so.

We would also note that the 2018 conclusions of the Committee, requested that the Government provide information on labour market reform which was done. We also note that the 2018 Committee of Experts' observations applicable to this session of the Committee, maintained its earlier assessment, which provides the Employers' group concern, in that the Committee of Experts may not have properly considered the Employers' position and the CAS conclusions. We will continue to work with the Committee of Experts to highlight these concerns in this regards, and at this moment I will ask another Employer member to provide the substantive aspects of the Employers' submissions on this case.

Another representative of the Employer members – I will focus on commenting, one by one, on the points raised by the Committee of Experts in its 2018 observation.

First, with regard to the adoption of Act No. 13467 in Brazil, the Committee of Experts attempts to justify the early examination of the Act on the basis of the claims and information provided by Brazilian and international unions, without taking into account the divergent views of the Government of Brazil, Brazilian employers and the whole of the Employers' group as expressed during the discussion of the case last year. This is a matter of concern to us.

Second, with reference to the relationship between collective bargaining and the law and sections 611-A and 611-B, we emphasize that we are not in agreement with the analysis of the Committee of Experts that these provisions are not in conformity with the respective Articles of Convention No. 98, nor with the request by the Committee of Experts for the Government to revise these provisions.

In the view of the Employers' group, Article 4 of the Convention does not prohibit the law from authorizing changes being made to legislative provisions through collective agreements and establishing higher or lower levels of protection than those set out in specific provisions of the law. The levels of protection established by the law in this case are, de facto, not absolute, but must be considered in the light of the possibility that collective agreements may make changes for specific periods. Article 4 of the Convention is silent on the relationship between the law and collective agreements, and particularly on whether a law may authorize exceptions to its provisions in collective

agreements. Nor is there any provision in Article 4 of the Convention under which the provisions of collective agreements must always be more favourable for workers than the provisions of the law. The sole objective that can therefore be attributed to Article 4 is to allow the social partners to negotiate, within the framework established by the law (which may include the authorization to establish exceptions to its provisions), more appropriate conditions (whether they are more favourable, more favourable in part or less favourable) for their members at the sectoral, regional, occupational or enterprise level.

Nevertheless, the question of whether the law may authorize exceptions to its own provisions through collective agreements, and the extent to which it may do so, is not regulated by Article 4 of the Convention. Nor is it important in the context of Article 4 of the Convention whether the authorization allows general or more restricted changes, as appears to be the case with sections 611-A and 611-B. Article 4 therefore simply does not address this issue, and it is as simple as that.

We are not in agreement with the Committee of Experts that the introduction of sections 611-A and 611-B does not adequately "promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations …" within the meaning of Article 4 of the Convention, for the following reasons:

(1) the right to collective bargaining of workers' organizations is not affected by the changes to the law;
(2) Brazilian workers' organizations are not impeded in any way from negotiating better conditions of work for their members;
(3) if employers make proposals that workers' organizations do not consider appropriate, they are not obliged to accept them;
(4) the scope for voluntary bargaining has increased, as it is not only possible to agree to stricter standards, but also, for example, stricter standards in exchange for less strict standards in other areas (that are considered to be less important); and
(5) the argument of the Committee of Experts that there has been a significant decrease in the number of collective agreements does not appear to be an appropriate indicator to show that collective bargaining is not being promoted sufficiently: as the labour market reforms involved various legislative changes, the decrease in the conclusion of new collective agreements may have reasons that have no relation with the changes made to sections 611-A and 611-B and, moreover, as the coverage of collective agreements varies significantly from one country to another, there is no specific level of coverage that indicates compliance with Article 4 of the Convention.

It is therefore not a quantitative matter, but a qualitative question. Accordingly, the only thing that can be said here is that the Government, in consultation and cooperation with the social partners, can continue to observe the impact of the reforms which have only been implemented for a very short period and decide on the adjustments that it considers appropriate.

However, the Government is not required to make any changes in light of its obligations under the Convention, despite the requests made by the Committee of Experts. It should be recalled that, in its conclusions to the case in 2018, the Conference Committee only requested the Government to provide more relevant information and deliberately did not request the Government to amend the law.

We note with concern that the Committee of Experts (and in some ways the Office itself in its supporting role) has ignored the lack of tripartite consensus on this issue, as reflected in the conclusions of the Conference Committee in 2018, and is continuing to request the Government to amend the law.

I would now like to refer to the relationship between collective bargaining and individual contracts of employment. Firstly, with regard to the possibility envisaged in section 444 of the Consolidation of Labour Laws (CLT) for workers with higher levels of education and incomes to decide to negotiate freely their specific terms and conditions of employment (with the exception of the fundamental rights enumerated in section 611-B), we consider that this is a matter that is unrelated to Article 4 of the Convention. Article 4 of the Convention deals with the promotion of collective bargaining, not the relationship between the law and individual contracts of employment. We therefore consider that the views expressed by the Committee of Experts are completely outside the scope of the Convention under examination.

Moreover, section 444 refers to a group of workers which, in view of their higher education and incomes, their social condition and independence, appears in any case to be in a better position to negotiate individually and may be more interested in having the flexibility to negotiate their individual conditions of work. We therefore consider that the views of the Committee of Experts have no basis in Article 4 of the Convention.

In contrast with the affirmation by the Committee of Experts, Article 4 does not require employment contracts to set out terms and conditions that are always more favourable than those of collective agreements. Although it is clear the contracts of employment cannot establish exceptions to the applicable collective agreements based on their own legal status, they can do so when this is specifically authorized by the law. And Article 4 of the Convention does not prohibit the law from establishing such authorizations in specific cases.

The Committee of Experts also appears to consider that section 444 exempts the group of workers defined therein from the scope of application of the Convention. But this is not the case. These workers benefit from the full protection of Article 4 of the Convention, unless and to the extent to which they decide freely not to require such protection.

With regard to the scope of application of the Convention and the new definition of autonomous workers in new section 442-B, firstly we must make it clear that Article 4 of the Convention applies to "workers" and their organizations. The Government is fully justified in defining the term "worker" and in distinguishing between "workers" and "independent contractors". It appears that in this context the Government is using the criterion of "subordinate position", which does not appear to raise problems with objectives of Article 4 of the Convention. In this respect, we do not therefore agree with the analysis of the Committee of Experts and the corresponding request for the adaptation of collective bargaining procedures contained in the report, as it appears to be based solely on the general information provided by the unions, without any exhaustive examination of the issues involved by the Committee of Experts.

To conclude this analysis of the observations, I will refer to the relationship between the different levels of collective bargaining. We consider that section 620, which gives priority to collective labour accords, at the level or one or more enterprises, over collective agreements concluded at a broader level, whether they are sectoral or occupational, does not give rise to problems of conformity with Article 4 of the Convention or with any other ILO instrument, because:

- Article 4 of the Convention does not address the legal hierarchy of the various levels of collective bargaining;

- the Collective Agreements Recommendation, 1959 (No. 91), only refers to the relationship between collective agreements and individual contracts of employment.

I want to make it clear that more favourable clauses negotiated at the sectoral level will only be replaced by less favourable agreements in collective labour agreements in which:

- the enterprise level unions agree to conclude an enterprise agreement; and when
- the unions accept a less favourable clause.

None of this is automatic or evident. In any case, the unions are not required to do so.

Insofar as section 620 also allows less favourable clauses in labour accords and, accordingly, the negotiation of more favourable conditions in certain respects with less favourable conditions for others, it extends the scope of collective bargaining at this level. As section 620 makes collective bargaining more attractive and promotes it, in the view of the Employers' group we consider that it is fully in compliance with the objectives of Article 4 of the Convention.

In light of the above, the Employers' group sees no need to request further information from the Government on this latter aspect.

Finally, and with regard to the matters referred to in the 2016 observation, we consider that they should not have been raised in the form of an observation, but should have been included in a direct request for information from the Government concerned.

Worker members – This is the second time we are discussing the application of the Convention in Brazil. We discussed this case last year in the Committee and the year before Brazil was longlisted. The case of Brazil is indeed turning into a case of persistent failure to comply with ILO standards.

This is deeply saddening for the Workers' group. After years of social progress, with millions of people lifted out of poverty, not only through solid social security measures but also the development of strong collective bargaining institutions, we are witnessing an almost unprecedented destruction of collective bargaining and other pillars of labour market institutions and democracy.

As we feared, Act No. 13467 amending the Consolidation of Labour Laws (CLT) has had a disastrous impact on collective bargaining rights and industrial relations as a whole.

Last year, our Committee made two main recommendations: first, that the Government provides information and analysis on the application of the principles of free and voluntary collective bargaining in the new labour law reform; and second, that the Government provide information on the tripartite consultations with the social partners regarding the labour law reform.

The Workers' group recalls that a new section 611-A of the CLT completely inverts the hierarchy between the law and collective bargaining. It establishes a general principle that collective agreements and accords prevail over the legislation, except for 30 constitutional rights referred to in section 611-B of the CLT which cannot be derogated. Similarly, under section 620 of the CLT as amended by Act No. 13467, more favourable clauses negotiated at the level of sectoral activity of occupation are replaced by less protective clauses negotiated at the enterprise level.

Last year, the Workers' group strongly deplored the severe shortcomings and flaws of these provisions. We warned against the irreversible undermining of the legitimacy of collective bargaining in the long run. These provisions are a frontal attack on the principle of free and voluntary collective bargaining established in Article 4 of the Convention. We recall that the general objective of promoting collective bargaining is to reach agreement on more favourable terms and conditions of work than those envisaged in the legislation or in clauses negotiated at a higher level. This is stipulated in Conventions Nos 98, 151 and 154, which, by the way, have all been ratified by Brazil.

The amendments introduced by Act No. 13467 have a strong dissuasive effect to collectively bargaining and create the conditions for downward competition between employers in relation to terms and conditions of employment. The Government of Brazil argued last year that the amendments were called by the economic recession and that time would prove that the changes would have a positive effect on employment and industrial relations. A year on, we can only take note of the catastrophic impact of Act No. 13467 on collective bargaining and unemployment in Brazil. According to official data from the Brazilian Institute of Geography and Statistics, as of April 2019, unemployment has reached 12.5 per cent of Brazilians, that is 13.2 million unemployed workers, which represents a 4.4 increase compared to December 2018. Collective bargaining coverage has dropped by 39 per cent. Basically, this Act has increased unemployment. The consequences of this Act by Brazilian workers have been devastating for working people.

Furthermore, we reject the Government's arguments addressed to the Committee of Experts that the amendments provide greater legal security. Evidence shows that the new CLT provisions restrain collectively bargaining as an instrument for improving conditions of work. They also leave trade unions subject to threats and pressure to accept derogation and act as an incentive for corruption in collective labour relations. This is because the new CLT provisions allow all trade unions, irrespective of their level of representativity, to negotiate below the level of legal protection. We denounce, as the Committee of Experts does, the reversal of the hierarchy of norms operated by sections 611-A and 620 of the CLT. We also denounce the very extensive possibilities for derogation from higher, more protective norms opened up by these sections of the CLT.

We recall the two principles that underpin the Convention. And these principles are reaffirmed in Recommendation No. 91: the principle of free and voluntary collective bargaining; and the binding nature of collective agreements. Sections 611-A and 620 of the amended CLT are contrary to these principles.

We are extremely concerned by the Government's disregard for the disastrous effects that Act No. 13467 has already produced on workers in Brazil. These negative effects will even further worsen if no immediate action is taken to repeal those regressive amendments. Therefore, we strongly urge the Government of Brazil to carry out an immediate review of the CLT, in consultation with the social partners, with a view to repealing sections 611-A, 611-B and 620 of the CLT.

Furthermore, we must once again express our deep concern about the new section 444 of the CLT. This section provides for the possibility to derogate from the content of collective labour agreements in individual contracts of employment for workers with a higher education diploma and wages that are at least two times higher than the ceiling for benefits under the general social security scheme.

In its report to the Committee of Experts, the Government seeks to minimize the impact of the provision by arguing that it would only apply to a very small proportion of workers, around 2 per cent. Such reasoning, even if proven accurate, does not exonerate the Government from applying the Convention, including the objective of promotion of collective bargaining set out in Article 4. Certainly, it does not allow the Government to create new categories of workers that can be excluded from the benefit of the Convention.

We urge the Government of Brazil to take, without delay and in consultation with the social partners, the necessary measures to restore the principles of the binding effect of collective agreements and their primacy over individual contracts of employment where the latter are less favourable.

We also reiterate our concern regarding the extension of the definition of autonomous and self-employed workers under new section 442-B of the CLT. A significant number of workers are now excluded from the rights set out in the Convention.

We recall that over 23.9 million workers are self-employed in Brazil, a 4.1 per cent increase since April 2018. In addition, 11.2 million workers are in the informal economy, with no legal protection against abuses, that is an increase of 3.4 per cent since 2018.

We join the Committee of Experts in affirming that the right to collective bargaining also covers organizations representing self-employed workers. All necessary measures must be adopted to ensure that autonomous and self-employed workers are authorized to participate in free and voluntary collective bargaining.

Finally, we call on the Government to address without delay the shortcomings and legislative gaps regarding the following points:

- adequate protection against anti-union discrimination;
- compulsory arbitration in the context of the requirement to promote free and voluntary collective bargaining;
- the right to collective bargaining in the public sector; and
- the subjection of collective agreements to financial and economic policy.

We also remind the Committee that Act No. 13467 was adopted hastily and without prior genuine and meaningful consultation with workers' organizations. In that regard, we note the concern expressed by the Committee of Experts with regard to the absence of a structured process of tripartite social dialogue intended to develop agreement on the content of the reform. Social dialogue cannot be substituted by some public hearings organized within the Parliament in the presence of trade unions and employers' organizations. The Government must engage the social partners in genuine negotiations within the framework of the national tripartite body. Such negotiations should urgently focus on reviewing the amendments introduced by Act No. 13467 and repeal all the provisions of the CLT that are not in line with the principles and provisions of the Convention.

We have brought these issues to the attention of the Committee last year and the Committee of Experts has meanwhile made further comments.

Moreover, since our last discussion of this case, there has been a change in the Administration. However, not so much in the policy and attitude. It has been publicly proclaimed that Brazilian workers will from now on have to choose between rights or a job. The Government claims that both will not be possible and therefore makes it clear that it has no intention whatsoever to give effect to the rights enshrined in the Convention. This is completely unacceptable, and we as workers will not remain silent. If the Government refuses to engage with us constructively, it will force us to make our voices heard on the streets and in the workplaces.

Yesterday, 45 million Brazilian workers in over 300 cities did exactly that during the general strike that has been led by trade unions, social movements and the general population – all outraged with the stripping of the protections they enjoyed over the past 20 years. We urge the Government to take this signal very seriously.

Clearly, the Government is unhappy about having to appear before the Committee and to listen to the voices from all over the world. But its real challenges will have to be to really listen to the voices of its own workers and population.

Employer member, Brazil – At the outset, we recall that last year the same case was examined by this Committee on the same basis, namely a supposed violation of the Convention. On that occasion, it was recognized that there was no element that was not in accordance with the Convention and the only request was for more information, which has been provided. There has not therefore been any new fact justifying a further discussion of the case, which therefore leads us to analyse the context and motives for the inclusion of Brazil on the shortlist and to ask ourselves why we are here?

We will therefore analyse the allegations which have led to Brazil once again having to provide this Committee with information. Let us begin with the interpretation by the Committee of Experts that bargaining should only occur to offer benefits to workers over and above those provided for by law.

During the examination of the case of Brazil in 2018, we expressed concern at the adoption of broad interpretations of Conventions by this house. The spirit of the Convention is that free and voluntary bargaining affirms the will of the parties, and the Constitution of Brazil endorses the Convention by recognizing collective bargaining as a social and labour right, thereby reinforcing its commitment before the constituents to the principles of the instrument.

What raises questions for us is whether this broad interpretation prevails in guiding the application of the Convention in my country, what precedent will be set for the over 160 countries that are signatories to the Convention, how will future analyses of collective bargaining be applied throughout the world, are we to change the rules of the game, is collective bargaining about to become a tool for unilateral concessions, and does it no longer retain its essence, which is the common adaptation of terms and conditions of employment and reciprocal concessions?

The repeated intention to examine Brazilian legislation through the lens of these arguments once again raises doubts. We are no longer hearing what criteria have been adopted, or are political criteria to the detriment of the analysis required from the viewpoint of technical criteria? If this is the case, it should be recalled that this house is essentially a technical organization and that it must never be diverted from this vocation.

In any case, I must speak to the labour reform in Brazil, which is under discussion today, and which was above all a country reform. It was through this reform that Brazil left behind antiquated legislation from the last century and aligned itself with the main economies in the world. It was also through this reform that it strengthened the voices of workers and employers so that together they could establish their terms and conditions of employment, with minimum interference from the State.

The unfounded allegation is made that Brazil, by establishing the prevalence of collective bargaining to regulate employment relationships, has adopted legislation that is contrary to the Convention. Article 4 of the Convention, it has to be said, is crystal clear in providing that countries shall take "[m]easures appropriate to national conditions … to encourage and promote the full development and utilisation of machinery for voluntary negotiation" for "the regulation of terms and conditions of employment".

Moreover, Convention No. 154 provides in Article 2 that collective bargaining is for "determining working conditions and terms of employment" and/or "regulating relations between employers and workers". There is also no room for doubt in Article 5 that measures adapted to national conditions shall be taken. This is so that collective

bargaining can facilitate all issues relating to the determination of conditions of work and employment with a view to regulating employment relations. In this sense, the Committee on Freedom of Association has emphasized on several occasions, which we highlight here, that it is necessary to develop and promote the full use of negotiation with minimum interference by the State.

In Brazil, the National Congress, following discussions with the social partners, set out limits and possibilities for collective bargaining. This was done to allow Brazil to overcome a situation of insecurity for social dialogue, which took the form of the repeated annulation, sometimes arbitrarily, of collective instruments concluded freely and voluntarily.

This situation was resumed as follows by the Supreme Constitutional Court of Brazil, I quote, "the systematic invalidation of collective labour accords based on a logic of limiting the autonomy of will exclusively applicable to individual labour relations must not be endorsed. Such interference is in violation of the various provisions of the Constitution which promote collective negotiations as an instrument for the resolution of collective disputes, as well as denying employed persons the possibility to participate in the formulation of standards which regulate their lives."

What happened then is that Brazil established mechanisms adapted to its conditions, at a time when legal insecurity prevailed.

It should be emphasized that Brazil does not grant, in any form, authorization to derogate from labour legislation by means of the prevalence of collective instruments. There are clear temporal and material limits. In temporal terms, the collective instrument has a maximum duration of two years when negotiations do not take place, which means that, in the absence of a collective clause, the terms and conditions set out in the ordinary law and the Constitution prevail fully.

Moreover, there is an extensive list of matters that cannot be subject to negotiation, either to reduce them or to suppress them, such as the level of the minimum wage, maternity and paternity leave, 30 days of annual leave, safety and health standards, among the over 40 guaranteed rights. There is therefore no real basis for claiming that the primacy of collective bargaining over the ordinary legislation, as applied in Brazil, is in violation of the Convention.

With regard to individual bargaining, it should be emphasized that the new rule permits employees with higher education and high levels of remuneration to negotiate their rules of employment. In the current labour market, this affects 0.25 per cent of the Brazilian population, or 1.45 per cent of formal employed persons.

The Brazilian option was to maintain these workers within an employment relationship, but also to increase their bargaining capacity, while guaranteeing all the rights and protections. Or, in other words, this is also in accordance with the Convention.

For all of these reasons, I reaffirm that Brazil places upon workers and employers the great responsibility of engaging in negotiations, within well-defined limits, and limiting the scope of intervention of the public authorities in collective bargaining, in line with the Convention.

In other words, the labour reform in Brazil:

(i) applies the Convention by establishing free and voluntary negotiation between workers and employers;
(ii) protects collective bargaining from external interference;
(iii) consolidates effective machinery to confront economic adversity, in line with international trends in this respect;
(iv) brings Brazil into line with other member States of the ILO; and
(v) principally, through the new formula which permits the negotiation of working conditions that are different from those set out in law, with the exception of all the labour rights established in the Constitution, makes the principle of freedom of negotiation compatible with and balances it with the protection of workers.

Finally, it must be said that this issue was not exhausted before the national legal bodies in Brazil before being brought to the ILO for discussion. None of the unions lodged an appeal with the Constitutional Court of Brazil indicating any violation of the Constitution, the Convention or any other ILO standard to challenge the new model of collective bargaining. Why is no one challenging this? It is true that some cases have been brought to the Supreme Federal Court, but they are challenging other matters than those that are being examined here and now. In reality, it appears to us that the unhappiness is only due to the fact that the contribution of trade unions has become optional, but this subject is not covered in the comments of the Committee of Experts.

We Brazilian employers have great hopes that this house, the home of dialogue and tripartism, in its Centenary year, will only examine specific facts and technical matters, and that this Committee will conclude definitively that the labour reform in Brazil is in line with the Convention.

Worker member, Brazil – We are here today to discuss the process of the formulation and the harmful effects of the labour reform in Brazil, Act No. 13467 of 2017, and the manner in which Brazil has been in reiterated violation of the terms of the Convention. The labour reform in Brazil was adopted with the promise of modernizing labour relations, generating employment, promoting more and better collective bargaining and combating informality. None of these promises have been kept!

In 2017, even before the adoption of the Act, we indicated our concerns to this Organization. The report of the Committee of Experts that year drew attention to the possible impact of the reform and recalled that in accordance with the interpretation of the Convention, together with Convention No. 154, collective bargaining has the objective of improving social protection, never reducing it!

In 2018, the case of Brazil was examined by this Committee and both the Government and the Employers argued that there was no violation of ILO standards, that Act No. 13467 promoted more and better collective bargaining and that the absence of data prejudiced any analysis of the case.

And today, two years after the adoption of the Act, what are the results?

According to the latest survey by the Brazilian Institute of Geography and Statistics (IBGE), an official government body, the unemployment rate in Brazil rose to 12.5 per cent of the economically active population in the first quarter of 2019, compared with 11.8 per cent in the last quarter of 2017, when the Act came into force. That is, since the beginning of the labour reform, there has been an increase of around 1 million unemployed Brazilians. Informal work rose by 4.4 per cent in comparison with the first quarter of 2018 and the number of discouraged workers (those who were no longer seeking employment) reached record levels.

According to the Institute of Economic Research Foundation (FIPE), related to the University of São Paulo, one of the most respected in Brazil, between 2017 and 2018, there was a decline of 45.7 per cent in collective bargaining as a direct result of the labour reform. That is, from one year to the next, almost half of collective bargaining coverage and protection simply disappeared.

The vertiginous fall in the number of collective negotiations is compounded by the possibility of workers individ-

ually being compelled to give up rights guaranteed by collective agreements and accords, of an accord revoking clauses that are more beneficial for workers, and the existence of precarious contracts, or contracts that seek to conceal the employment relationship. All of this in practice means the withdrawal of rights.

Act No. 13467 was an unprecedented reversal of the hierarchy of labour rules. Instead of building a growing chain of protection, in which the law is the low basis on which agreed rights are constructed through collective bargaining, this logic is turned on its head to allow even an individual accord to prevail over the law, and over collective accords and agreements, in clear violation of the Convention. For us, this Act is a return to the types of labour relations of 100 years ago and is a disaster in the quest for social justice.

And yet this is not everything. There is currently a veritable persecution of trade unions with the objective of diminishing our capacity to act and to engage in free and voluntary collective bargaining.

In March this year, the Government, without any tripartite consultation or social dialogue, adopted Provisional Measure No. 873 (a Presidential Decree with the force of law) which prohibits employers and workers from negotiating freely the financial dues approved by assemblies. This is a tremendous contradiction with the promise to promote free bargaining between the parties. It is impossible to strengthen collective bargaining in a country where the law prevents workers and employers from establishing freely the terms of trade union financing.

We are denouncing here the complete absence of social and tripartite dialogue in this process, despite all the recommendations and observations made by the Committee of Experts over the past three years.

In the 2019 report, on page 60 of the English version, the Committee of Experts requests "the Government to take the necessary measures, in consultation with the representative social partners, for the revision of sections 611-A and 611-B of the CLT so as to specify more precisely the situations in which clauses derogating from the legislation may be negotiated, as well as the scope of such clauses". Our question is whether any tripartite meeting was held to address the requests of the Committee of Experts and, if so, when, where and who participated.

In fact, the practice of the Brazilian Government in recent years has been to abolish or void of their content tripartite institutional bodies, such as the National Labour Council, which has never met since. The lack of respect for social dialogue in the country is so serious that the Government has recently abolished, without any consultation, the National Commission for the Eradication of Slave Labour and the National Council for the Rights of Persons with Disabilities, both of which were tripartite in composition. The abolition of these bodies is so absurd that, in our view, it can only be part of the policy of the President of the Republic who, more than once, has said that Brazilian workers will have to choose between having work and having rights, because it is impossible to have both. Moreover, the Government has abolished the Ministry of Labour itself.

Another fallacious argument that we rebut is that there are no specific cases of the violation of the Convention, or the withdrawal of rights following the adoption of the labour reform. We could cite innumerable cases, but we will confine ourselves to two:

– a private university present throughout Brazil, days after the entry into force of the labour reform, dismissed over 1,200 professors with the intention of rehiring them with lower wages and without the protection of a collective agreement;
– at the beginning of this year, aircraft pilots were surprised by an individual contract drawn up by their employers in which they had to agree to renounce the rights envisaged in collective accords and agreements. Such attacks on the workers were not carried through solely as a result of the intervention of the courts. We wish to indicate here that innumerable cases are before the labour courts in the country.

This Conference is commemorating the Centenary of the Organization and serves as an occasion to reflect on everything that the ILO has been able to build for peace and social justice. We are here in the hope that this Organization will continue to fulfil its role. It is a matter of great concern and disappointment that Government and Employer representatives do not recognize the value of the ILO and the system of standards in the development of the balance that is required for world peace. Attacking the system of ILO standards at this time is tantamount to attacking the Organization itself and multilateralism. We Brazilian workers are taking another path, the path of strengthening the ILO, the standards system, the Committee of Experts and multilateralism.

We know that tripartite social dialogue is the cornerstone of this Organization. We have always been open to dialogue and it is precisely the lack of such dialogue that has brought us here today. The Organization has a fundamental role to play as a mediator. In this sense, we request ILO support with a view to reopening social dialogue in Brazil, where it is now completely inexistent. We emphasize that public hearings by Parliament is not tripartism. As in 2018, we will make available to the Committee of Experts all of the information referred to here.

Government member, Argentina – The significant majority of the States of the Group of Latin America and Caribbean Countries (GRULAC) thanks the Government of Brazil for presenting its information and arguments to the Committee on the Application of Standards. We wish to emphasize, once again, our concern and disagreement at the working methods of this Committee and the misuse of the ILO supervisory machinery. In the present case, we are seeing once again how the legitimacy of that machinery, its capacity to generate social dialogue and its results in practice are being seriously affected by a total lack of transparency, objectivity, impartiality and balance in the selection of cases and their treatment within this Committee.

The ILO is intrinsically based on tripartism. Nevertheless, we are seeing how every year GRULAC countries are indiscriminately subjected to international exposure by an exclusively bipartite consultation mechanism, without the participation of Governments, in which, as we all know, political agreements are reached that have nothing to do with the specific situation.

Countries are condemned before they have defended themselves. As a result, the lists of the Committee on the Application of Standards are losing their value and their capacity to inform international society of the real situation of labour relations around the world.

With reference to the comments of the Committee of Experts on the application of the Convention in Brazil, we regret that the Committee of Experts, without objective or clear reasons for doing so, has once again chosen not to wait for the regular reporting cycle for the Government of Brazil in relation to the application of the Convention, which was due this year.

By acting in this manner, the Committee of Experts has once again issued views without specific data, without factual evidence and without having a broader and more complete view of legislation that is complex and still in the implementation phase by the Brazilian authorities, and is under review by the judicial authorities in the country.

We are also concerned that sufficient attention is not being given to the characteristics of the Brazilian legal system which, according to Brazil, affords broad constitutional guarantees for labour and social rights.

Let us recall that, in accordance with its mandate, the Committee of Experts should review the application of Conventions in law and practice, taking into account the different contexts and legal systems, which it has not done in the present case.

Our region continues to be committed to the promotion of collective bargaining on the basis of the principles set out in the Convention. We note the information provided by Brazil that the central objectives of the labour reform include the promotion of collective bargaining, in accordance with the obligations of the country in the context of the ILO.

Government member, India – We thank the Government of Brazil for providing the latest comprehensive, detailed update on this issue. India welcomes the continuing willingness and commitment of the Government of Brazil, to constructively engage with the ILO and the social partners to fulfil its labour obligations. We take positive note of efforts of the Government of Brazil to reform its labour laws in consultation with the social partners and in accordance with its international obligations, as well as national context.

We do not support the inclusion of any country in the preliminary or final list of cases before the end of the reporting cycle deadline and without following due process and for reasons other than the technical merits of a case. We also wish to reiterate the need for constructive tripartite engagement, through a transparent, inclusive, credible and objective ILO supervisory mechanism and process, which is aimed at improving compliance with international labour standards and for its continued normative relevance in the world of work. We wish the Government of Brazil all success in its endeavours.

Employer member, Colombia – I want to refer to two aspects. The labour reform in Brazil is the result of broad discussions held with the social partners for over 20 years. In 2003, a report was submitted to the National Labour Forum with the participation of trade union confederations, employers and the Government and tripartite dialogue meetings continued to be held focused on consulting the social partners in which the principal guidance was expected from workers. The subject was referred to the National Congress through a Bill and not provisional measures, as proposed by the Government. In Congress, ten broad public hearings were held on specific themes in the Senate and the Chamber of Representatives, with another 20 meetings also being held. Specific subjects were discussed, such as collective bargaining, methods of resolving disputes, intermittent work, telework, temporary work and legal security. Over 2,000 amendments were proposed by various social groups and the most diverse ideological trends through a broad democratic process with the legal framework.

The Act seeks to improve industrial relations in Brazil by adapting the law to the new realities, always on the basis of collective bargaining. The intention of the labour reform is to establish more conducive conditions for competitivity, productivity and economic and social development with fundamental labour rights and decent work.

The labour reform in Brazil does not offer blanket authorization to derogate from labour law through collective bargaining, as has been claimed. In Brazil, labour rights and guarantees have constitutional rank, in the sense that collective negotiations are subject to the time and material limits imposed by the Constitution. The reform sought to reduce interference by the Brazilian authorities.

Secondly, the new legislation sets out a clear definition of who are considered to be autonomous professionals and the requirements for their identification. A clear distinction is made between the latter and employed persons. The two are completely different. As their name implies, by being self-employed or autonomous, these workers are governed by different rules than those pertaining to employed persons, and in both cases decent work is respected.

These differences of the concepts and legislation respecting autonomous work are necessary and have already been adopted in many States. Nevertheless, what is important in relation to the present case is that this regulation has maintained the right to organize and to collective bargaining. The provisions of the Act to not represent exclusion from the scope of the Convention, as in Brazil the Constitution ensures that all workers have the right to organize and to benefit from trade union rights.

The reform sought to reduce interference by the Brazilian authorities and therefore its scope is fully in accordance with ILO Conventions, and particularly with the present Convention.

Worker member, Argentina – I am speaking on behalf of the Confederation of Workers of Argentina (CTA Workers) and, by delegation, the General Confederation of Labour (CGT) and the Confederation of Workers of Argentina (CTA Workers). The labour reform adopted by Brazil in 2017 affects all the principles which gave rise to the ILO and are set out in its Constitution. Its results are tangible: the coverage of collective bargaining is being significantly reduced; the regulation of labour relations is moving ever closer to individualization; the race to the bottom for workers' rights is being exacerbated; and, finally, social dialogue has been voided of content as it is no longer based on one of its essential elements, its voluntary nature.

In practice, legislation is compulsory when there has been no prior tripartite debate leading to agreements that supplement collective bargaining. It is telling that we are discussing these issues in the Centenary Conference of the ILO. Will this be the model of regulation on offer for the next 100 years? Nothing good will come of that.

Let me summarize the principal issues in Brazilian legislation in relation to collective bargaining as a basis for a global analysis:

- the reform allows collective agreements and accords to derogate from the minimum rights set out in the labour legislation;
- it promotes the centralization of bargaining by providing that enterprise agreements prevail over branch agreements;
- it facilitates the negotiation of individual contracts, which prevail over collective accords;
- it prohibits the inclusion of clauses to maintain the effects of collective agreements if they are not renewed when their validity has expired;
- it broadens the concept of autonomous or self-employed workers with a view to their exclusion from the scope of this fundamental law.

The application of these provisions completely undermines the obligation to promote collective bargaining under the terms of Article 4 of the Convention. It is a system that eliminates all safeguards intended to promote an improvement in workers' rights. In view of this model, what is happening is logical: a substantial reduction in the volume of collective agreements and accords. If the power of employers becomes the sole source of regulation, why would they promote collective bargaining? The argument continues to be the cost of labour as an obstacle to investment, and that lowering costs necessarily generates employment and increases investment and competitivity.

But, this way of presenting the problem obliges us to accept an ethically unacceptable dilemma: accepting precarious employment which can hardly be classified as decent work. We cannot calmly accept a working day of 12 hours without conjuring up the memory of the Chicago martyrs. We could not look our colleagues in the eye and convince them that work after the working day is not considered overtime and is not reflected in their pay. We could not feel satisfied and endorse the legalized fraud of workers who

issue bills as self-employed workers. We would be ashamed as leaders if we accepted piecework without the guarantee of minimum earnings.

Collective bargaining in Brazil is losing weight and meaning as a tool for the regulation of terms and conditions of employment, as set out in the Convention. One of the essential characteristics of collective bargaining is its collective roots, which are then converted into a compulsory legal standard. The bipartite quest for the common good is essential in order to achieve that, but is prevented by the contents of this law.

The attack on collective bargaining through the labour reform in Brazil is far from being confined to its national border. Indeed, its provisions challenge the model of industrial relations designed by the ILO as its central task. Overturning this reform is key to the debate on the future of work, which is still pending.

Government member, Algeria – Algeria supports the statement by the Federative Republic of Brazil concerning the Convention and the issue of collective bargaining. We have taken good note of the information provided according to which the labour reform in Brazil has the objective of promoting collective bargaining.

Algeria fully supports the position of Brazil and recalls the important role of the supervisory bodies in evaluating compliance with international labour Conventions by drawing attention to both the need for a basis of transparent rules and clear interpretive mechanisms for the effective application of international labour standards.

Algeria considers that the economic and political situations of certain countries are frequently not adapted to the interpretations of the supervisory bodies, which justifies the complexity and flexibility of international labour standards, including the present Convention.

Brazil has ratified a significant number of international labour Conventions, which is not surprising, as Brazilian labour legislation has reached an evolved stage and certain ratifications have enshrined practices that were already established.

Finally, we consider that the provisions of Act No. 13462 of 2017 are in conformity with the Convention. The right to collective bargaining could not develop spontaneously. Collective agreements and accords are tools that are intended, in global terms, to bring improvements for both employees and enterprises. The law may set certain limits on contractual autonomy in the world of work, taking into account national requirements. In that light, the articulation between the scope of public order and the limits of expression in collective labour agreements and accords appears to us to be coherent with the objectives and provisions of the Convention.

Employer member, Argentina – We are here to express our support for Brazilian employers in their defence of the value of a standard which sets the hierarchy for collective bargaining and, as we have affirmed, is an essential tool to guarantee decent work in the country. Incentives for social dialogue and the appreciation of collective bargaining have always been important objectives in this Organization, as they encourage consideration of the interests and concerns of the social partners by preserving the freedom of employers and trade unions to negotiate.

In the same way as many other countries in the world, Brazil has travelled along a specific path characterized by continual transformations in the world of work and production.

The adaptation of the system of rules governing these relations became a necessity, an enabling institutional response, to ensure that the dynamism of industrial relations has a correlation in rules that can offer adequate protection in the real industrial relations situation.

It is necessary to recall that collective bargaining is an instrument of mutual concessions and gains which allows the negotiation of more appropriate rules for each sector, region, occupation and enterprise.

And yet, the Act under discussion does not make collective bargaining compulsory, but only regulates industrial relations based on the free and spontaneous decisions of enterprises and unions. On the one hand, the reform is intended to reduce interference by the public authorities in the will of the parties, in conformity with the principles of the Convention.

In this context, assessment of the elements which resulted in the inclusion of Brazil on the list for the second successive year becomes necessary. In order to ensure the transparency and hierarchy of the supervisory system that this Committee safeguards, we consider it necessary to recall that the mission of this Organization is to be an instrument of peace and to maintain harmonious relations between employees and employers. Bringing forward this case for discussion for the second successive year is giving rise to conflict and runs counter to the purpose of the supervisory system. Under no circumstances must it be permitted that the cases proposed for analysis by this body are based on speculation concerning the domestic political situation of a country.

Finally, we hope that the conclusions of this Committee will be very positive and appropriate, which would be to value collective bargaining and social dialogue as the most effective instrument for resolving the issues that may arise out of the natural conflicts of interest that are characteristic of industrial relations and labour, thereby ensuring lasting social peace.

Observer, International Trade Union Confederation (ITUC) – I am speaking on behalf of all African workers. This period, in light of the provision of the Convention, are meant to enhance national legislation and not the other way around. The point here is that the national labour law reform that brought about the CLT attempts in some ways to undermine the provision of the Convention.

This is why different interpretations are conjured to collective bargaining processes, to the extent that the relationship between collective bargaining and the law is not advancing the real and unambiguous intentions of the provisions of the Convention. Like the Committee of Experts has observed, the current collective bargaining practices have introduced the general principle that collective agreements and accords prevail over legislation, and it is therefore possible through collective bargaining to derogate from the protective provisions of the legislation.

From our experience in Africa, where there are multiple layers of collective bargaining, especially where enterprise and sectorial, as well as national collective bargaining processes are engaged, the tendency for legislation to create the condition for downward competition between the employers in relation to terms and conditions of work and employment, has shown to be very harmful to industrial relations. It is clearly undermining the practice of collective bargaining as an instrument for improving conditions of work.

This practice is dysfunctional to collective bargaining. It can harm workers, especially those at the enterprise level and review downwards their benefits. This much the Committee of Experts observed in their copious reference to the report of the Public Ministry of Labour that showed that in the specific context of the collective labour relations in Brazil, the principle set out in section 611-A of the CLT is "likely to result in trade unions being subject to threats and pressure to accept derogations from the legislation, and to authorize all trade unions, irrespective of their level of representativity, to negotiate below the national legal protection, which will act as an incentive to corruption in collective labour relations".

For us in Africa, we were excited and encouraged that such understanding on how you use progressive collective

bargaining processes to enhance pay, morale, and industrial harmony, is exactly what the Lula Da Silva Government introduced and encouraged. We fondly refer to this as "Lula Movement", which is partly responsible for taking millions of people out of poverty, including workers.

The Government of Brazil should be encouraged to reverse provisions of the CLT that run contrary to the provisions of the Convention and this should be done through a genuinely consultative process and in good faith, carrying along all the tripartite partners.

Government member, China – The Chinese delegation listened carefully to the statement made by the representative of the Brazilian Government. We noted that the reform of the Brazilian labour system is designed to promote collective bargaining as an essential goal. We appreciate the Brazilian Government's commitment to promote collective bargaining. The Chinese delegation believes that, at the important moment when the ILO celebrates its 100th birthday, it should earnestly implement the action plan for reforming the standards of the provision mechanism, continuously improve its productivity, impartiality and transparency. It is reasonable for the Brazilian Government to closely integrate its own national conditions and legal system in a process of implementing the right to organize under the collective bargaining Convention. We hope that the ILO will provide the necessary technical support for the Brazilian Government to implement the relevant Conventions.

Employer member, Costa Rica – In support of the employers in Brazil, I would like to start by indicating that the comments of the Committee of Experts in relation to sections 611-A and 611-B of the Brazilian law are based on an interpretation of the Convention that is not borne out in any way by its provisions.

There is no provision in the Convention which provides that the objective of collective bargaining is to obtain agreement on terms and conditions of work that are more favourable that those set out in the national legislation. More specifically, Article 4 does not envisage any limitation on collective bargaining in the sense that it can only result in more favourable conditions than those established by law. The same applies to Convention No. 154. In reality, those Conventions explicitly provide for the possibility of adopting measures that are adapted to national conditions. In a changing world and in light of new forms of employment, it is important for laws to safeguard the freedom of the parties to adapt to change and modernization.

This is precisely what is envisaged in the Convention and in the innovations in Brazilian legislation on the bargaining of conditions of work and of employment.

Observer, IndustriALL Global Union – This is the second and consecutive year that Brazil is under CAS supervision for its Government's violations to the Convention. The Brazilian Government continues to systematically ignore and not implement any of the Committee of Experts' recommendations especially those related to Article 4 of the Convention. The Global Union would like to place on record their deep respect for the work of the Committee of Experts. These eminent legal scholars carry out their mandate to provide impartial and technical analysis of international labour standards with the utmost rigour. We thank the Committee of Experts for helping ensure countries effectively implement the Conventions they ratify, especially those States that wantonly flout their international obligations.

Since 2008, we have seen lots of labour reforms around the world, especially in European countries. The result was less coverage of collective bargaining, greater share of precarious work, lower wages and growing unemployment. That is exactly what Brazil has been experiencing in the last two years since the labour reform, reaching the alarming figure of 13 per cent of unemployment and 54 per cent of informal work.

As pointed out by the Committee of Experts, new section 611-A of the Brazilian Consolidation of Labour Laws Act has catastrophic consequences for workers. In the aviation and maritime sectors, derogations allowed by section 611-A can interfere and slash sector-specific safety standards, including flight and sea time limitations and minimum rest periods. Some of these vital protections derive from ILO Conventions. The safeguards contained in section 611-B are simply not sufficient. Moreover, even ILO Conventions are not protected, and it is possible that collective bargaining will derogate from their application as well.

Furthermore, the rights of Brazilian civil servants to collective bargaining was restricted by a recent presidential veto to Law No. 3831 even after ILO Convention No. 151 was ratified by the Congress of Brazil. The Bill was in fact built by consensus and unanimously approved by the Federal Senate and the Chamber of Deputies in Brazil.

If the aim of the labour reform was to promote collective bargaining, the result has been the opposite. In the Centenary of the ILO, we should be celebrating successes and achievements, but at the same time, we as constituents have the obligation of not closing our eyes to regressive violations and make sure to bring Brazil's legislation into conformity with the Convention.

Government member, Russian Federation – First of all, we would like to thank the distinguished representative of the Brazilian Government for his comments on the case and also for what he said about the procedural aspects of it. Brazil has been steadily working to improve its mechanisms for implementing the Convention. We welcome the attachment of the Government to moving forward tripartite cooperation in accordance with its international obligations towards the International Labour Organization. We understand the concern of the Brazilian authorities about certain methods of work followed by the supervisory bodies of the ILO. Thanks to tripartite efforts, recently, decisions have been taken in this respect, including concerning work in the area of standards. Work to improve these standards-related procedures in our opinion needs to be continued. Generally speaking, we have doubts about reviewing this issue in the Committee and we do hope that, in the future, we will not have to return to it again.

Employer member, Algeria – The case that we are examining today concerns Brazil and a Convention that certain accuse the country of undermining. We should refer to the statement by the Government of Brazil, recalling that this case was examined by the Committee last year, and on the same grounds. It was recognized by this same Committee that there was no element indicating a violation of the Convention.

As an Employer member of this Committee, I am bound to express my great surprise at this claim that has been made against the Government of Brazil on a recurrent basis for several years. How can we today accuse a country in which over 17,000 registered workers' trade unions are active in full freedom? This is a question that needs to be asked. Also, how can we accuse Brazil of not being in compliance with the Convention when it is a country that enshrines trade union pluralism, the right to collective bargaining and social protection, as well as dialogue, in its fundamental law?

I think that Article 4 of the Convention is very clear and that each country has to take measures adapted to its national situation, as well as Article 5 of Convention No. 154, which specifies that measures appropriate to national conditions shall be taken to extend collective bargaining to all matters relating to the determination of working conditions and terms of employment with a view to the regulation of industrial relations.

To resolve these disputes, Brazil has always favoured dialogue, negotiation and rights, and has never taken measures against workers that are contrary to national legislation or the Convention.

I believe that the national legislation in Brazil is in conformity with the Conventions that it has ratified, including Act No. 13467, which reinforces free and voluntary collective bargaining, thereby providing a framework for the industrial relations legislation. Brazil has always been characterized by a policy that gives priority to dialogue and consultation with the economic and social partners, as illustrated by the various laws which provide the framework for industrial relations.

Brazil aspires to develop a State in which the rule of law prevails, and therefore ensures that the law is applied in all fields, including the exercise of trade union rights and collective bargaining. In this respect, it is completely normal, in my view, that trade unions must comply with laws and regulations. Explanations have been provided on many occasions to the Committee by the Government of Brazil, without them ever being taken into consideration. We have the right to raise this type of question when we see the harassment to which Brazil is subject, a harassment that undermines all the progress made in compliance with Conventions.

Worker member, Republic of Korea – I speak on behalf of the Korean Confederation of Trade Unions. First I would like to raise my serious concerns about some of the speeches we heard today on the case of Brazil who is attempting to unduly politicize this Committee rather than based on the analysis of the implementation of the Convention in a technical way. This argumentative manner in this question will bring the Government into discredit.

Law No. 13467 of 2017 amended more than 100 articles of the Brazilian consolidation of labour law. Among the many aspects, I want to address some issues that affect Brazilian workers directly. Before the reform, Brazilian legislation prohibited pregnant women and nursing mothers from working in hazardous or unhealthy places. Amazingly, these guarantees were withdrawn demonstrating complete disrespect on the part of the Brazilian Government for the health of women and their children. Fortunately, we received the news that last week the Federal Supreme Court of Brazil annulled this change thanks to a judicial demand promoted by the unions. We hope that the many other demands that challenge constitutional and conventional points of the labour reform will be equally ruled in favour of workers.

Another very worrying aspect of this dispute is the absence of a broad social tripartite dialogue and we are astonished to learn that the National Commission for the Eradication of Slave Labour, CONATRAE, has been disbanded.

Finally, the way in which the Brazilian State has related to the Conference Committee on the Application of Standards and to the Committee of Experts is to say the minimum, disrespectful. Constructive criticisms that seek to improve the functions of the system are always welcome but that is not what we observed in this particular case. We therefore encourage the Government to resume and re-engage in a broad tripartite social dialogue, taking into account, in particular, the observations of the Committee of Experts.

Government member, Egypt – I would like to thank the Government of Brazil for the important information given to us in the segment they have just made by the Government representative about the measures it has taken in order to implement the Convention. In this respect, there is of course an important need to further improve these mechanisms for that the Brazilian workers can get what they want. The Law issued by Brazil aimed at increasing collective bargaining and not at the regression of collective bargaining as shown by the Government representative in figures. We would like to welcome this Law and we support it. We are fully satisfied, because the results of the surveys undertaken by the World Bank on the law concerned and its positive impact in increasing economic growth and providing opportunities for employment and combating irregular employment. We also support the social dialogue procedure undertaken by the Government in the presence of Worker representatives and Employers before enacting this Law. We would like to encourage the Government to continue this social dialogue in all the fields of labour and to move forward in order to improve the working conditions, so that it will be in conformity with the international Conventions. We hope that this Committee will take into account the important aspects taken by the Government of Brazil and the challenges it is facing.

Employer member, Bolivarian Republic of Venezuela – We reiterate the views of the Employers' group on the inclusion of the case of Brazil on the shortlist and our concern that the case was included for reasons that are not objective or are of a political nature and, in this respect, we call for the tripartite constituents to review and determine with absolute clarity objective criteria for the establishment of the list of countries whose cases of violations of Conventions are included on the shortlist for discussion by this Committee.

On the substance we consider that the labour reform adopted in Brazil, more specifically in Act No. 13467 of 2017, is not only in compliance with, but also emphasizes and develops the principles set out in the Convention. The earlier 1943 legislation was clearly not adapted to the increasing changes in the world of work. The new legislation establishes modern and flexible criteria that are in full accordance with the current demands of labour and production, and in any case gives priority to collective bargaining practised in a responsible and voluntary manner between the parties to regulate conditions of employment. It also adds value to and strengthens collective bargaining by protecting the agreements concluded by the parties, as a means of complying with the objective and purpose of the Convention, which is to permit adaptations to labour regulation as required by the circumstances of time, activity and place.

The discussion is focused on the powers attributed by the new Act to the parties to agree through bargaining the specific non-application of certain legal provisions. But that in no way implies that the agreement that is concluded, or the objective of the working conditions agreed, is not more favourable to the workers than the minimum standards guaranteed by law. Indeed, these provisions are only applicable in exceptional circumstances in which the high level of income and the intellectual or professional status of the workers are taken into consideration, as well as the power of equitable negotiation by the unions that represent them, which is based on the assumption that the agreement concluded, in full exercise of freedom of negotiation, will be substantially better through the achievement of additional benefits not envisaged by the law.

The agreements concluded through negotiation, or collective agreements, in accordance with the new Act, can in no case affect or reduce the 30 fundamental rights of workers set out in the Federal Constitution. This means that, as with any exceptional rule, it is of very limited application. Moreover, these specific agreements are applicable to a single situation in the respective sector, region or enterprise, for a maximum period of two years. If no specific collective accord is concluded, the labour legislation applies. In this way, the rights of workers are fully protected by the collective contract or, where there is no such contract, the labour legislation.

Adopting a contrary interpretation would involve disregarding the negotiating capacity of workers covered by the

legislation, as justified by their level of remuneration and intellectual capacity, and disregarding the bargaining responsibility and power of the unions. We therefore welcome the labour reform in Brazil, which modernizes its situation in the world of work.

Worker member, United States – Canadian workers join our statement. As we confront the challenges and opportunities that have begun to arrive and will accelerate with transformations in the world of work, those who care about growing inequality and polarization in so many countries keenly note the deliberate weakening of institutions that work for social justice. Labour market institutions, social dialogue and collective bargaining are key among them. The employment relations itself is one such institution. In the United States, we have seen a decline in these institutions over decades. Over that time, inequality has steadily increased, social justice decreased, polarization spiked. The drastic, abrupt and reckless changes to Brazil's Labour Law in dismantling of institutions are broad in scope. I will focus on the creation of the individual autonomous worker and its impact on collective bargaining rights.

In their report, the Committee of Experts have registered concern about the impact of this category on bargaining rights. Noting that the Labour Code makes no accommodation for the rights of these workers, the experts called on the Government in March to inform them of any progress in consultations to address this vast and growing section of the workforce that have no access to bargaining rights. In response last month, the Government frankly stated that the Convention "is not by definition applicable to autonomous workers as collective bargaining is unsuited to the occasional and independent nature of their activities". The Government further stated that "the competent authorities in Brazil can unveil genuine employment relationships beneath disguised service agreements". Perhaps they can, but will they? This Government has eliminated the Labour Ministry, reduced worker access to labour justice and unions' capacity to act in solidarity with unaffiliated workers by creating high costs for workers seeking labour justice and by denying unions' dues check-off even when they have been negotiated by employers and democratically approved by workers in assemblies.

In response to the Committee of Experts' question regarding the exclusion of these workers, the Government provides no information. In the best of situations, managing the creation and expansion of this category of workers would require a highly capable labour ministry and empowered social partners. Brazil presently has neither. In spite of updates to surveys by Brazil's IBGE, even many months after the autonomous worker category was created, no revisions have produced exact information on the size and status of this new part of the workforce.

According to the best proxy, that of the self-employed, in the first quarter of this year Brazil had nearly 24 million such workers, more than a quarter of the total workforce. Less than a third of those register and contribute to social security. Less than 15 per cent of all self-employed are formally registered as such. Aside from the lack of social protection of these workers, the impact of this number of workers without protection on society will be disastrous. Access to collective bargaining provides some protection to these workers but Brazil has done nothing in this regard in its reckless changes to labour law.

Finally, these are not well-paid and highly educated workers well positioned to negotiate for themselves. The average salary of the self-employed in Brazil is US$417 a month, 1.7 times the minimum wage, considerably below the national average minimum. If any class of worker needs access to collective bargaining, it is surely these workers yet the Government has closed the door to them, embracing and legalizing their exclusion rather than acting to combat it. We thank the Committee of Experts for drawing this Committee's attention to this exclusion.

Government member, Angola – I speak on behalf of the Angolan delegation. We recognize that the Brazilian Government is now undergoing many measures related to the right to organize and collective bargaining. Therefore, we encourage Brazil to continue this practice.

Employer member, Panama – The ILO is the only agency of the United Nations that is tripartite, and it draws its strength from negotiation, consultation and agreement. In the case of Brazil, it is important to emphasize that the labour reform of 2017 is intended to achieve peace through the reduction of poverty, and individual and collective bargaining. The labour reforms in Brazil are not in violation of any ILO Conventions and cannot and must not be analysed in isolation, but within the whole economic, political and social context of the country.

Up to 2017, before the new Act, there was an accumulated total of 2.63 million court actions. In December 2018, less than a year after the implementation of the new Act, that number was reduced to 900,000, or almost 40 per cent fewer. That is social peace!

With regard to the autonomy of the will of the parties, the new Act permits negotiation and mutual agreement as a means of termination of the employment relationship. Accordingly, in the first four months, 73,000 accords were negotiated. This is also labour peace.

In the fight against informality, which attacks both workers and employers, a series of measures have been implemented to create new forms of work which are precisely intended to enable the country to generate new and more jobs. Accordingly, over 97,000 new jobs have been created, thereby reducing poverty.

The new Labour Act in Brazil is not in violation of any agreement or of the Convention, as it promotes individual and collective bargaining and consultation, reduces informality, reduces poverty and promotes social peace, and we believe that it must be analysed in this context. There is therefore no need to request any further reports from the country.

Worker member, Italy – I am speaking on behalf of the Italian trade union confederations and the reason for my intervention is a great concern for the workers of Brazil. It is an intervention that makes reference to the long experience that we have had of collective bargaining in my country, Italy. It is a concern that is justified, especially when it is recalled that the city with the highest number of Italian residents after Rome is not Turin, Milan or Naples, but Sâo Paulo in Brazil.

Over the years, Italy has been a laboratory in guaranteeing balance, but never through the law, as a result of the capacity of the social partners to find the point of economic equilibrium, and always through collective bargaining. All of the reforms that we have made over these years were never to reduce, but to extend collective bargaining to encompass individual forms of work, and always with the participation of the social partners.

We were impressed in years gone by with the data and results obtained by collective bargaining in Brazil. Not only were there income distribution programmes, *Bolsa Familia*, *Fome Zero*, but also an increase during those years of 90 per cent, as indicated by all the reports, in collective bargaining, allowing 40 million people to escape poverty.

And now, incontrovertible data indicate that the labour reform, Act No. 873, has led to a reduction in employment and a lack of social protection in the country. This is a political fact that concerns us and which therefore has to be raised in this type of debate.

In 2018, a request was made for information, as well as for the involvement of the social partners. In 2019, the request will have to be that, in light of the results that have

been seen, it is necessary to convoke, contact and call for the participation of the social partners so that the Act can be jointly revised.

On the eve of an agreement that may be important between the European Union and MERCOSUR, and we know that Brazil accounts for 80 per cent of the GDP of MERCOSUR, guarantees must be provided of the supervision, and in particular of the role and participation of the social partners, who in Europe are central to the European trade union and social model.

From Italy, from the industrial relations system of my country, from the European system and mechanisms of social dialogue, we issue a call for responsibility to the Government of Brazil.

Government member, Philippines – The Philippines recognizes the significant efforts Brazil has so far made to give full effect to the Convention. It must be noted, however, that reforms and their outcomes cannot be achieved and felt overnight. In their jurisdiction, just like ours in the Philippines, there are legal procedures and processes to be observed and strictly complied with, especially in the field of legislation, consistent with Federal Constitution of Brazil and other national laws.

The Philippines also believes that in view of the complexities of the reforms envisaged, Brazil must be allowed sufficient and reasonable time to institutionalize labour reforms.

Further, institutionalizing labour reforms is not the sole function of government. The Philippines thus expects Brazil to engage its tripartite partners in a meaningful consultation, in the spirit of genuine social dialogue, to address the issues raised and adopt the needed measures appropriate to national conditions. The Philippines trusts that Brazil will remain committed to its obligations under the ILO Convention, and to continue its constructive engagement with its social partners.

The Philippines also shares some of the concerns of Brazil on the working methods of the Committee of Experts, to the extent that tripartism, consensus, and transparency should be fully applied, in view of improving its procedures and building confidence among governments and social partners, as well as to avoid undue politicization of country cases.

Finally, the Philippines requests the ILO, including its supervisory bodies, to continue providing its member States the needed technical assistance and guidance to ensure full compliance with Conventions that no government, worker, or employer will be left behind as we prepare for the future of work.

Employer member, Belgium – The Employers' group has serious questions concerning this case, which is already coming back to our Committee, after being examined in 2018. The Employers accordingly express their concern at the early examination of Act No. 13467 by the Committee of Experts. We have the impression that the Committee of Experts did not take sufficiently into account, in this case, the information provided by the Government of Brazil and the position of Brazilian employers.

On the substance, the Employers are not in agreement with the Committee of Experts on the fact that the revised versions of sections 611-A and 611-B of the Consolidation of Labour Laws does not adequately promote the widest possible development and utilization of machinery for the voluntary negotiation of collective agreements within the meaning of Article 4 of the Convention. Is it not strange that the Committee of Experts is criticizing Brazilian law for recently introducing the primacy of collective labour agreements and accords in relation to the legislation, while maintaining constitutional social rights.

On the contrary, we observe that collective bargaining is maintained and promoted by the new Brazilian labour law, and that collective agreements are indeed placed above other types of standards, while guaranteeing full respect of the constitutional social rights. That is because Parliament made a distinction between subjects that are negotiable and those that are not.

Brazilian unions are not prevented from collectively bargaining better conditions of work for their members. The scope of voluntary bargaining has even been increased, as not only higher standards may be concluded, but also, for example, stricter standards in exchange for less strict standards in other areas, which is in conformity with the autonomy of collective bargaining.

Finally, the causal link between the reform and the alleged reduction in the number of collective agreements has not been established by the Committee of Experts.

From an international comparative perspective, national legislation is frequently found which allows collective agreements to introduce exceptions and derogations from the law, in accordance with the Constitution and so-called subjects relating to public order.

It therefore appears to us important that the Brazilian Government, in consultation and collaboration with the social partners, is able to continue examining the impact of the reforms and, where appropriate, to decide on any appropriate adjustments, and that in any case the Government is not required to make any amendments to the law on the basis of the Convention.

In conclusion, I wish to recall that social peace and prosperity are necessarily based on social dialogue. Such dialogue must therefore be encouraged by governments. Such dialogue is based on the importance of collective bargaining, on mutual trust and the non-interference of the public authorities in bargaining, which must remain the domain of the social partners.

Worker member, Germany – Brazil has been a Member of the ILO since its foundation in 1919. When in 1948 the Convention was adopted, the Brazilian delegates unanimously voted in favour. Brazil also belongs to the countries that have ratified the most ILO Conventions but this endorsement of international labour standards seems to be a thing of the past. Rather, the increasing erosion of labour and social standards has been on the agenda for some time under the mantra of flexibilization. Reforms whose stated aim was to improve the situation of workers have on the contrary led to the increased precarity of employment and an increase in the unemployment rates. A policy of polarization has steadily widened the gap between workers and employers.

One example is the possibility under article 611-A of the Consolidation of Labour Laws that collective agreements take precedence over legislation and that collective agreements and agreements negotiated at company level take precedence over other collective agreements enforced in this field. The items listed in this provision including, for example, rules on working time, employee representatives at work, access to the employment protection programme or the classification of the degree of unhealthy working conditions are not exhaustive. That is, the content can broadly be extended by the parties with the exception of a number of rights listed in article 611-B. Article 611-A makes it possible to specifically undermine laws and collective agreements that set standards for the protection of workers. To give a recent example, in May 2019, a regional labour court in Sâo Paolo banned the operator of an air taxi company by way of a temporary injunction to urge crew members to sign agreements that include, among others, a clause which discards all the individual or collective instruments that had already been signed. This is the reality in many cases, companies are putting pressure on their employees to make unfavourable arrangements. What bargaining power do you have as an "autonomous" worker if you run the risk of losing your job?

Article 611-A reverses the basic idea of collective bargaining agreements. They are intended to enable the contracting parties to agree on better conditions for employees, however, they should not undermine the existing legal protection level. This is also the opinion of the Committee on Freedom of Association where it notes that the procedures for systematically promoting decentralized negotiation of working conditions which are less favourable than higher-level ones are leading to a global destabilization of collective bargaining mechanisms and to a weakening freedom of association and collective bargaining, which are contrary to the principles of Conventions Nos 87 and 98. We therefore urge the Government, in cooperation with social partners, to amend article 611-A and 611-B in such a way that collective agreements can differ only in favour of workers from laws and other collective agreements.

Government member, Colombia – Colombia expresses its firm commitment to the ILO and its supervisory bodies. The Committee on the Application of Standards is the highest supervisory body of the ILO, and for this reason we trust that improvements will continue to be made in its working methods. That will undoubtedly increase the confidence of everyone and will make it possible to have a supervisory system that is constantly strengthened.

Although document D.1 indicates in section VI the criteria that have to be taken into consideration for the selection of the individual cases of countries called before the Committee, we regret to note that both in the preliminary and the final list a good number of cases do not follow the technical criteria for the establishment of these lists, including the present case.

We appreciate the commitment to the promotion of collective bargaining, based on the principles set out in the Convention. We take due note of the information provided by the Government of Brazil that the central objectives of the labour reform include the promotion of collective bargaining, in accordance with the obligations of the country in the context of the ILO. Our country commends the efforts made by the Government of Brazil to increase collective bargaining and we hope that progress will continue to be made through tripartite social dialogue.

Employer member, Brazil – As you are aware, we have no national federation of employers in Brazil, national association of employers in Brazil, we do have a variety of national confederations which gather employers from different sectors. We have in this room today the national confederations of agriculture, industry, commerce and service, transportation, financial system, health services and insurance, and I am honoured to speak on their behalf.

At the outset, we strongly support the statement by the Secretary of Labour in the sense that this is a case based on weak evidence, flawed data and very fragile information and we think that there is a piece of information that is missing in our discussion of today, and this is, we must find a solution for labour union financing in Brazil. This is the point – before the labour reform, we had the workers that had to contribute to one specific labour union, it was mandatory by law, and on the other hand, we had the labour unions with the monopoly on a certain category, within a specific geographic area, to collect those financial contributions.

So it comes as no surprise that we have today 17,000 labour unions in Brazil. It is by far the largest number in the world, it is about 90 per cent of all unions in the world, which means, and I stress this point, nine out of ten labour unions are located in Brazil. It was a total collection of some US$4 billion.

Then came this labour reform, which again was approved in Congress. It was approved in the lower chamber after ten public hearings, it was approved in the Senate after 22 public hearings, and it was challenged in the Supreme Court with no success, this reform, and now workers do not contribute on a mandatory basis any longer, they do not "must" contribute, they "may" contribute to labour unions, and therefore, the revenue drops some 90 per cent. We have a number of labour unions closing down in Brazil.

We must find a solution, but the solution does not lie on presenting a case based on flawed data, weak information and fragile arguments. The solution lies in adapting to a new vibrant economy by convincing workers that the labour unions are effective and the representative.

As the conclusion, we urge this Committee to acknowledge in its conclusion that there has been no violation whatsoever of the Convention.

Worker member, Portugal – We are speaking on behalf of the Confederation of Trade Unions of Portuguese-speaking Countries, which includes the trade union confederations of Angola, Brazil, Cabo Verde, Galicia, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe and Timor-Leste.

We are following with great concern all of the measures adopted in Brazil in relation to the labour reform of 2017, including: the generalized possibility to derogate from legal standards which must afford a minimum of protection to workers; the primacy given to enterprise level bargaining to the detriment of sectoral bargaining; the possibility to impose less favourable conditions than those obtained through collective bargaining in individual contracts of employment for workers who barely earn above a certain level, and to remove certain groups of workers from the protection afforded by collective bargaining (such as autonomous workers). All of this is the result of an ideological vision that is taking us close to what the troika attempted to apply in Portugal during the period of financial crisis.

These are rules that are intended to undermine, weaken and even extinguish the right to collective bargaining and the role of trade unions, always under the pretext of increasing legal security and contributing to social progress, and which have the unique real effect of challenging the fundamental principles, values and rights defended by the ILO, reducing the value of work and subjecting it to the so-called economic freedoms.

In Portugal, similar measures contributed nothing to the growth of the country, although they succeeded in reducing labour rights, increasing poverty, reducing the annual coverage of collective bargaining in only a few years and requiring investment in post-crisis measures.

The portrait of Brazil is very similar to this in view of the introduction of the measures indicated above. It is therefore fundamental to establish a legal framework that guarantees the full independence and right of unions to participate, accompanied by a threshold of legal protection for fundamental rights, based on the principles of collective bargaining and a system of industrial relations that safeguards the fundamental role of collective bargaining for all workers. This is the only way of establishing the fundamental basis for economic growth and real, sustained and equitable social progress.

Worker member, Spain – We are here to supervise the standards system. The Brazilian labour reform and Act No. 873 which establish that collective bargaining may worsen the legal regulation of fundamental labour conditions to guarantee decent work in Brazil, are not under examination here for political reasons, but because they are in clear violation of the Convention.

The legislation under examination here permits a reduction in the level of regulation set out in the national legislation, including in the international Conventions ratified by Brazil, in relation to working time, rest periods and the remuneration system, among other areas. They also establish the primacy of enterprise agreements over sectoral col-

lective agreements, and their capacity to modify legal regulations respecting working conditions for others with lower levels of guarantees, de facto excluding trade unions from bargaining.

With the labour reform and Act No. 873, the Government of Brazil has brewed up and guaranteed the perfect storm against the nature of collective bargaining, the collective rights of women and men workers and the regulation of certain conditions of decent work, in violation of the Convention in law and practice. The power that is attributed to collective bargaining to deviate from legal provisions establishing the minimum levels for industrial relations explodes the nature of bargaining and its specific function as an instrument for improving working conditions and the quality of life, and renders labour legislation so flexible that it removes protection from the working class and trade unions to the extent that they are left the victims of whoever wields power in industrial relations.

The Government of Brazil has the responsibility to guarantee social peace and justice, by improving the standards of living of men and women citizens and guaranteeing that trade union rights and collective bargaining serve their purpose and can be exercised normally.

And yet, despite that, the action of the Government is intended to:

- mount a frontal attack against the right of workers to have decent conditions of work;
- endanger the application of the international standards which regulate minimum conditions of work;
- infringe the collective rights of women and men workers;
- slow down the negotiation of collective agreements, the number of which has fallen significantly since the entry into force of the legislative reform in November 2017;
- promote the individualization of labour relations; and
- jeopardize the survival of trade unions.

For all these reasons, and for the serious failure to comply with the ILO Convention that they imply, we consider that the Government of Brazil deserves a firm and strong response from this Committee.

Employer member, Chile – For the second successive year the Committee is having to examine the case of Brazil. And it is important to recall that last year the Employers challenged its inclusion on the shortlist, the reasons why the Committee of Experts examined the case outside the regular reporting cycle and why the examination focused on Act No. 13467, in a situation in which it had been in force for a very short time, making it difficult to be able to assess its impact.

The conclusions adopted last year by the Committee on the Application of Standards only recommended that the Government provide information on the application of the new Act and on the consultations held with the social partners.

And once again this year, the case of Brazil will be examined by this Committee in circumstances in which, although there are new observations by the Committee of Experts, it is sincerely difficult to understand the objective criteria for the selection of the case. And this is very important as the credibility and effectiveness of the work carried out by the Committee on the Application of Standards must have a transparent basis.

We are aware that there are geographical criteria for the distribution of the number of cases by country, and that priority is also given to cases with a double footnote, which is intended to give priority to cases related to the fundamental Conventions of the ILO, and that there are a limited number of cases that can be vetoed by the groups.

Nevertheless, it is of concern to us that the political pressure exercised by any of the constituent groups of the ILO should prevail over the objective criteria of compliance with standards that must guide the work of all the ILO supervisory bodies, including this Committee on the Application of Standards.

With reference to sections 611-A and 611-B of Act No. 13467, it is important to be clear. These are provisions which can in no event affect the fundamental rights of workers set out in the Federal Constitution of Brazil and they relate to "possible voluntary agreements between unions and employers", which do not involve unilateral imposition and moreover cover a limited period of a maximum of two years.

We therefore consider that the intention behind these provisions is to encourage and promote voluntary collective bargaining, with emphasis on its importance as an instrument for the voluntary use of the parties so as to be able to adapt part of the legal regulations to their specific needs.

Believing that the provisions in question could be imposed unilaterally by employers on unions is to disregard the capacity of the latter to act as spokespersons for the workers whom they represent.

Worker member, Colombia – On behalf of the workers of Colombia, we once again address this Committee to challenge the Government of Brazil as the implementation of its labour Act of 2017 is in violation of the principles of this fundamental ILO Convention. It should first be said that the observations, requests and recommendations of the supervisory bodies, the Committee on Freedom of Association, the Committee of Experts and the Committee on the Application of Standards, breathe life into and realize international labour standards, that their work is fundamental for the Organization and that their views, especially in relation to freedom of association, are the very application of Conventions Nos 87 and 98 or, as we say in my country, you could not fit a sheet of paper between the supervisory bodies and the Conventions.

Yesterday, in this very forum, the Employers made certain reproaches against the Government of Uruguay, which today we consider must seriously be levelled against the Government of Brazil:

(1) the Government of Brazil did not consult, did not ask the representatives of workers and did not inform the Brazilian trade union confederations about the labour reform that it was about to adopt, it simply imposed it;

(2) the Government of Brazil has completely ignored the recommendations made by the Committee of Experts in its reports in 2017, 2018 and again in 2019, in which it indicated that "a legal provision providing for a general possibility to derogate from labour legislation by means of collective bargaining would be contrary to the purpose of promoting free and voluntary collective bargaining", noted the situation with concern and requested the Government to take measures to bring the Act into conformity with the Convention; and

(3) the Government of Brazil must be criticized with real vehemence for limiting to two years the maximum duration of a collective agreement or accord when the supervisory bodies have indicated that this would be contrary to Article 4 of the Convention.

Finally, we wish to recall that the spirit of the Collective Bargaining Convention, 1981 (No. 154), and the interpretation of the Convention by the supervisory bodies, is that individual agreements in contracts of employment should not be to the detriment of collective bargaining with trade unions and that they must not in turn be able to minimize the guarantees set out in the law. The labour reform in Brazil has precisely the opposite purpose and the Government therefore continues to be in violation of collective bargaining.

Employer member, Mexico – I must begin by recalling that Brazil is one of the countries with the highest rate of

ratification of ILO Conventions and that, adopting the same approach, the labour rights that were generated over time were given constitutional rank in 1988, including recognition of collective labour instruments.

It is evident that the so-called labour reform in Brazil has not derogated from or modified the fundamental labour rights set out in the Constitution. The Act only establishes that workers and employers may, if they so wish, in common agreement and voluntarily, establish standards relating to forms of work, in specific circumstances and for a specified period of time, without this being able to affect compliance with fundamental rights, which is in no way a violation of the Convention.

It is important to reiterate and clarify that when there is no agreement between workers and the employer through collective bargaining, the law prevails. It is clear that the labour reform is in accordance with the provisions of the texts established by ILO standards, and in particular this Convention.

One of the fundamental objectives of collective bargaining in the labour reform is so that, through that means, choices can be made relating to the activities and real needs of the work centre, which cannot necessarily be envisaged by the law. All of this is the result of dialogue, mutual concessions and contractual agreements which, contrary to the perception given by the report, affect opportunities to improve conditions of work.

Proof of this is that workers have not been affected by the reform, according to the information available. The concerns have been resolved through legal channels in Brazil, including prior to and instead of raising the general issue with this Organization.

Another telling element is that no workers' union in Brazil has pointed to any violation of the Constitution, the Convention or any other ILO standard, in relation to the matters under examination. The fact that all of this is clear means that no issues arise. Looking towards the future, and the specific circumstances that will arise in each work centre, we have to recognize that the law is necessary to generate a framework of minimums and maximums.

Nevertheless, allowing regulation through collective bargaining, as the labour reform in Brazil does, it is also indispensable to identify the specific needs and adapt labour conditions to the requirements of the specific activity, for the benefit of the parties, competitiveness, employment and sustainable development.

Observer, Latin American Association of Labour Lawyers – In addition to being Vice-President of the Latin American Association of Labour Lawyers, I also represent the Brazilian Association of Labour Lawyers. I have data that gives clarity to aspects that must be taken into account by this Committee in relation to the technical, not political, dimension of the case.

Since the labour reform in Brazil, a broad range of measures have been implemented which are directly related to the Convention, all examined by the courts in the system of three levels of courts, in addition to the Constitutional Court, in relation to which a long period has passed awaiting a solution. Only in relation to bargaining there are already tens of thousands of court actions, according to the statistical data of the Higher Council of Labour Justice in Brazil.

Coverage of workers by collective agreements has been significantly reduced. According to the Brazilian Association of Labour Court Judges, there has been a reduction of 43 per cent in the number of agreements concluded. However, the impact of the substitution of collective bargaining by individual contracts is broader and more dangerous, as well as a frightening number of artificial transfers of members of the working class to the status of supposed entrepreneurs, concealing conditions of strict dependence and subordination.

In March 2016, the national household sample survey carried out by the Brazilian Institute of Geography and Statistics, an official government body, pointed to the existence of 9.5 million unregistered workers, who are therefore without collective bargaining coverage. By April 2019, this number had risen to over 11,200,000, or in other words, in three years, over 1,600,000 workers had lost protection directly.

We have around 8 million micro-entrepreneurs, following an increase of 25 per cent in two years, almost all employers of their own labour, a figure that raises the question of how the Brazilian working class went to sleep employed and woke up an employer.

Some of the Governments that are present may think that the reform adopted in Brazil has certain similarities with the changes made in their countries. But in no case has there been the paradox of attempting to extend the powers of negotiation, specifically with a view to reducing rights, while at the same time removing all the means and weapons of bargaining under conditions of parity.

It is necessary to invoke article 19, paragraph 8, of the Constitution of the ILO, because Brazil has removed protection from an enormous mass of workers through regressive and anti-union rules, thereby violating the spirit of the Convention, which must be preserved.

Employer member, Paraguay – I want to have the opinion of my delegation recorded with reference to the case of Brazil, which is being discussed here for the second time, which is unjust, despite what has been said by the opponents of the labour reform in Brazil.

The ILO is tripartite in its nature, which requires the fundamental discourse of industrial relations to be totally technical.

It is important to take into account that fact that the labour reform is a national agenda, it is a focused effort, the result of at least 20 years of debate intended to improve labour relations in Brazil, founded on the basic premise of the incentive and value accorded to collective bargaining.

This takes on special importance in the specific case of the labour reform, when it is seen that the basic premise of the reform is precisely to incentivize, protect and add value to free and spontaneous collective bargaining, in the form advocated by this Convention and Convention No. 154, both ratified by Brazil.

The Federal Constitution of Brazil has been established since 1988, among the rights of workers, the recognition of collective labour agreements and accords, and the Supreme Court of Brazil has also taken the position of preserving collective bargaining.

All of these matters were elements of the labour reform, which places emphasis on rules respecting what can be adopted through collective bargaining, including conditions of work, such as: remuneration based on productivity, telework, changes in rest days, among others, without overlooking those that cannot be subject to negotiation, such as the rights of workers set out in the Constitution, including: maternity and paternity benefit, annual leave and occupational accident insurance.

For all these reasons, it can be said that there is no doubt that the labour reform in Brazil is in full compliance with the Convention.

Government member, Argentina – The Government of Argentina thanks the Government representatives, as well as the social partners, who have taken the floor on this item of the agenda. In line with the statement by GRULAC, we wish to indicate our concern with regard to the criteria adopted for the establishment of the list of countries. We observe the persistence of a serious geographical imbalance in the list, which particularly affects our region.

We therefore propose the application of more objective criteria and more transparent methods that draw attention

to cases of serious failure to comply with international labour standards, which allow improvements to be proposed addressing as a priority the claims of the social partners whose fundamental rights are most seriously jeopardized.

We listened carefully to the intervention by Brazil on its labour reform. Brazil is one of the countries that has ratified the most international labour Conventions and constantly strives to achieve the necessary harmonization between the texts of international standards and its national legislation. The labour reform in Brazil is a gradual building process that is parliamentary in its nature, in respect of the constitutional guarantees. It is a genuine expression of the challenges that we are currently facing, which require the adaptation of rules to the economic realities imposed upon us by globalization.

Today the social contract is not the same as 40 years ago, and changes are required in accordance with a different world governed by the advances and dynamic of international competition. The need for equitable employment is conditioned by new circumstances and we need to adapt to them while preserving the values of social justice.

It must not be forgotten that the explanations provided by Brazil concerning Convention No. 87 relate to legislation adopted by Parliament following in-depth debate, and that it was applied gradually within the framework of the new labour relations.

It is incomprehensible that Brazil has been included in the list of countries in 2018 and 2019. The pretext of regional balance appears to be a global injustice. Those who founded this Organization looked for decent work and social justice, they did not see children working – they foresaw development, growth and progress. One hundred years later, while Brazil is on the dreaded shortlist, there are many places in the world where workers do not even know of the existence of this Organization. And this means that regional balance must be maintained.

The situation in Brazil, as in many other countries in the world, is not paradise. There is no doubt that the world is plagued by shortlists that are much more serious than those enumerated on ours.

Those of us who are here love this Organization and, for this reason, we want to ensure that in the future the ILO is not in the museum of acronyms. And to prevent that, we must calibrate our strengths and capacities with a critical sense and without complacency. And all of this because we would like in future to be able to think nostalgically about our past, which is now our present.

If we did not put all of this into words, if we remained silent, we would all be assisting in an international complicity of silence.

Employer member, Spain – For the second consecutive time, we are discussing this case, on the same grounds as last year, without any technical basis for the inclusion of this case in the list of cases to be examined by this Committee. We, the members of the Committee, must ensure that only cases of clear infringements of Conventions are included on the list, based on objective methods and criteria. We wish to recall that this case was discussed last year by the same Committee and that in its conclusions it determined that there were no elements indicating failure to comply with the Convention.

On the substance, we are convinced that the collective bargaining promoted by the new labour reform is not in violation in any way of ILO Conventions, and particularly this Convention.

We consider that, with the new Act, collective bargaining is taking on greater relevance by enabling the representatives of enterprises and workers to negotiate better conditions than those set out in law. This is the meaning, and only this, that must be conferred on the primacy of collective bargaining in relation to the law, as set out in the new legislation.

All of this applies without undermining in any way the labour rights guaranteed by the Constitution.

At the same time, we must recall that Article 4 of the Convention must serve as an argument for promoting voluntary negotiation. In this respect, the Brazilian legislation has merely reinforced the principle of collective bargaining.

However, in addition to what has already been said, we wish to emphasize that the reform has already begun to produce its first positive results, among which we must refer to the following:

- the reduction by 40 per cent of the labour disputes going to court;
- the modernization of labour legislation;
- the incentives to promote dialogue and avoid legal disputes, which resulted in 82,000 mediation awards in 2018; and
- greater facilities for the recruitment of workers.

Special attention should be drawn to the important debate held by the social representatives during the adoption of this legislative proposal, and the consultation with civil society by the Congress, in strict compliance with the legislation in force.

In light of the above, the Committee is bound to conclude that Act No. 13467 is in compliance with ILO Conventions.

Government member, Panama – The Government delegation of Panama welcomes the explanations provided by the distinguished delegate of Brazil on the labour reform implemented to promote collective bargaining, which seeks to comply with the obligations of the country in relation to the ILO.

We wish to indicate once again that this case is a clear example of what our regional group, GRULAC, has emphasized, as its selection does not reflect adequate geographical proportionality.

With reference to the comments of the Committee of Experts on the application of the Convention in Brazil, we regret that it was decided not to wait for the regular reporting cycle for the Government of Brazil on the application of the Convention, which was planned for this year. The Committee is therefore without appropriate and suitable information on the scope of the implementation of the legislative action by the Brazilian authorities, which is being examined by the judicial authorities in the country.

This Committee and the ILO as a whole should recognize the important efforts that are made by Governments and national institutions and organizations in the interpretation of standards with a view to taking into account national circumstances, capacities and the legal system.

We encourage the Government of Brazil and the social partners to maintain this firm commitment to the promotion of collective bargaining and to determine through tripartite social dialogue the necessary measures to maintain compliance with the principles set out in the Convention.

Employer member, Guatemala – This is the second time that this case has been discussed by the Committee, as recalled by previous speakers. Without judging the reasons for its inclusion on the list, what is certain is that it gives us the opportunity to examine in a little more detail the legislation adopted recently in Brazil, which is based on the principle of strengthening collective bargaining within the terms required by Article 4 of the Convention.

And this, based on the rights of workers set out in the Constitution, is the floor for negotiation, which offers a broad guarantee of protection in a country that implements in detail the labour rights enshrined at the constitutional level.

It appears to me to be very illustrative that we are discussing this case on the occasion of the ILO's Centenary, and that this Centenary coincides with the change of era constituted by the fourth revolution. It is therefore a good

occasion to analyse how standards have to be adapted to the current needs of the labour market. The scope of standards has to be understood as a function of this vision of the future.

It appears to me that in the reform implemented in Brazil there are good examples of how to achieve adaptation, without however abandoning fundamental labour guarantees. As one example, I refer to the content of section 444 of the Code respecting the articulation between collective bargaining and individual contracts of employment, which allows greater scope for action by the parties negotiating their conditions in a specific contract under certain conditions.

A sound understanding of this rule is based on comprehending the double guarantee for workers which, on the one hand, relates to those with certain qualifications and, on the other, guarantees a series of rights set out in the Constitution. It also offers an opportunity to adapt, in this context of so much change, the specialized services provided by the worker to the needs of the enterprise, which are also changing, and its environment.

This makes the need for legal certainty concerning the rights of workers compatible with the need to adapt to new forms of work, and particularly the stability of the worker, whose job could disappear in the absence of a rule allowing such adaptation.

We support the statement by the spokesperson of our group, in the sense that this provision is not related to the content of Article 4 of the Convention, and is not therefore in violation of it.

Government member, Chile – Our delegation endorses what was said by Argentina on behalf of a significant majority of the States of the group of Latin American and Caribbean countries (GRULAC). Moreover, as indicated by various countries from our region who preceded us, we share the concern regarding the application of the criteria for the selection of cases to be examined by the Committee and we therefore call for the process to be more transparent with the participation of all the constituents on a tripartite basis.

We share the concern that there has not been adequate recognition of the efforts made by the Government of Brazil. Moreover, if the country had been allowed sufficient time to be able to share relevant information with this Committee, the case might not be under examination by this body. We are also in solidarity with the other countries in our region which, despite the efforts made in accordance with their national situation, have also been included in the shortlist.

We encourage the Committee to ensure that the measures to be proposed are constructive and incorporate social dialogue as a central element so that progress can be made on the various challenges that arise out of the future of work.

Employer member, Honduras – There is no basis whatsoever to justify Brazil being called before the Committee, as the labour reform introduced though Act No. 13467 of 2017 is not in violation of any international labour standards or the labour rights guaranteed by the Constitution of Brazil. On the contrary, it reinforces the objective of the legal tool of collective bargaining, by ensuring that collective instruments can be concluded taking into account current working and production arrangements, without the interference of the State.

The new Act reinforces the principles of the rule of law by giving guarantees of legal security to the social partners which make use of collective bargaining as a tool to preserve the autonomy of the parties, giving priority to what is negotiated over the law.

It appears to be necessary to reiterate with great force what has already been said in this room: Article 4 of the Convention does not establish any absolute requirement that the outcome of collective bargaining must be conditions that are more favourable than those set out in law. In practice, the Convention provides that countries shall take measures to adapt collective bargaining to national conditions, which is precisely what Brazil has done.

What is of concern is that the Committee of Experts can consider collective bargaining to be valid only if it results in more favourable terms and conditions of employment than those set out in law, as this is a change in the rules of the game established by the Convention and an action that is in violation of the very principles of the ILO.

There is therefore no reason for the Committee to be examining the case of Brazil once again.

Worker member, Uruguay – I first wish to express the deepest solidarity of the trade union movement in Uruguay, our Inter-Union Assembly of Workers – Workers' National Convention (PIT-CNT), with the women and men workers of Brazil. Workers are not guided by any short-term political considerations, as peoples, with their true knowledge and understanding, orient governments on the basis of their various political trajectories. What does guide workers is not only the technical requirement to comply with international conventions, but also the political necessity, although not party political, to advance the rights of workers and peoples in compliance with the law that is in force.

From our viewpoint, the Convention is an integrated whole, otherwise it would not be possible to explain how it simultaneously in Article 1 establishes freedom of association and in Article 4 it establishes the right to collective bargaining. They are two sides of the same coin.

Collective bargaining in this society is not bargaining between equals, and although it sounds romantic to say that work is not a commodity, we would not be able to explain the functioning of society if we do not take into account the manner in which the labour market operates. Strictly dispossessed of the means of production, we workers are obliged to sell our capacity to work, the force of our work, in exchange for a wage, and we sell it to whoever possesses the economic power and the capital means of production to contract us. The labour market happens every day.

Factors outside collective bargaining have a daily influence on the wage conditions and hours that workers must work. For example, the phenomenon of unemployment: if unemployment is higher, we workers have to bargain lower.

We are radically opposed to this labour reform because it effectively adds an element of competitivity to the bottom, it includes elements of blackmail against the weakest party to the labour relationship. By introducing the concept that collective agreements can be below the level of the law, it adds an element of even greater blackmail by permitting the individualization of settlements by individual works below the level of the collective agreement.

A union is a free and voluntary union of workers for the defence of their interests. The union is dissolved through the individualization of collective bargaining and the submission of workers to significant processes of deregulation.

From our perspective, it is therefore correct for this Committee to analyse and go further into the manner in which Brazil is complying with ILO standards so as to ensure that so-called social peace is not the peace of the entombed.

Government member, Romania – I am speaking on behalf of the European Union and its 28 Member States. The EFTA country Norway, Member of the European Economic Area, aligns itself with this statement. We do not wish to comment on the case we are now discussing. Yet, we feel compelled to raise points of fundamental nature in relation to some comments made since the beginning of this Committee on the supervisory system itself. We would like to recall that international labour standards provide the

legal framework for the Decent Work Agenda. These international labour standards are backed by a supervisory system and by the ILO's technical cooperation on the ground, which supports application in law and practice. The European Union and its Member States support the ILO's standards and the supervisory mechanisms and will stand firm against any attempt to weaken or undermine the system. Adopting international norms without having a robust and independent supervisory system to oversee their implementation would not only be inefficient, but worrying. Indeed, we should not doubt that the supervisory system is critical to ensure credibility of the Organization's work as a whole. Therefore, we call on all constituents to maintain a constructive stand and abide by the rules of these mechanisms.

Government representative – Brazil aligns itself with the statement made by Argentina on behalf of GRULAC and we thank all Governments and social partners who have joined us in our call for comprehensive reform of the supervisory system, both at this Committee, and elsewhere during this Conference. We have presented concrete facts and evidence that Brazil is in full compliance with Convention No. 98, as well as other ILO Conventions. Moreover, we have indicated that the Committee of Experts acted on flawed information retrieved by the accusers from dubious, partial studies in newspaper articles. This is in direct conflict with modern public policy analysis and international comparative law studies. Our delegation will forward FIPE studies on collective bargaining and the mentioned studies by the World Bank, OECD and IMF. I pay my greatest respect for the Workers that have taken the floor, and especially to the Worker spokesperson, Mr Mark Leemans, and Mr Lisboa, representative of the Brazilian workers. I must stress, though, that we should focus on the issues at stake in the present session. The labour reform is an important tool to reduce informality, provide legal certainty, and encourage investment. The labour reform did not, however, touch in labour rights in thus in the cost of labour in Brazil. And as we say in Portuguese, "jobs are not created by decree". Job creation is the factor of the overall economy, which is already weak after the deepest economic recession in our history. Having said that, since the labour reform in Brazil, more than 850,000 jobs in the formal sector have been created. According to official statistics, there were 38.7 million workers in the formal sector in April 2019, versus 37.9 million two years before. In comparison, in the two years before the modernization of the labour legislation, more than 1.6 million formal jobs were lost. The statistics from the National Households Sample Survey (PNAD) confirms 3 million workers more in the first quarter of 2019 when compared to the same period of 2017. Moreover, it does not present any loss in terms of workers' real wage. Accusations of precarization of the labour market are unfounded and not supported by evidence. New forms of contracts respond to a negligible number of contracts. For instance, the intermittent work responds for 0.16 per cent of the overall formal contracts. On the same token, official data show that the share of temporary contracts is less than 1 per cent of the overall formal contracts. There is still a lot to be done, and the economy is still very weak, but we are on the right path. With regards to the relationship between labour law and collective agreement, article 611-A of Act No. 13467, the Committee of Experts states that the hypothetical possibility by means of collective bargaining of derogations which could reduce rights and protection afforded by the labour legislation to workers, would discourage collective bargaining and would therefore be contrary to the objectives of the Convention. This statement is only a presumption lacking evidence support. No confirmation of derogation or harmful collective agreement has been presented in the last three years since the Committee started accusing Brazil. A mild reduction in the number of collective agreements is linked to the overall weak state of the Brazilian economy and has been matched by more multifaceted negotiations to the benefit of employees and employers alike. These findings are supported by solid evidence from recent studies from independent research institutions and international organizations, once again, like the World Bank. The labour reform is the result of years of discussion in the Brazilian society, followed by prior consultation with the central unions and hundreds of interactions within the Brazilian Parliament, the same institutions that ratified all International Labour Organization (ILO) Conventions.

On the prevalence of collective accords over general conditions of collective agreements, the purpose of article 620, is to allow for collective accords, which are much closer to the day to day of the workers, at the company level. Thus, this actual reality can be better translated by means of the collective accord, giving more density to the negotiated clauses.

On the relationship between individual contracts and collective agreements, Article 444, it should be recalled that Article 4 of the Convention does not refer to individual contracts of employment. Additionally, the possibilities established in article 444, (not 442, as wrongly reported in a previous report) of the amended labour legislation, is only applicable to a small portion of the Brazilian population, that is 0.25 per cent of the population of the very top layer of income with a higher level degree, who are generally employed in positions of executive management.

With regard to Provisional Measure No. 873, the provision is actually very simple, it reaffirms the union contributions depend on prior written and individual authorization of the employee or company, so that the employee alone has the choice of financing the union. I would like to recall that prior to the labour reform, union contributions were obligatory, so much so, that in Portuguese, it is called a union tax, not a union contribution.

Since the new law entered into force, some unions circumvented the law imposing obligatory contributions by means of general assemblies and doubtful representation, which approved collective authorization. Employees were harmed in their freedom of association rights, so that the provisional measure was necessary to enforce the labour reform and secure Parliament's will.

In conclusion, there is no reason whatsoever to assume, as suggested by the Committee of Experts, that the new labour legislation in Brazil would discourage collective bargaining. Workers retain ability, an option in a voluntary negotiation to preferred legal provisions whenever they are deemed more favourable than the terms proposed by the other party.

The examination of the Brazilian case was in breach of the most basic principles of due process. A system allowing for this to happen, with no effective checks and balances, fails the purposes and objectives of the ILO.

Brazil rejects any attacks on its institutions – over the past two years Brazil has faced political crisis and an economic recession. We have implemented important economic and labour reforms enacted by legislation and promoted positive change. Democracy is alive, civil society is vibrant, political debate is in full force, the rule of law is in place and strong, and the judiciary remains fully independent. Brazil will keep investing in economic reforms to create more quality jobs, revamping our labour intermediation mechanisms to lift people out of unemployment as early as possible. Digital services are being offered to companies and workers alike, reducing bureaucracy and making way to the creation of jobs.

As a mid-income and ageing country, we all know that wage increases and social justice will only accrue from productivity gains. We invite the workers and the Worker

representatives to contribute in that agenda, fighting informality, lifting more people from poverty, and building the future of work in Brazil.

Worker members – We can only observe with deep concern the disastrous impact of the amendments introduced by Act No. 13467 in 2017 and the failure of the Government of Brazil to uphold the fundamental principles of free and voluntary collective bargaining and of the binding nature of collective agreements concluded, which are enshrined in the Convention.

Under the amended provisions of the Consolidation of Labour Laws, the hierarchy of norms has been reversed and in less than two years, industrial relations in Brazil have been totally dismantled. With these regressive changes, the Consolidation of Labour Laws no longer serves its purpose of a safety net for Brazilian workers and the number of collective bargaining agreements is dwindling. Workers have been stripped of all protections afforded by the law or by more favourable collective agreements and, contrary to the Government's argumentation, they are left worse off.

After years of social progress and inclusive laws and policies that have lifted millions of people out of poverty, Brazilians are slipping back into poverty and unemployment, while inequalities are growing. In a country where unemployment rates are increasing dramatically and where more than 50 million persons, almost 25 per cent of the total population, live with less than US$5.50, we deplore the total disregard of the Government of Brazil for its people.

The Government insists on fostering a system which violates the principles, objectives and provisions of the Convention and which gravely undermines the foundations of collective bargaining and industrial relations in Brazil. We strongly urge the Government of Brazil to stay true to its commitment as a member State of the ILO, therefore bound by its Constitution, and its obligations under the Convention.

We call for genuine and meaningful consultations with the social partners and without further delay and a complete revision of the Consolidation of Labour Laws in order to bring its provisions into full conformity with the Convention. We cannot stress enough the importance of restoring tripartite social dialogue and consultations in Brazil and call on the Government to take immediate and concrete steps to this end.

Furthermore, we call on the Government to address without delay the shortcomings and legislative gaps highlighted by the Committee of Experts which concern the following points:

- adequate protection against anti-union discrimination;
- compulsory arbitration in the context of the requirement to promote free and voluntary collective bargaining;
- the right to collective bargaining in the public sector; and
- the subjection of collective agreements to financial and economic policy.

This case requires serious consideration by this Committee and by the ILO as a whole. We fear that the regressive labour reforms in Brazil might be taken as a model by other governments of the world, and as this case shows us, this would be catastrophic.

Finally, we heard a number of speakers from both the Employer and Government benches raising the following issues: the interpretation of Article 4 of the Convention by the Committee of Experts; the independence and impartiality of the Committee of Experts; and the selection of individual cases for the examination by this Committee. We disagree with the expressed statements. We consider that it is not appropriate to address these questions in the discussion of an individual case. The discussion of an individual case has the purpose of examining substantive issues related to the application of ILO Conventions and not to pass judgement or suggest changes to the ILO supervisory system and its work. There are well-determined procedures to do so if needed. Comments that address issues that do not concern the substance of the case are irrelevant and are purely deflecting from the serious issues before us. Therefore we will respond to the expressed statements at a more appropriate time. Meanwhile we thank the European Union for its constructive comments supportive of the ILO supervisory system. Given the seriousness of the issues, we call on the Committee to include Brazil in a special paragraph.

Employer members – We have listened carefully to each of the interventions in this case. We particularly welcome the presence of the Deputy Minister, the Ambassador of Brazil and their teams in the room, as well as the full, clear and detailed information that has been shared with the Committee.

Before examining the matters raised by the Committee of Experts, I wish to react to what was said by the spokesperson of the Workers. In our understanding, it is indeed the mandate of this Committee and it is within the scope of this Committee to refer to the report of the Committee of Experts and its observations. If that were not the case, what would be the purpose of the public debate that is held in this Organization and this room. We therefore wish to make it clear that for us this is the place and we continue to state that we reject the views set out in its report on the aspects that we have already noted.

Having examined the issues raised by the Committee of Experts, and our rejection of them, and taking into account the intervention of the Government and the subsequent discussion, in the view of the Employers' group it is clear that: first, the modifications made to sections 611-A and 611-B significantly extend the possibility of, and therefore encourage and promote the utilization of collective bargaining; second, in the view of the Employers, the changes made to section 444 broaden the possibility of the individual negotiation of contracts of employment by workers with higher education and incomes, without limiting their protection under the law; and, third, in the opinion of the Employers, the changes made to section 620 also broaden the scope of collective labour accords and are therefore in compliance with Article 4 of the Convention, as they also promote collective bargaining at the level of one or more enterprises, without restricting collective bargaining at higher levels.

Finally, it is clear that the labour reform, in the view of the Employers, was the result of a broad and exhaustive process of social dialogue.

We wish to recall that social dialogue, which must be in good faith, fruitful, productive and above the bodies that engage in it, but it cannot always result in consensus in the exchange of ideas, as on the contrary that would signify a veto on its outcome. It is therefore the responsibility of governments, in the final analysis, to legislate and to assume their responsibilities as governors issuing legislation in accordance with international labour Conventions, as has been done in the present case in our view.

For all of these reasons, this Committee can conclude once again, as it did in 2018, that the labour legislation in Brazil, and particularly Act No. 13467, is in compliance with the provisions of the Convention ratified by Brazil on 18 November 1952.

In that light, the Employers' group rejects the inclusion of this case in a special paragraph.

We therefore encourage the Government of Brazil to draw up in consultation with the most representative employers' and workers' organizations and to submit a report to the Committee of Experts in accordance with the corresponding regular reporting cycle.

Conclusions of the Committee

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

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.**

Government representative – Thank you for giving Brazil the floor to speak, 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.

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 on the Application of Standards and elsewhere during this Conference.

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.

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 São Paolo 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.

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.

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 CAS reflects the views of the negotiations between employers and employees and does not reflect the ILO's vision.

Brazil would like to thank the Chair for the wise and serene conducting 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.

CABO VERDE (ratification: 2001)

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

Discussion by the Committee

Government representative – I would like to take this opportunity, on behalf of the Government of Cabo Verde, to thank you for giving us the possibility to speak on the subject of the observations of the Committee of Experts concerning the application of Convention No. 182. We also thank the Committee of Experts for their work and their observations relating to Cabo Verde.

With regard to the amendments to the Penal Code in Cabo Verde, they were adopted, following these observations, by Legislative Decree No. 4 of 2015 of 11 November. It was essentially a matter of reinforcing the penal framework and ensuring greater protection for children under 18 years of age, and more specifically in relation to the crimes of procuring, under section 148, the crimes of inciting minors to engage in sexual exploitation or prostitution abroad, under section 149, and the crime of the exploitation of minors for use in pornography, under section 150. An amendment was also made to section 145(a) respecting the use of minors in prostitution.

These amendments were adopted in 2015, but they are already being applied. According to information provided by the judicial police of Cabo Verde, there is a register of investigations into sexual exploitation and, clearly, these investigations are ongoing and are covered by the confidentiality requirements of ongoing cases.

With reference to the legislative process relating to the Convention, it did not stop with the amendments, and Cabo Verde is continuing to make progress in this respect. Reference may be made to the adoption of Act No. 113-VIII of 10 March 2016, which established a national list of types of hazardous work prohibited for children. This is an extremely important tool for criminalization, as well as for prevention, as the harmful effects for children are set out for each type of hazardous work which, in turn, means that the awareness can be raised of parents, who are responsible for their education, and society as a whole.

In addition to legislation, other measures have been taken for the prevention of child labour. In close consultation, the general labour inspectorate and the Cabo Verde Institute for Children and Young Persons (ICCA) have undertaken awareness-raising measures in various schools with teachers, those responsible for education and the children themselves. With regard to sex crimes, which are one of the worst forms of child labour, labour inspectors together with ICCA technicians have carried out information and awareness-raising campaigns in the streets of Isla de Sal. Why in Isla de Sal? Because Isla de Sal is a very touristic island where there is therefore a greater risk of the crimes that we are talking about here, and therefore of the sexual exploitation of children.

On the occasion of 12 June, World Day against Child Labour, we followed the themes launched by the ILO in partnership with the Community of Portuguese Language Countries (CPLC) and we organized conferences in

schools, including the internal regions of the islands. The subject for 2019 was "Children shouldn't work in fields, but on dreams!" In this context, we launched action in rural areas of Cabo Verde and we also designed a TV announcement, which was broadcast on the national television. The subject was also covered by a television programme entitled "Menoridad" (childhood).

With reference to the platform for lodging complaints, the general labour inspectorate and the ICCA have telephone lines which can be called to denounce crimes and cases of abuse. The complaints can also be made directly in person, with the guarantee of anonymity for the complainant. To verify these complaints, we have the support of the judicial police of Cabo Verde and, in particular, the general labour inspectorate has reinforced the inspection of workplaces that employ apprentices to ensure that there are no children working under 15 years of age, which is the minimum age. Inspectors also ascertain the minimum safety conditions for the exercise of the work.

It is also important to refer to two major plans that are currently being implemented in my country: the National Care Plan and Income Policy and the Inclusion Income Plan. The National Care Plan will promote the professional training of educators of children and their integration into work. The Inclusion Income Plan is intended to support projects for the provision of loans to develop projects. When we speak of educators, we are talking of those responsible for education, and this Plan is intended to provide families with sufficient opportunities and resources not to abandon their children and to allow them to go to school. These plans are intended to combat the children being abandoned and dropping out of school.

There are other projects in the field of education, including free education up to the eighth year of school. This is an important tool which has had a positive impact on prevention and action to combat child labour.

In conclusion, I repeat that we are grateful that we have been given the opportunity to take the floor and to show that Cabo Verde is making considerable efforts to continue to implement measures and control their implementation. Cabo Verde will continue to protect our children.

Employer members – Firstly, I would like to thank the representative of the Government of Cabo Verde for the information that they have shared with us this evening.

This evening we are examining the application of Convention No. 182 by Cabo Verde. This is a fundamental Convention which Cabo Verde ratified in 2001. The case has never been discussed before in this Committee. It follows the observations of the Committee of Experts issued in 2018 on noted gaps in the compliance of Cabo Verde's Penal Code with the Convention.

Article 3(b) of the Convention prohibits "the use, procuring or offering of a child for prostitution, production of pornography or pornographic performances".

We note that the Committee of Experts previously observed that Cabo Verde's law established penalties for encouraging or facilitating the prostitution of children under 16 years of age, and the use of a child under 14 years of age in pornographic performances. However, the Committee of Experts requested the Government to align its legislation to Article 3(b) by ensuring the protection of children under 18 years of age against the offences listed therein.

The Government subsequently submitted a report to the Committee of Experts on steps taken to bring its Penal Code into line with the Convention as confirmed this evening. The Employers' group would like to express thanks to the Government for the information submitted for consideration by the Committee of Experts.

According to the submission by the Government, the Penal Code had been amended by Legislative Decree No. 4/2015 of 11 November 2015 to criminalize the use of children under 18 years of age for purposes of prostitution, with penalties of imprisonment of between two and 12 years. The Committee of Experts was satisfied with the progress. The Committee of Experts was also satisfied with the further tightening of the legal provisions related to encouraging or facilitating the prostitution of children between the ages of 16 and 18, as well as the use of children aged 14 to 18 in the production or performance of pornography. The revised Penal Code also criminalizes the offences related to encouraging or facilitating sexual exploitation or prostitution of children under 18 years of age in a foreign country, with aggravated sanctions. The Employers' group commends the progress made by the Government in harmonizing its Penal Code with the Convention.

The Employers' group is indeed pleased that this Committee is, for the first time since 2013, considering a case of progress. It is important to make the point that this Committee takes seriously violations of standards by governments. But we should equally be attentive to the progress that governments make in implementing the Conventions and Recommendations of the ILO. We hope discussing cases of progress will encourage not only the governments concerned, but other governments too in their quest to fulfil their obligations.

Nevertheless, as it is with many things in life, "the proof of the pudding is in the eating". So, in this regard, we align ourselves with the Committee of Experts and encourage the Government to submit information on the application of the new and the amended sections 145A, 148, 149 and 150 of the Penal Code in practice, including the number of investigations, prosecutions and convictions, as well as the penalties imposed on offenders.

Worker members – We have already said on several occasions during the present session of the Committee, and we will never repeat it enough, that action to combat the economic exploitation of children is and must be at the heart of the ILO's mandate. And this combat takes on a very special dimension when this exploitation is in the context of the worst forms of child labour.

Child labour is largely caused by poverty. And poverty remains one of the main problems for Cabo Verde. The lack of resources, difficult housing conditions, the shortcomings of social security are elements which contribute to the precarious living conditions in which many families have to survive.

We recall here that, under Article 8 of the Convention, Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance, including support for social and economic development, poverty eradication programmes and universal education.

One of the worst forms of child labour has already been addressed during the course of our work on several occasions. This is the use of children in armed conflict. The form of child labour that we are addressing in this case is covered by Article 3(b) of the Convention, namely the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. This is a scourge that Cabo Verde has been confronting for a long time.

Until recently, the penal legislation in Cabo Verde had serious shortcomings. The Penal Code established penalties for persons who promoted or facilitated the prostitution of children under 16 years of age and the use of children under 14 years of age for pornographic performances. A joint reading of Articles 1, 2 and 3(b) of the Convention however provides that the use, procuring or offering of a child under 18 years of age for prostitution, for the production of pornography or for pornographic performances are prohibited and must be eliminated as a matter of urgency.

In the meantime, the Government has remedied the shortcomings in its penal legislation by criminalizing the

use of children under 18 years of age for prostitution and by establishing penalties of between two and 12 years for this crime, as well as by amending and supplementing the provisions of the Penal Code in order, on the one hand, to penalize the promotion and facilitation of prostitution by children under 18 years of age and, on the other, to penalize the use of children under 18 years of age for the production of pornography or for pornographic performances.

A provision has been added to the Penal Code to penalize the act of encouraging or facilitating the sexual exploitation or prostitution of children under 18 years of age in a foreign country, for which heavier penalties are envisaged. We can therefore welcome the fact that serious gaps in the legislation have been remedied in Cabo Verde and we commend the progress made on this precise point.

With regard to the legislative amendment adopted in 2015, we regret that the Government has not provided precise information on the results achieved in practice as a result of the amendment.

Unfortunately, the sexual exploitation of children remains a reality in practice in Cabo Verde. Its extent varies on the islands, with some of them being more affected than others. Indeed, the United Nations Committee Against Torture, in paragraph 44 of its concluding observations in January 2017, expressed its concern at the large number of children exploited in prostitution and engaged in begging, drug dealing or street vending. It would appear to us to be fundamental in this regard for the inspection services and those involved in combating human trafficking to be provided with the necessary resources to be able to supervise the proper application of the provisions that give effect to the Convention.

The Government has established a plan of action, in cooperation with UNICEF, to combat sexual violence against children for the period 2017–19. A plan of action to combat trafficking in persons for the period 2018–21 has also been established, with the specific needs of minors being taken into account. We would like to know whether the Government has the intention of extending or concluding a specific new plan to combat sexual violence against children after 2019.

Guaranteeing access to free basic education is the best way of saving children from the worst forms of child labour. The Government had established a framework for the implementation of an education policy to promote the elimination of child labour.

The Cabo Verde Foundation for social action and education has been engaged in the distribution of school supplies in primary and secondary schools and in the coverage of school fees, boarding fees and transport costs. UNESCO statistics also indicate that the school attendance rate is much lower in secondary than in primary education, at only 63.97 per cent in secondary education, compared with 86.16 in primary school. It is important to keep working to raise the school attendance rate in both primary and secondary school with a view to combating the worst forms of child labour.

A joint reading of Article 1 and Article 3(d) of the Convention implies that it is prohibited to engage children in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Children in Cabo Verde are very frequently engaged in work of this type, for example in agriculture and domestic work. However, it appears that the Act adopted on 10 March 2016 by the Government of Cabo Verde only prohibits hazardous types of work for children under the age of 16 years, and not children under 18 years of age. This is not in conformity with the Convention.

The Convention also provides that measures shall be taken to identify and reach out to children at special risk of the worst forms of child labour. Children living in the streets are a category who are particularly exposed to these risks. The Cabo Verde Institute for Children and Young Persons has various programmes to find accommodation for street children and bring them back to school. These children are seeking to escape from inadequate housing and/or domestic violence, or to contribute to the family income. These programmes are therefore necessary to respond to each of the causes that put pressure on children to leave the family home, and often to leave school. This is the message conveyed by the report of the United Nations Special Rapporteur on adequate housing, who considers that, while some charitable services appear to be available, it is unclear whether they are sufficient and whether the Government has a plan or strategy to address the causes of such situations and prevent them.

The persistence of poverty means that it is not possible to obtain satisfactory results in practice in relation to the Convention unless action is taken on the causes of poverty. While we cannot deny the establishment of positive initiatives and the sincere will of the Government to work for the resolution of the problems, there is still a long way to go. We are convinced that the Government of Cabo Verde will be able to count on support from many quarters to help it in this task.

Worker member, Cabo Verde – Let me begin by thanking you for giving me the honour of addressing this Committee concerning the Cabo Verde case concerning the Convention. I am speaking on behalf of the workers of Cabo Verde.

We have watched, with great concern, issues involving child labour, particularly the worst forms of child labour. We take stock of the efforts which have been made by the Government of Cabo Verde in the last years to combat the sexual exploitation of children. We would recall that this is a secondary effect which finds its roots in the extreme poverty which affects approximately 11 per cent of the Cabo Verdean population.

We also note the work which has been undertaken together with the Community of Portuguese Language Countries (CPLP), and the work done by international agencies in particular. I would mention the agencies of the United Nations in particular, UNICEF and the ILO. This is an effort which needs to be continued and strengthened. We would note as a positive development the legislative measures. They have moved to criminalizing and punishing those who in one way or another promote the sexual exploitation of children.

We also would take note of the steps which have been taken to implement a national birth registry, as well as the national programme for food and nutrition, and other measures which have been taken by the Government of Cabo Verde, with the goal to improve access to the health system and social protection. We also would underline the essential role played by social dialogue at all levels when it comes to reducing inequalities and not forgetting that the fight against poverty has to necessarily take the form of the achievement of decent wages sufficient to providing the families of our country with decent lives. We have also recognized that this is a social matter which also involves mindsets and mentalities, and that is why we think that it is essential that the social partners be involved to increase awareness of the population, to make them more sensitive to the issues involved in child labour in general and the sexual exploitation of children in particular.

For all these reasons, I would like to mention here the essential role to be played by the social partners. They can do much in the fight against child labour, specifically in the fight against the sexual exploitation of children. It is a role which will only be successful, however, if we have the actual statistics which cover childhood poverty. That should be available so that we can correctly address the situation and then find the best possible ways to use the available resources in our efforts to combat this plague. Putting to

good use the experience of the social partners can constitute a decisive contribution in this fight. Indeed, it should be a fight shared by the Government and by the social partners. Only if we reduce poverty and inequality will we be able to build the basis for sustainable growth and thereby prepare Cabo Verde for the challenges of the future. Our young people are the future of work. They are also the future of Cabo Verde. Let us ensure that our children and our young people have access to a balanced and healthy diet, access to the health-care system, social protection and access to schools. If you do that, then you will be ensuring and preparing the future of Cabo Verde.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries, Republic of North Macedonia, Montenegro and Albania, as well as EFTA country Norway, member of the European Economic Area, and Georgia, align themselves with this statement.

We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights. We call on all countries to protect and promote all human rights and freedoms to which their people are entitled. Compliance with the Convention is essential in this respect.

Cabo Verde and the EU have a very close and constructive relationship, based first of all on significant and continuing development cooperation. Cabo Verde and the EU also share a strong commitment to the common values of democracy, respect for human rights and the rule of law. This close cooperation and dialogue is anchored in the EU–Cabo Verde special partnership launched in 2007. The EU also grants to Cabo Verde preferential access to the EU market Generalised Scheme of Preferences+. It is specifically premised upon the ratification and effective implementation of the ILO core Conventions.

We are taking the floor on this case as we deem it important to recognize when progress is made. Indeed, the Committee of Experts on the Application of Conventions and Recommendations report on the case of Cabo Verde expresses satisfaction with regard to the amendments of the Penal Code aiming at bringing its provisions into conformity with the Convention. We welcome that based on the amended provisions; the use of minors under 18 for prostitution is now criminalized and punishable by imprisonment. Offences related to encouraging or facilitating the prostitution of children aged 16 to 18 years and the use of children aged 14 to 18 years in pornography production and performances, as well as offences related to encouraging or facilitating sexual exploitation or prostitution of children under 18 in a foreign country are also criminalized.

We encourage the Government to ensure that these new provisions are duly implemented in practice and offenders are duly prosecuted and punished with dissuasive sanctions. Although related to the Minimum Age Convention, 1973 (No. 138), we also encourage the Government to implement Convention No. 138 with regard to the employment of children in hazardous work.

Children in Cabo Verde and in every part of the world should be guaranteed the highest possible protection against any form of child labour or any other form of exploitation and enjoy a life that is conducive to their physical, mental, spiritual, moral and social development. The European Union and its Member States remain committed to their close cooperation and partnership with Cabo Verde.

Worker member, Australia – The economy of Cabo Verde is heavily reliant on tourism. A substantial proportion of foreign investment is directed to that industry. The majority of tourism-related investment comes from well-known hotel chains and resort developers. Since 2016, the number of tourists visiting the island State has exceeded the local population.

Unfortunately, the benefits of this activity are spread unevenly across the islands and linkages between tourism projects and other sectors of the economy are not strong. A recent UN report noted that tourism resorts operate largely as isolated and artificial enclaves and local businesses remain shut out of the value chains of large foreign companies. This pattern of economic development, combined with the usual challenges of poverty and inequality, create the conditions for the exploitation of the community's most vulnerable groups.

Article 3 of the Convention defines the worst forms of child labour to include the sale and trafficking of children. Cabo Verde is a source country for children, both local and foreign nationals, who are subjected to sex trafficking. Cabo Verdean street children and those engaged in begging, car washing, garbage picking and agriculture are particularly vulnerable to trafficking. Trafficking, and the subjecting of children to sexual abuse, often by foreign tourists, has been recently reported by officials as occurring on at least six of the nine inhabited islands.

The Cabo Verdean Government has made serious efforts to deal with these problems. Much of the legal architecture is now in place to ensure that appropriate sanctions and deterrence mechanisms exist. Section 271A of the Penal Code makes it an offence to transport a person, including a minor, for purposes of sexual or labour exploitation. Policies have been developed and implemented over a number of years to address the issue of the worst forms of child labour. The Government has adopted a national anti-trafficking action plan and a programme to reintegrate street children into families and the education system.

Perhaps for these reasons, both the report and the direct request by the Committee of Experts focus on the practical measures that can be taken to improve the situation. And in this respect more can be done. In the recent reporting period for which figures are available, the authorities investigated just eight sex trafficking cases, prosecuted four suspects, and convicted two traffickers. It is very doubtful that this reflects the scale of the illegality associated with the trafficking of minors. More resources are required for the labour inspectorate and criminal prosecuting authorities to adequately investigate these matters and bring the perpetrators to justice.

Aside from some emergency and temporary shelters, referral and support services, child victims are largely left to an NGO. The Government needs to assume overall responsibility and take a coordinating role. The Government should improve data collection and availability in relation to investigation, prosecution and conviction of trafficking cases and this data should be disaggregated to disclose the details of trafficking cases involving children.

While we acknowledge the efforts of the Cabo Verdean Government to address this serious problem, we also want to encourage them to redouble their efforts to ensure that children are protected from the most egregious practices associated with the worst forms of child labour.

Government member, Switzerland – Switzerland supports the statement by the European Union. In this Centenary year of the International Labour Organization, it is important also to be able to discuss cases of progress in this Committee of the Conference. In this respect, the Swiss delegation commends the Government of Cabo Verde for the positive developments relating to the application of the Convention. Switzerland encourages the Government to pursue its efforts to apply sufficiently dissuasive penalties for any sexual exploitation or prostitution of children under 18 years of age.

Worker member, France – Cabo Verde is included on the list for a Convention that it ratified in 2001. Despite the

efforts made by the Government, the shortcomings in the implementation of the Convention are still serious.

Several causes need to be considered in the case of Cabo Verde. Its geography, its level of economic development and its family structures. Cabo Verde is an archipelago that draws its wealth from tourism and, like many countries with broad inequalities, one of the consequences of poverty is child labour. The family structure is complex and characterized by a high incidence of single mothers. Women, who frequently bear the costs of the family, have lower levels of skills and wages than men in the same situation. It is in this context that it has an extremely young population, with 55 per cent of young persons under 20 years of age.

In 2017, Cabo Verde made moderate progress in its efforts to eliminate the worst forms of child labour. The Government developed a national plan of action to combat the trafficking in human beings for sexual and labour exploitation and published information on its efforts to implement the labour legislation. The Cabo Verde Institute for Children and Young Persons also extended its coverage by opening an office on the island of Boa Vista. However, children in Cabo Verde are subject to the worst forms of child labour through commercial sexual exploitation. Children are also regularly engaged in hazardous work in agriculture. Moreover, the programmes of social assistance for children working in agriculture and domestic work are not adequate to resolve the problem.

The Government has established institutional mechanisms for the application of the laws and regulations respecting child labour. However, the action of the general labour inspectorate is characterized by gaps which prevent the adequate application of the child labour legislation.

The general labour inspectorate does not have national coverage, as it has no representatives on the islands of Sal, Santiago and São Vicente. According to the Government, the application of the laws on child labour is still difficult due to the lack of resources for inspection. When inspectors identify a case of child labour, they inform the Cabo Verde Institute for Children and Young Persons for referral to social service providers. But this process is inadequate and it would be utopic to rely on legislation that it is essential to develop, since social legislation, however advanced, is likely to be useless unless there is a system of inspection in the country responsible for supervising its application, not only in law, but also in practice. What the country needs to achieve the eradication of child labour and the exploitation of children is a strong labour inspection deployed throughout the country.

I therefore ask you, Chairperson, to emphasize in your conclusions the gravity of the case, which is prejudicing the future of the country. I also hope that you will propose to the Government appropriate technical assistance from the Office to help it update its legislation with a view to bringing it into conformity with the standards, and to inform us of substantial progress next year.

Worker member, Botswana – Botswana workers put before this Committee their support for the case of Cabo Verde. We join other speakers that have noted and lauded the efforts the Cabo Verdean Government has put in place to address the involvement of children in the worst forms of child labour, such as subjecting children to prostitution and pornographic activities. We note the amendments made in all the laws to curb this.

No doubt, the Cabo Verdean Government must not rest or relax but be conscious that more needs to be done, given that human traffickers are still operating their nefarious activities with children as their merchandise for trade. Besides, the use of children for prostitution activities though not prevalent is still a practice of concern as being reported.

Local NGOs in Cabo Verde have pointed to the dearth of resettlement and protection centres for children rescued from some of these child labour practices. To this end, we call upon the Government to come up with programmes that will target and address the needs of the victims of these forms of child labour practices. Children trafficked and used as prostitutes will need medical, social and economic support. In more precise terms, these children will need psychosocial counselling and therapy, as well as shelter centres and economic assistance to their parents so as to be able to keep them at home in the case where the children are not orphans.

No doubt, a broad stakeholder approach or the whole of community approach will go a long way in helping to address these challenges. We are confident that the workers and trade unions in Cabo Verde are ready, willing and committed to supporting their Government in the quest to stem and defeat any form of child labour and child exploitation practices.

Government member, Brazil — The Government of Brazil welcomes the information presented by Cabo Verde and is following the discussion of the case by the Committee with full attention.

Brazil reiterates its vehement condemnation of child labour, and particularly its worst forms, as set out in the Convention. We commend the efforts of the Government and of society in Cabo Verde to combat child prostitution and pornography, including the adoption of amendments to the Penal Code, which is of great importance.

Finally, we welcome the debate on the application of the Convention in Cabo Verde as a clear example of progress. We reiterate the call made to the Committee by Brazil and GRULAC to always include at least one case of progress from each geographical region recognized by the ILO as a means of contributing to constructive social dialogue and effective tripartism, by sharing good practices and thereby reinforcing international cooperation.

Worker member, Brazil – I would like to salute the delegation from Cabo Verde for the effort that they made to be here today in this Commission. This reflects the importance that they give to the supervisory functions of this house. But this is a very serious situation indeed. We have seen that the Government of Cabo Verde has changed its legislation to punish as a crime child prostitution. This comes into line with international standards and human rights – it is simply the ethical, moral and legal requirement of any country. We are quite concerned as we see the statistics concerning child labour in Cabo Verde and particularly when it comes to the worst forms of child labour. We would mention the requirements undertaken when you sign a Convention – these are things that must be reflected in law and in practice. We remind everyone of the importance of the Labour Inspection Convention, 1947 (No. 81).

When it comes to child prostitution, it does continue in Cabo Verde. Here there is nothing to celebrate while it still continues. Members of this Committee should encourage the Government of Cabo Verde to continue its fight to combat child prostitution and the worst forms of child labour and to recognize that we have made progress but there is still much yet which needs to be done.

Worker member, Portugal — This intervention is supported by 19 trade unions from Portuguese-speaking countries, Angola, Brazil, Cabo Verde, Guinea Bissau, Mozambique, Portugal, Sao Tomé and Principe and Timor-Leste. Cabo Verde has child labour problems, including its worst forms, despite what is has been done for many years by the citizens of Cabo Verde to combat child labour. We know that child labour also includes work with families, because they are working in tourism, agriculture and other sectors.

Since 2017, Cabo Verde has been taking action to combat inequality and above all is focusing on children to help them, and particularly children who are attending school so that they can have a daily meal, and in this way can overcome some of the difficulties experienced by this archipelago due to its enormous poverty.

Cabo Verde drew up a protocol in 2017 and signed it with the ILO to be able to help its most vulnerable categories. It should be added that the World Bank has also helped young children from the ages of 0 to 3 years, and particularly young children experiencing great difficulty with their physical development. However, it is necessary to avoid sexual abuse, particularly as identified in the UNICEF report, which provided worrying information. All of this is true despite what has been noted and the criminalization of sex work by young persons.

Cabo Verde is working with UNICEF and other organizations to combat child labour, but I have to say that through their intervention the Portuguese-speaking countries are helping the archipelago and the absolute priority for us is to combat child labour in all its forms. We are working through the unions for this purpose. Not only are we willing to work with the national authorities, but we must all take action to combat this problem.

The worst forms of child labour are a constant concern for the authorities of Cabo Verde. An illustration is provided by the presentation published this weekend by the President of the Republic on the need to take determined action to combat trafficking, as illustrated by many cases. We need to be present in this, but we have not managed to bring an end to child labour because the criminal gangs that exploit children and young persons are continuing to operate without being severely punished.

In this context, it is very important for the work that is being carried out to go further, to combat traffickers and also to end the exploitation of these children who are the victims of poverty. We have to work with the social partners for this purpose, and particularly to prevent the worst forms of child labour. Portugal has long experience in this respect and our social partners are engaged in eradicating these worst forms of child labour. For this purpose, Portugal wishes to collaborate with the ILO to strengthen the work that is being carried out as a means of bringing an end in this way to the exploitation of young persons by gangs of delinquents.

Government representative – First, I would like to thank all those who spoke during the debate, which has contributed to the discussion of the case of Cabo Verde. We will continue to make progress and find practical means of taking action. I would also like to give thanks to all the countries and all the international organizations that are helping us with the implementation of these measures.

Second, I would like to specify two issues. In the first place, with regard to the application in practice of the legislation on sex crimes, our legislation separates sexual exploitation and prostitution from sexual abuse. There are cases of sexual abuse that are under investigation and are being punished. There are penalties in cases of sexual abuse and aggression. This is why we make this distinction. Investigations are carried out in cases of sexual aggression, and there are also investigations in cases of sexual abuse.

Another issue concerns our list of hazardous types of work for children, established by section 2 of the Act. Section 2 of Act No. 113/VIII/2016 provides for an exception in relation to the worst forms of child labour, addressed in subsections (a), (b) and (c) of section 4, which applies to persons under 18 years of age. The Act therefore applies to persons under 16 years of age and under 18 years.

Cabo Verde has many challenges to face, but the Government is continuing to make decisive efforts to continue the implementation of measures for the prevention and elimination of the worst forms of child labour.

Worker members – We thank the representative of the Government of Cabo Verde for the information that she has provided during the discussion and we also thank the other speakers for their contributions.

While recognizing the progress achieved on certain points and the will shown by the Government of Cabo Verde to reinforce its efforts to combat the exploitation of children in the worst forms of child labour, and particularly to combat their sexual exploitation, we must still note that in practice many children have still not been removed from the worst forms of child labour.

We cannot therefore endorse the statements that have described the case of Cabo Verde as a case of progress. The Employers and Workers agree on a list composed of 24 cases of serious failings in the application of international labour Conventions. If the social partners decide to treat a case of progress, it will be identified as such on the list, which was not the case this year.

Although the Committee of Experts has identified Cabo Verde as a case of progress, it should be highlighted that the Committee of Experts itself emphasizes in its report 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. The progress achieved at the legislative level is undoubted, but our Committee does not only examine the legal aspects of a case. It also has to examine the conformity in practice with the Convention in the country under consideration, and it is precisely there that the issues still arise for Cabo Verde.

If we examine the overall situation of Cabo Verde in relation to the Convention, much progress still needs to be made on the ground. That does not mean that we deny the real will and firm commitment of the Government of Cabo Verde to eliminate the worst forms of child labour on its territory. On the contrary, we have full confidence that the Government of Cabo Verde will work seriously to resolve the shortcomings that we are still bound to note in practice.

The Government will therefore ensure that immediate and effective measures are taken, in law and in particular in practice, for the prohibition and elimination of the worst forms of child labour, as a matter of urgency. In order to assess the impact of the amendments that have been made to the provisions of the Penal Code, we ask the Government to provide information on the application in practice of the new and amended provisions of the Penal Code, including the number of investigations, prosecutions and convictions, as well as the penalties imposed in cases of the use, procuring or offering of a child under 18 years of age for prostitution, for the production of pornography or for pornographic performances.

The Government will ensure the availability to the inspection services of all the resources necessary for the supervision, prosecution and repression of violations, and the prohibition of the exploitation of children in the worst forms of child labour.

We also ask the Government to establish a specific framework to care for child victims of such forms of abuse. This framework is necessary for the success of the procedures for the rehabilitation and reintegration of these children. They should therefore benefit from protection and access to medical, social, legal and housing services.

We encourage the Government to reinforce the efforts that it has already made to develop plans of action to combat sexual violence against children, and particularly to extend the plan of action that is already being implemented for the period 2017–19 and to ensure its effective implementation.

The Committee of Experts requested the Government to continue to take measures to improve the functioning of the education system and to provide updated statistical data on school attendance and drop-out rates.

As access to education is the best guarantee of saving children from the worst forms of child labour, the Government should ensure that all the necessary measures are taken to raise school attendance rates in both primary and secondary education.

The Convention provides in Article 3(d) that it is prohibited to engage children in work which is likely to harm their health, safety or morals. The Government should ensure that the Act adopted on 10 March 2016 is amended to raise from 16 to 18 years the prohibition to engage children in hazardous types of work. The prohibition of the engagement of children in hazardous types of work is not only set out in Convention No. 138, but also in Convention No. 182. A recommendation should therefore be sent to the Government of Cabo Verde on this subject on the basis of Convention No. 182.

The Government should ensure that children are identified who are particularly exposed to the worst forms of child labour, such as children living in the streets. It should contact them, particularly through the establishment of programmes for the rehousing of these children and to place them back in school.

We ask the Government of Cabo Verde to request ILO technical assistance and to consult all of the social partners in Cabo Verde with a view to the implementation of all these recommendations.

Employer members – Once again, we would like thank the Cabo Verde Government representative for sharing further information with the Committee this evening. At this point we must disagree with the view expressed by the Workers that this is not a case of progress, which we hold it to be. We agree that the Government has not yet eliminated the worst forms of child labour in Cabo Verde, however, like the Committee of Experts, we are satisfied that there is progress towards compliance with the Convention, as demonstrated by the steps already taken by the Government in revising its Penal Code.

We have noted that the situation of extreme poverty in parts of Cabo Verde may be a big contributing factor to the sexual exploitation of children. In this regard, we commend the actions of the Government to raise awareness among the vulnerable children, as well as to retain children within the schooling system. Moreover, we encourage the Government to continue working with international development partners to tackle the socio-economic circumstances that either lead to, or result in, sexual exploitation of children.

Finally, we encourage the Government further to demonstrate entrenchment of its commitment to the Convention by adequately resourcing the state machinery that combats the sexual exploitation of children. We also encourage the Government to submit reports of progress to the Office, including on the number of investigations, prosecutions, convictions and the penalties imposed and to avail itself of any technical assistance it may need to realize full compliance with the Convention.

Conclusions of the Committee

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

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.

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.**

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.

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.

EGYPT (ratification: 1957)

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

Written information provided by the Government

With reference to your letter attached with the preliminary list of individual cases to be discussed at the 108th Session of the International Labour Conference, which includes the case of Egypt in its application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), I have the honour to inform you of the actions taken by the Government of Egypt to address the comments made by the Committee of Experts, especially after the adoption of the new Trade Unions Law and the holding of trade union elections.

First: *With regard to reducing the minimum of workers required for the formation of trade union organizations*, and the abolition of penalties for imprisonment, we have submitted these comments to the Supreme Council for Social Dialogue, which approved the amendment of the law and transmitted it to the Council of Ministers on 22 May 2019. The Council of Ministers approved a draft law amending certain provisions of the Trade Unions Law and referred it to Parliament. The amendments include the following:

(a) *Reducing the number of workers required to form a trade union committee to 50 instead of 150*; reducing the number of union committees required to form a general union to 10 instead of 15; reducing the number of general unions required to form a federation to 7 instead of 10; the number of workers required to form a general union was reduced to 15,000 from 20,000; and the number of workers required to form a federation was reduced to 150,000 from 200,000. It

should be noted that the labour force in Egypt is more than 30 million; these numbers represent no difficulties in practice.

(b) *The abolition of penalties of imprisonment contained in the law*, where the new law includes some of the penalties for imprisonment, which was amended by the Government to include only fines.

Second: The Committee of Experts emphasizes the importance of guaranteeing equal opportunities for all trade union organizations in the new law and in its application, especially in light of the fact that for a long time the previous law imposed a system of trade union monopoly.

– The Government affirms that the law guarantees equal treatment for all trade union organizations, treating all of them equally through reconciliation processes, and granting them equal legal status in all rights, duties, immunities and privileges necessary to carry out their trade union activities.
– In practice, the Government guarantees equal treatment for all trade union organizations. While the old unions are the most representative of workers, modern unions have been granted membership in the Supreme Council for Social Dialogue, and the Ministry of Manpower invites them to attend all events and activities of workers, and to attend meetings to elaborate national plans in the field of labour, and attend labour-related celebrations such as the celebration of Labour Day, holidays and national events, and provide the necessary technical support as required by them.
– The Government gives trade union organizations which are not affiliated with the Egyptian Trade Union Federation (ETUF) special attention with the aim of spreading the culture of freedom of association and reassuring all workers that the Government deals with all workers' organizations on an equal footing and builds trust with trade union organizations.
– Modern trade union organizations participate in the official Egyptian delegation participating at the 108th Session of the International Labour Conference.

Third: With regard to the communications received by the Committee from some workers' organizations regarding the deprivation of the practice of trade union activities, pressure to join the ETUF and other allegations, the Government confirms that these allegations are not specific and are not founded on evidence, and it has invited such organizations to provide more details about their concerns, so that the Ministry can examine and resolve them. Some organizations have already done so and the Ministry has resolved their problems. To date, many of them have not submitted any information and the Ministry continues to reiterate its invitation to them.

– The Egyptian Ministry of Manpower has invited the ILO Cairo Office to send a representative of the Office to attend the Ministry's meetings with workers' organizations and provide the necessary technical support for them.
– Finally, please be informed that an independent committee has been established by the Ministry of Manpower to examine any complaints submitted by trade union organizations or workers wishing to establish trade union organizations. The Ministry welcomes any comments or communications received, and is fully prepared to examine them in the presence of representatives of the ILO Cairo Office. The Ministry also welcomes the continuation of dialogue and technical cooperation between it and the Office to achieve the best results.

Discussion by the Committee

Government representative – The Egyptian Government has always warmly welcomed suggestions and modifications to our working methods as per document D.1. However, we hope that other wider ranging amendments will be made. We have mentioned these on a number of occasions along with others with a view to greater equity and transparency that would improve the ILO's work further. One of those suggestions related to the criteria that are used to establish the list of individual cases. They remain very ambiguous and unfair in our opinion. We welcome the new proposal that has been made which relates to stressing cases of progress, among those that are looked at.

I would like to inform you that Egypt is one of the longest standing members of this Organization. We joined the ILO in 1936. Egypt has ratified 64 labour Conventions, including the fundamental Conventions and we have always striven to deliver our periodic reports in a timely fashion.

The political authorities in Egypt always called upon international labour standards in every field – health and labour, among others, so we do not fully understand why Egypt is on this list, however, we will take this opportunity to present examples of Egypt's progress in applying Convention No. 87.

The Egyptian case has already been presented to this Committee and we took into account the Committee's recommendations. We have begun to review our legislation in this area and continued to do so until 2011 when our region began undergoing a period of instability, which interrupted our work. However, we subsequently began preparing a new Labour Code and we now have a draft Labour Code which was prepared in April 2017. Since April 2017, the ILO has been supporting us. The draft new Labour Law was indeed submitted to the ILO and we later received comments on it from the ILO. We then reviewed the text further in light of the comments that had been made because the Egyptian State respects all international labour Conventions and we do want to ensure that all Egypt's ratified Conventions are applied. The new Law was promulgated in 2017. After lengthy discussions with the ILO, we met with a representative of this Organization on more than one occasion. The Law was promulgated in 2017 and following that we did hear protests being made against the Law. The Law enabled all organizations, either new or old trade union organizations, and regardless of whether they were in contravention of the previous Labour Law, to exist. That is because the Egyptian Government absolutely wanted to establish a Trade Union Law that protected all workers and all trade union organizations and to ensure that the right to organize was fully enjoyed.

Secondly, we promulgated the Law on trade union elections. The trade unions had been waiting for this Law to be established for more than 12 years. However, following that, the Egyptian Government was attacked by a number of organizations that had nothing to do with trade union activity. We tried more than once to find the sources of those accusations and attacks. Some entities claim to have formed trade unions with more than 7,000 affiliates and yet they remain unable to set up a single trade union committee and that is despite having presented the necessary documentation on a number of occasions. The entity that I am talking about refused to present the documents and the person in question simply makes accusations against the Egyptian Government and the Egyptian State, accusing the Government of contravening international texts.

We appeared before this august assembly to tell you that we have a new law to regulate better the situation of trade unions. It enables independent trade unions and trade union committees to be set up. A number of trade unions and similar organizations are able to benefit from this Law. More than 75 unions are now legal whereas before, under the pre-

vious Law, they were considered illegal. These organizations are now cooperating with the Government and they are able to do that because they have been able to present full documentation in line with requirements and these organizations really have trade union members. The Government is still receiving documentation from various sources and anyone who wants to set up a trade union of any type can submit such documentation. Last month a new trade union came into being. This was a general trade union which managed to get together the necessary documentation relating to its trade union committees. Last month this trade union was able to come into being. It completed the process. We can therefore see that the Egyptian Government is helping trade union organizations and it is driven to do that by a firm desire to enable real and independent trade unions to be formed. For some years now, we have been following the path of transparency and credibility. Concerning the accusations lodged against the Government, I will leave those who have made those accusations to present evidence to back them up. It has been said that the Law contains some paragraphs that may restrict trade union activities. Those provisions have been submitted to the Supreme Council and a tripartite group has recently been formed to look at the different amendments that have been proposed. The tripartite group has already presented its recommendations to the recently created Supreme Committee for Social Dialogue and they have even been approved – that took place in May 2019. The Parliament has approved these amendments on 9 June 2019.

I will now move on to equal opportunities among all trade union organizations. The new Labour Code has taken into account the observations made by the Committee, on the occasion of the direct contact mission's visit to Egypt. All existing trade unions that were in line with the Law are now being treated equally alongside all those that were not previously in line with the Law. All trade unions, regardless of which law they were created under, are treated equally and I can confirm that the Government does treat all trade union organizations in Egypt on an equal footing.

We also have evidence that shows that equal and fair participation has been enjoyed by all trade union organizations in the elections that have been held. That is regardless of whether candidates were members of the Egyptian Trade Union Federation (ETUF) or other trade unions. Each time a trade union event takes place, we invite all trade unions to that event regardless of which federation they are in. There are a number of independent trade unions in Egypt today that are not part of the ETUF. That said, the ETUF is still today the most representative workers' organization and that is in line with the Convention; although it is a majority organization, we do invite other organizations regardless of size and affiliation to all trade union events.

Our wish is to take any measure that will enable us to apply this Convention and all international instruments fully. We stand ready to cooperate with this Organization in order to respect the conclusions of this Committee so that we can make the necessary changes and ensure full respect for international Conventions. We have insisted in the past and continue now to insist on the importance of social dialogue. We hold the principle and we ask this Committee to look at the complaint mechanism that we have, regardless of the party lodging complaints. The complaint should be accompanied by evidence, we cannot simply deal with allegations or unjustified claims.

I would also like you to take into account the case of States that make a great deal of effort. Perhaps we should sometimes thank those countries that put in a great deal effort. I think everybody is aware of what the Egyptian Government has done over the course of the past three years. And you know what forward steps Egypt has been able to make where labour law is concerned over the course of the past period.

We have taken every effort to ensure full conformity between our legislation and national and international instruments. The Egyptian Government is keen to respect all international instruments.

Worker members – The case of Egypt is back before our Committee. You will remember that we examined it at our last session but one, when we adopted very clear conclusions. The fact that the case is coming back means that unfortunately the situation has not improved much in the meantime.

Admittedly, as indicated by the Government in its speech, a new Law has been adopting regulating trade union activity. Amendments were again proposed last week, that is after Egypt was placed on the preliminary list. For those who still harbour doubts, that is clear proof of the effectiveness of the ILO supervisory machinery. Evidently, the prospect of the case being examined by our Committee gives rise to enthusiasm and redoubles ardour. Despite the adoption of the new Law, Egyptian legislation is still incompatible with Convention No. 87. This non-conformity is at several levels, as we will now set out in greater detail.

First, at the general level, the new Law, which has the number 213, is characterized by a strong intention to regulate in detail all aspects of trade union organization. Such detailed legislation is not in conformity with Article 3 of the Convention, which provides that "Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes." It adds that the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Without trying to be exhaustive, allow me to refer at this stage to several provisions that illustrate this incompatibility. Let us start with section 5 of the Law, which provides that a trade union may not be founded on a religious, ideological, political, partisan or ethnic basis. This requirement runs counter to Article 2 of the Convention, which guarantees workers the right to establish organizations of their own choosing. Freedom of choice means being able to establish an organization on the basis of one of these criteria and the right of workers to give their organizations the orientation that they wish. If all organizations had to follow a single unique line without any distinction, it would be the realm of uniform thought and the absence of any trade union pluralism. The fact that an organization takes a specific line does not in any way mean that it can discriminate between its members on this basis. It is merely affirming its identity and distinguishing itself from other organizations.

Section 7 of the Law empowers the Minister with the right to seize the competent jurisdiction for the dissolution of the executive committee of an organization in the event of a serious fault in its administrative or financial management. In so doing, the Law gives the authorities the right to control the administration of organizations, which is not in conformity with Article 3 of the Convention, which guarantees organizations the right to organize their activities freely. If serious errors or faults were to be committed, it is only the members who should be able to go to court to challenge the responsibility of those engaged in their administration on condition, evidently, that they have done something wrong.

Similarly, section 58, which makes the accounts of organizations subject to the control of a central accounting body, also amounts to interference in their administration. The body is a public institution which is basically responsible for controlling public accounts, that is the accounts of the bodies that manage public finances. It is difficult to see why this body is empowered to control the accounts of trade unions, which do not administer public finances. It should be recalled in this respect that the Committee of Experts has recalled that the imposition of financial control of

the accounts of trade unions by the public authorities is not in conformity with the Convention.

Section 41 of the Law sets out a series of eligibility conditions for trade union leaders. Once again, we are bound to note that this provision is not in accordance with Article 2 of the Convention. For example, the requirement that a candidate for the executive committee must have a diploma, is not on leave without pay and is not a temporary worker constitutes interference in the freedom of workers to elect trade union officers.

I draw particular attention to the condition relating to the performance of military service. In practice, as this only applies to nationals, this requirement implies de facto that migrant workers cannot stand for trade union office, which is also incompatible with the Convention, as recalled by the Committee of Experts on several occasions.

We also note that section 30 contains very detailed provisions on the competences of executive committees. Section 35 also sets out in minute detail the election procedure for general assemblies. These two elements are important illustrations of the systematic interference by the authorities, which determine the essential functioning of trade union organizations by law.

Admittedly, section 61 endows them with autonomy in the drafting of their statutes and the election of their representatives. But what is left of this autonomy when all of these aspects are regulated by law? This pseudo-guarantee is left completely illusory in practice.

The Committee of Experts indicates in its report that the legislation still limits the right to join several unions. Contrary to the Government's claims, this provision still exists in the legislation, as it is reproduced in section 21 of the new Law.

In its report, the Committee of Experts pointed to the persistent problem of the representativity threshold in Egyptian legislation. The legislation that I am reviewing here does not envisage any changes in this respect. We regret that this issue has not been resolved with the adoption of Law No. 213, as the Government is well aware that its requirements are not compatible with the Convention. Nevertheless, we learn that amendments are currently under discussion on this point in Parliament. We will examine the extent to which these changes are adopted in practice and the extent to which they are in conformity with the Convention.

The Committee of Experts also noted that the national legislation still establishes prison sentences and fines for a series of offences under the Law. The changes that are currently under discussion in Parliament appear to wish to remove the prison sentences, but nevertheless make the fines heavier. And it should be recalled that they are still penal sanctions. The desire to make them heavier shows that the intention is to take with one hand what is given by the other. A detailed examination of the provisions with which non-compliance gives rise to these penalties shows the intention of the authorities to establish an arsenal designed to limit freedom of association.

By way of illustration, failure to comply with section 5, which I referred to above, which relates to the establishment of a union on a political, religious or partisan basis, is punishable as a penal offence. The same applies to failure to comply with the procedure for the exclusion of a member of an executive committee, which opens liability to a penal sanction. And yet this is purely and simply a matter of trade union autonomy.

Let us refer finally to the section of the Law respecting the financial means of organizations. This provision enumerates a series of sources of financing and criminalizes anything that is not in the list. But the principle is that everything is lawful, unless it is prohibited. The Law reverses this principle be enumerating what is permitted, and anything that is not specified is by definition prohibited and even criminalized.

Our Committee is not only responsible for supervising the conformity of the law with Conventions, but also for examining such conformity in practice. In this regard, we are bound to observe that, as noted by the Committee of Experts, there are still many problems. For example, trade union elections were held within the context of the implementation of the new Law. And sadly they were tainted by many irregularities.

Indeed, despite all these imperfections, the new Law is not applied correctly. Several organizations have still not been registered on the pretext that their files were incomplete. In reality, the authorities continue to act arbitrarily in practice in the registration of unions. They are refusing to meet the 29 organizations that have lodged complaints. Other colleagues in the Workers' group will have the opportunity to come back to this in greater detail.

Before concluding, it has to be said that in Egypt, both at the legislative level and, as we will also see, in practice, the situation is still far from being in compliance with ILO standards.

The title of the new law on which we have commented here is the Law on trade union organizations and the protection of the right to organize. In practice, a longer title would be more precise: "Law organizing the control of trade unions and preventing the right to organize".

The aim of the State cannot be to confiscate trade union freedom or to control it. Its mission, on the contrary, is to preserve and develop fundamental freedoms.

In this respect, I would like to share with you a thought by the philosopher Spinoza, who wrote that: "The State's purpose is not to change men from rational beings into beasts or automata, but rather to bring it about that they do not risk anything by fully using their mental and physical powers, they use their reason freely, they do not contend with one another in hatred, anger or deception, and they do not deal unfairly with one another. So the purpose of the State is really freedom."

Employer members – I would like to thank the distinguished Government delegate for his submissions this evening, and in particular I was pleased to hear the Government's indication that it comes to the Committee with the goal of full respect for international labour standards. I was pleased to hear the Government's indication that it stands ready to accept the conclusions of the Committee in order to ensure full respect for international labour standards, and I was very pleased to hear the Government's commitment to social dialogue. I think that this is a very positive way to begin this conversation, and so we welcome these introductory comments. The case of Egypt was most recently discussed in our Committee in 2017, when the Committee called on the Government to accept a direct contacts mission to assess progress in respect of its conclusions, namely, that the draft law on trade unions was prepared in conformity with Convention No. 87 and that all trade unions in Egypt were able to exercise their activities and elect their officers in compliance with the Convention and operate in that spirit, both in law and practice.

The Employers' group was pleased to observe that the direct contacts mission took place in November of 2017, and we would note that that mission made a number of recommendations. We also note that the ILO implemented a Better Work pilot programme in Egypt in June 2017, with the purpose of paving the way for the establishment of a full Better Work programme, if and when the proper environment for such a programme existed. We understand that in March 2019 it was determined that the conditions were not yet there for a full Better Work programme.

The Employers' group notes positive aspects of the Government's effort and, in particular, positive aspects to promote a sustainable business environment and is encouraged by these efforts and this progress. The Employers' group encourages the Government to continue its efforts with respect to social dialogue in this regard and continue efforts to promote a sustainable business environment, with the cooperation of the social partners.

The Employers' group must also note, however, that in light of the Committee of Experts' observations, there are ongoing issues that continue to exist in Egypt. In particular, issues continue to exist as far as we understand in respect of the obligations of the Government in relation to the Convention on the one hand, and Egypt's national legislative framework regulating trade union organizations on the other hand. The Employers' group understands that the new Trade Union Law, enacted in December of 2017, has given rise to concerns about its compatibility with the Government's obligations under the Convention.

The Committee of Experts identified concerns related to obstacles in the new Trade Union Law in relation to the registration of independent or autonomous trade unions that would be trade unions that are independent from the ETUF. The Committee of Experts identified concerns that included allegations regarding the registration and election processes that in their observation excluded from elections certain unions where they were unable to reconcile their status, as well as requests for documentation for registration that went beyond what was appropriate, as well as issues in relation to postponement in accepting applications for registration, or delays in delivering certificates.

The Worker spokesperson noted in considerable detail the restrictions that the Workers' group considers to be concerning in terms of interference with the free operation of trade unions. The Employers' group noted with interest that the Government described an intention to establish and reconcile this new law to ensure that the issue of registration and elections came into compliance with the Convention.

Therefore, the Employers' group at this moment would recall that the Convention provides that both workers' and employers' organizations are free to form and join organizations of their own choosing, and that the core of the issue before us today is the need for the Government to respect that freedom and autonomy of workers' organizations to organize their activities.

As a result, the Employers' group requests that the Government carefully consider these important issues and without delay implement measures which could include the revision of the Trade Union Law, in order to immediately address the issues and tackle this question of the regulation, and the improper regulation of internal union affairs and organization. Once measures are taken in this regard, we would ask that the Government report to the Committee of Experts at its November 2019 session on this expected progress.

To us, this is the core of this case in respect of the issues noted by the Committee of Experts regarding the draft Labour Code. The Employers' group will not address those elements which deal with the prohibition of industrial action as, in our view that falls outside of the four corners of our consideration of this case.

Therefore in closing, we would focus on the commitment to social dialogue, the commitment to ensure that there is a full respect for the obligations under the Convention, and a full commitment to address these, hopefully limited, outstanding issues that continue to impede the ability for our Committee to find that there is full and complete compliance with these aspects of the Convention. We will certainly look forward to progress in this regard as well as full reporting on these measures.

Worker member, Egypt – We thank the ILO and the Committee for their interest in the circumstances of Egyptian workers and the need to ensure that they enjoy their trade union freedoms. We would have liked to have encouragement for Egyptian workers rather than having Egypt listed on the agenda of this Committee this year. We are members of the most representative workers' organization, the ETUF, and we firmly believe in trade union freedoms. Workers are the beneficiaries of the new Egyptian Law on trade union activities, which has improved on Law 35 of 1976. We suffered under that Law, and we are not the only ones, because under Law 35, everyone was under the umbrella of the General Federation. Under the new Law, we have been able to strengthen our position and we are now able to work for trade union freedoms and the application of ILO Conventions. We believe that workers have the right to their own safety and their right to withdraw from federations, while also putting into practice the standards of the ILO. Our organization was the first one to request that Law 35 of 1976 be amended based on the observations that were presented in 2008. We can go back to the minutes of the ILO, the record of this Committee's session that year. We were the ones that asked for that Law to be amended. Freedom of association has a pivotal role to play to ensure that investment pours into our country and leads to new work opportunities for Egyptian workers. We have read the Committee of Experts' conclusions on Egypt as concerns the new law relating to the formation and registration of new unions. The Committee of Experts says that the new law is not in line with the Convention. However, the restrictions on trade union freedoms referred to by the Committee of Experts need to take into account the high level of representation from 2008 to 2017, and that clearly shows us that since the promulgation of the 2017 Law, the situation has been in line with the Convention. Things have greatly improved as against Law 35 of 1976. The previous Law made the authorities the highest representatives. That was amended in 2008, and if we compare this with the current Law, we see that the current Law is much better than the previous one. The new Law enables trade unions at all levels to exist. The new Law allows trade unions to present their lists and their statutes through their assemblies and enables them to hold free elections with no intervention from the administration or a high-level representation. This resolves the problems which existed under the previous legislation. The new Law criminalizes the elimination of any official through illegal means. There is a full freedom to join trade unions. There are articles on the registration of trade unions that takes place through the Supreme Council in all provinces, and this was accepted by the workers and approved by the Government. It was then submitted back to the Parliament and is currently being debated. It has also been accepted by the Labour Commission. Concerning the observations on the Labour Law, we have held dialogue and a new Law has been accepted by the Supreme Council. There is now an agreement between the social partners where real application of the Trade Union Law is concerned. There has also been an agreement to hold new elections in the next period, so that will enable trade union organizations that have not been able to register previously to do so in future. There are wide-ranging agreements with the social partners. A committee is also being set up to look at complaints relating to freedom of association and resolve those. In light of all of this, and the results of the most recent elections, we can see that improvements have been made on Law 35, almost 1,500 new committees have been set up and 145 of those would not have been able to exist under Law 35. New trade unions are being created then, particularly in the health and legal sectors. They have been able to join the ETUF. The same is true of an organization in the transport sector. So we can see that we have moved

on to a new chapter where freedom of association is concerned. At the Federation level, more than one federation is registered, new entities have been set up with no intervention from the authorities and in some cases 80 per cent of members are women and young people, so we can see how freedoms are being extended across all sectors.

We feel that there is cooperation from the employers to bolster freedom of association and we assure that we will be able to reach an agreement between employers and workers in Egypt with a view to achieving all the goals and respecting all interests involved, so that Egyptian workers can protect their rights and enjoy new work opportunities while also boosting the economy in line with the two Conventions. We hope that the ILO will offer technical assistance so that we can meet the expectations of all Egyptian workers while applying the Conventions. There is no doubt that in light of all of this there are some very positive signs. The new law has brought great improvements, and further legislative changes are still being debated by the Parliament. We therefore hope that this Committee will take the necessary measures and that the conclusions drawn will bear in mind the progress being made. We also hope that Egypt will subsequently be removed from the shortlist. Egyptian workers have benefited a great deal from the new Law. We agree that certain articles could be amended in collaboration with the employers. That would help us to achieve our new vision for Egyptian workers.

Employer member, Egypt – I represent the Federation of Egyptian Industries which includes 60,000 employers. We believe that there is a very positive and progressive development occurring now in the field of freedom of association. Simply because after 50 to 60 years we now have a new Law. Is it a perfect law? Does this mean that we are in a perfect freedom of association in Egypt in a perfect situation? Of course not. But the question is are we on the right track? Yes. Are we now in a very satisfactory situation? Yes, but of course we all need to pull hand in hand in order to reach to our ultimate goal or almost perfect situation and in this regard we appreciate the efforts exerted by the Minister of Manpower in putting social dialogue mechanisms and social dialogue activities in order to negotiate together and discuss together the new amendments.

We believe also that there is political will and goodwill from the employers' organizations. Within a few weeks we have managed to put a new legislative verification which means that within two years we action the rule and a new modification which is now in front of the Egyptian Parliament including adopting some of the recommendations required by the Committee of Experts.

Why are we in this situation? Simply because we cannot go from one extreme to the other extreme all of a sudden without any transition period. For that reason we say that we are on the right track. After 50 to 60 years of resistive stagnation we cannot implement everything correctly from day one. Of course each new legislation has people or parties who accept it or do not accept it. We are benefiting from the views and opinions and recommendations of the Committee of Experts in order to enhance our performance. Again, we are not in a perfect situation, this is very logic thinking. We are trying to enhance our implementing the recommendations, for that reason we have asked the International Organisation of Employers (IOE) for the necessary technical support in order to be more able to understand and to implement correctly the requirements of the Committee of Experts.

After the revolution in Egypt and after the enacting of this Law we have political, social and economic challenges. We need time to find appropriate solutions to those, otherwise there will be chaos. We are very pleased as employers from the current situation which we believe is not our ultimate objective or goal but we believe that we are on the right track.

Another Employer member, Egypt – I am not going to add anything to what the Government representative has said. I think it has been sufficient. My colleagues have also made good contributions but perhaps one or two quick messages.

The Constitution is the mother of the legislation and the last Constitution of Egypt provides for the establishment of trade unions without outside interference, so if there is any law that contradicts the Constitution it has to be considered null and void. The principle there is quite clear.

If the Vice-Chair of the Workers says that a law makes it impossible for a trade union to be established on a partisan, political or religious basis. My question is then, for example, would it be possible to have in a given sector, let us say in the production of oil, one trade union for Christians, another for Muslims or for example one trade union belonging to one political party or another political party. I think the existing approach is rational because trade unions have to serve the interest of workers, not in their capacity as socialists or capitalists or Muslims or Christians or any other ideology, but as workers. Our trade union cannot therefore be based on these particularities and this is something that needs to be recognized otherwise you are contravening common sense.

There has been a reference made to imprisonment. Here again, there are laws which have the contradictory meaning if somebody subjects documentation, which is not in accordance with the law, then they have to be subject to the power of the law in that regard.

The workforce in Egypt today is 13 million, 10 million of them are in trade unions. In the informal sector we would work together with the federation of workers and others to try and bring these informal activities into the formal sector. We are trying to get organizations that can protect workers to serve their interest, not the interest of the employers. Obviously there can be contradictory opinions sometimes between employers and workers and these organizations protect the interest of the workers. If we have 10,000 workers with five different trade union committees and each one of them wants to provide services for workers, I do not think that takes in the right direction when there is a single trade union committee, but that is different.

When we are dealing with a situation of public funds, the auditors' court is the one that oversees the management of funds. Now he is not doing to serve the interest of the Government, but in order to ensure effective financial supervision. If there is no such control, then we can see cases of misuse of funds, which contravene laws.

These provisions have been drafted in order to serve the interests of the members of these organizations. The process simply involves an accounting report which can be put to the auditors' court and they have experts which can assess whether the interests of the workers and the trade unions are being served. When you have a committee with 100 or 1,000 workers, they pay their dues and these need to be managed properly. The Government has to oversee these activities. We should not set out to completely dismantle such activities.

Government member, Senegal – Senegal welcomes the efforts made by Egypt, as described by the Government representative, to give full effect to the Convention. Reaffirming its commitment to the universal ideals and objectives of the ILO and the need for all member States to ensure respect for the trade union rights and freedoms of all workers within the meaning of the Convention, Senegal urges the Government of Egypt to maintain the progress achieved and the significant resources used to improve the situation of its national law and practice in relation to the protection of the trade union rights of workers.

Senegal invites the Government of Egypt to reinforce its close cooperation with the ILO with a view to giving full effect to the Convention.

Observer, Public Services International (PSI) – We are very concerned about the conditions imposed by the Trade Union Organization Law No. 213 of 2017 and the oppressive practices that accompanies its application since the end of 2017. We welcome the Minister's decision to adopt a proposed bill that includes important amendments, granting it is approved by the Parliament. However, we affirm that this is not sufficient to correct the flaws of the law and the shortcomings it includes. Despite being a long-awaited step towards ensuring the right of independent unions to organize, the Trade Union Law has in its state come to stifle this right imposing the same buttons of governmental control and threatening the existence of strong independent unions.

The independent trade unions continue to make genuine efforts towards regulating their status based on the new Law and its provisions and within the allocated time required to do so. Attempts to regulate the union's legal status have been marred by repressive practices in violation of the law itself. The Government has forbidden the regularization of many independent organizations (for example, the Real Estate Tax Authority General Union, the Trade Union Committee of Workers in Egypt Telecom and the Trade Union of Workers in the Bibliotheca Alexandria), disapproves the establishment of most of the independent unions created after the passing of the Law (for example, the Trade Union Committee of Workers in Alexandria Company for Garments, the Trade Union Committee of Workers in Leoni Company), as well as rejected the statutes submitted by unions and forced their members to replace them with guidelines issued by the Ministry of Manpower.

Accordingly, the situation of many trade union organizations remains unsettled. Their regularization or registration has been disapproved despite meeting the law condition and submitting all required documents. Most of these unions are facing reoccurring pressure from different governmental bodies to join the ETUF. The Ministry of Manpower oppresses the fundamental right of the union's general assembly to settle their matters and elect their representatives freely. Governmental bodies intervene in several instances to prevent the union's general assemblies from convening and in case of their meeting, the Manpower Ministry refuses to recognize the general assemblies' decision no matter whether the concern is electing the executive council or a decision on other issues. As a result, statutes of many union organizations have been suspended (for example, the Trade Union Committee for Damietta Fishers, the Trade Union Committee of Workers in Suez Canal Clubs and the Trade Union Committee for Transportation Xervice in Qaluobia). Actually, throughout the last six months, 29 organizations made every effort to negotiate with the Government. They discuss with the Manpower Ministry, submit to it their petitions, address and appeal to different governmental bodies (Cabinet, the Ministry of Investment and the Ministry of Trade and Industry). Nevertheless, they have not met except hard intention to adopt the same course. The trade union election took place in 2018 under the new Trade Union Law, nevertheless, it is hard to assess whether those were real elections.

Government member, Zimbabwe – The Government of Zimbabwe would like to thank the Government of Egypt for updating the Committee on the progress it is making in addressing the legislative gaps, sighted by the Committee of Experts, as well as the practical steps it has put in place, to address the complaints raised by some of the trade unions in respect of the registration processes of workers' organizations. It is pleasing to note that labour law reforms are ongoing in Egypt. To this end, the Government of Egypt should be commended for having brought to the attention of the Egyptian Parliament, in May 2019, a bill seeking to amend some provisions of its trading and law.

Furthermore, the Egyptian Government has informed about its engagement with the trade union organizations that have concerns about the registration and the recognition of trade unions, both in law and practice. This is also commendable, more so when the engagements are overseen by officials from the ILO Cairo Office.

Finally, we call upon ILO officials to continue working for the Government of Egypt and the trade unions across all sectors. The Government of Egypt has shown its sincerity to the issues raised by the Committee of Experts, to address through social dialogue.

Observer, International Trade Union Confederation (ITUC) – I would like firstly to state that the Arab Trade Union Confederation must show solidarity and defend trade union freedoms and for that reason I take the floor on behalf of the Egyptian Democratic Trade Union Federation to speak about the problems that are affecting activists of our trade union. We face many problems as an Egyptian working class and that is particularly true of those that are affiliated to the Egyptian Democratic Trade Union Organization. Actions are taken against us. Government officials working in the Ministry for Labour present obstacles to trade unions' work and this is true even following the approval of the 2017 Law and the associated regulation of 2018. All of this has led to the imposition of obstacles to trade unions' work.

Our trade union expressed reservations in relation to this Law. We tried to forge an agreement that might satisfy everybody, but that was not possible in the end because the Government representatives overlooked all our amendments. That includes those related to the minimum number of affiliates necessary to be able to found a trade union or a trade union committee.

In the preamble to the Law that I referred to before, there is a text which grants independence to trade unions and we all thought that that Law would encourage trade union independence; would give trade unions a certain legal status so that affiliates would be able to join trade unions or leave them without any intervention from the Administration. Unfortunately, the situation was quite different from that; in fact the Government drafted its regulation precisely to undermine the rights of workers as set out in the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It turns out then that the Law was favourable to the workers but the regulation completely overrode those provisions. Unwritten interventions also took place and of course that also overrode the effect of the new Law. The Law was also infringed on many occasions, for instance the interpretation of article 24 of the Law which grants trade union federations that were created under a previous law to maintain their legal status.

Government member, Algeria – The Government of Egypt clearly demonstrated that it has the political will to give effect to the recommendations of the Committee of Experts so as to bring the laws into conformity with international standards in this respect.

The Algerian delegation notes the information supplied by Egypt on all the measures that it has adopted and wishes to express satisfaction at the amendments proposed, particularly in relation to the reduction of the number of workers required to establish a trade union committee or a union federation.

Algeria also considers that close collaboration with the International Labour Office is essential to accelerate the implementation of the legal framework establishing the arrangements for the exercise of the right to organize in Egypt.

We are determined to continue supporting Egypt in its pursuit of dialogue and tripartite consultations to give full effect to the Convention. We support the efforts made by Egypt to develop a culture of freedom of association and trade union pluralism and we thank Egypt for accepting our

tribute to the measures adopted and efforts made by the Government. We call on the Committee to support the reforms that are being implemented by Egypt.

Worker member, Spain – The Government of Egypt claims to have amended certain provisions of Law No. 213 of 2017 to bring it into line with the Convention. Although nobody knows when the amendments will enter into force or if in practice they will be adopted by Parliament, we emphasize that this is not enough to ensure that it complies with the commitments deriving from this Convention. The Law was enacted on 17 December 2017. Although there already existed a pernicious legal framework governing trade unions in Egypt, the new text, instead of guaranteeing the right to freedom of association, has restricted this right even further, and has almost completely removed it.

Once again in the long history of workers' combat in Egypt, the law imposes on the working class the patronage of the Government union federation, which by nature is closer to being a government institution than a trade union.

In this context of clear repression of freedom of association in Egypt, the process under discussion here lacks credibility. For example, section 11, as initially proposed, provided that trade union committees required 50 members to be established. Nevertheless, following discussion in Parliament, this number was raised to 150 members, and then was reduced once again just before the beginning of the present 2019 Conference. In addition to amending sections 11 and 12 of the Law, it would at least be necessary to amend sections 21 and 54, as well as the provisions of Chapter 10 (sanctions). The penal section of the Law imposes serious penalties of imprisonment for a wide range of violations.

The independent trade union movement in Egypt is continuing to suffer from oppression, arbitrary decisions and the denial of its rights to engage in trade union action. The introduction of the Law is in itself in violation of the Convention. What is the use of reducing the minimum number of members required to establish trade unions, when the unions that are already in compliance with the existing requirement have not been able to legalize their status and complete the process of registration? What is the use of reducing the minimum number of members for the establishment of unions, if the Government imposes model statutes and requires the unions to change the clauses of their statutes because they are not in conformity with those provided by the Ministry?

Regrettably, once again, we see that the working class in Egypt, following decades of action to combat repression in their country, not only cannot yet benefit from the right to freedom of association, establish independent unions and benefit from legal status, but they are also living through a new period of repression.

Today in Egypt any type of activism in support of democratic freedoms is impeded, and activists, journalists, students and trade unionists, among many other categories, are persecuted and attention is drawn to them. Indeed, this is the case for anyone who endeavours to defend fundamental liberties in the country.

Government member, Ghana – Ghana wishes to express its gratitude to the Committee of Experts and this Committee for the work done so far to ensure that member States comply with the agreed standards in their various countries. Freedom of association is a fundamental right of workers as enshrined in the Convention, which was ratified by the Government of Egypt as far back as 1957. The Government of Ghana supports any effort to ensure mutual respect, tripartite social dialogue, social justice and cooperation between the Government and its social partners. We look forward to seeing that the Government of Egypt and worker representatives, as well as employers relate in a cordial atmosphere in their engagements and in line with the Convention. Ghana is of the considered opinion that the Egyptian Government's priority to review and consolidate the Labour Legislation including the Trade Union Law in consultation with the social partners and with the support of the ILO Office is in the right direction. With our experience in ensuring freedom of association, democratization and greater participation of trades unions in matters that affect workers, the Government of Ghana encourages the social partners, with the support of the ILO Office, to continue on the path of social dialogue. We urge the ILO Office to provide them with the necessary technical support as requested by the Government of Egypt in their quest to reform their laws to comply with the Convention. With the above in place, we are convinced that the Government of Egypt will be in a position to adopt measures to align its laws and practices in line with the comments of the Committee of Experts. The Government of Egypt must continue to ensure that labour and employment issues are dealt with in accordance with their obligations under the Convention and with mutual respect.

Worker member, France – It is with reference to a specific case, identified as a typical case by Frontline Defenders, that we would like to illustrate the serious failings of the Government of Egypt and the extremely harsh trade union repression that prevails in the country.

In May 2016, hundreds of workers in the Alexandria Shipyard Company organized an unlimited sit in to protest against low wages which, according to them, were well below the national minimum monthly wage. Over 20 workers were arrested and accused of being at the origin of this strike. They were detained for months and forced to resign from their jobs. Nearly two years later, they are still being judged by a military court.

During the May 2016 sit in, the workers of the Alexandria Shipyard indicated that they were demonstrating in favour of a minimum wage and to obtain the clothing and safety equipment that was being refused to them by the factory, and against a reduction in their annual Ramadan bonus. According to the workers' lawyer, those responsible in the army decided that the workers employed in a factory belonging to the army were only entitled to bonuses aligned with those paid to other persons employed by the Ministry of Defence, thereby reinforcing their treatment as military personnel. The workers made use of a traditional union technique: they did not stop production completely, but worked and demonstrated in shifts. Military police units and the central security forces were deployed around the naval shipyard, and the management ordered a reinforced blockade by the army to prevent the workers from entering the factory to work. As a result, the 2,300 people who worked in the factory were suspended indefinitely.

At the end of May, the workers went to the local police station to lodge a complaint against the management blockade, seeking to know why they were not allowed to work. At the police station, they learned that the army had opened an inquiry into the alleged participation of 15 workers in the sit in. The military court convoked 26 workers for an inquiry (Case No. 2759/2016). Of the workers, six were known to have called for labour reforms in the factory in the past. Fourteen of the workers who were convoked went to the police station for the inquiry, where they were then placed in detention and interrogated.

The court refused to release the workers and indicated that they would be transferred to local police stations and released later. However, the workers were detained for four days or more. The military court charged them with calling a strike and perturbing the operation of the enterprise. It charged civilian workers with the violation of section 124 of the Egyptian Penal Code, under the terms of which public employees who wilfully refrain from performing their duties may be imprisoned or sentenced to pay a fine. Even now, the 26 workers are still without jobs, out of prison and awaiting the verdict of the military court. The verdict has

been postponed over 30 times in two years, and hundreds of employees of the naval shipyard are still prohibited from entering the factory.

It is high time for the Government of Egypt to give effect to the Convention. It must act rapidly to respond to the fundamental concerns of the Workers' group and the international community.

Government member, Iraq – We would like to thank the Government of Egypt for its efforts. It has been striving to apply the Convention. We would like to pay tribute to the efforts made in relation to the new Law, which applies to all Egyptian workers, regardless of the type of work in which they are involved or the sector to which they belong. This Law grants a number of advantages, for instance respect for trade union pluralism. When the Government of Egypt drafted this Law, it drew inspiration from ILO recommendations, and it involved the social partners in that process. It also consulted civil society. Egypt has respected the recommendations of the Committee of Experts. In light of this, we feel that this new Law, as amended, is perfectly in line with international labour standards. Nor should we forget that the Magna Carta of Egypt, otherwise known as the Constitution, grants room for freedom of association and the right to organize. Geneva is the host city of the ILO, admittedly, but the Arab Labour Organization has its headquarters in Egypt. They are sister organizations, and that serves only to reinforce the conviction that Egypt cannot escape its international obligations. On the contrary, Egypt is very committed to respecting all international labour Conventions.

Worker member, United Kingdom – I speak on behalf of the workers of the United Kingdom and the International Transport Workers' Federation (ITWF). Since the Committee now allows for the submission of additional documentation and other evidence by governments due to be considered by the Committee, it remains vital to keep us all up to date with recent events. Sadly, in the case of Egypt, these events portray an ongoing climate of repression of trade union freedoms that demands far stronger action from the Government to comply with the Convention.

The Government itself insists there is no evidence for union claims that they have faced pressure if openly critical of government policy or not aligned with unions with favourable views of the same. We are happy to provide some examples.

Throughout 2018, the Egyptian Seafarers' Union (ESU) attempted to register a branch in the Port of Alexandria, and was consistently refused. The branch has now had its activities suspended. The union had already been seriously weakened by Law No. 213 of 2017, which allowed the Government to dissolve most of the ESU structure, leaving only branches in Suez and Port Said. Action should be taken immediately to restore the rights of the port workers to form or join unions of their own choosing, without state interference.

We note that port workers are not part of the group exempt from the Convention, being neither, under any reasonable interpretation, part of the police nor military.

Last year, workers at a factory producing ceramics and sanitary ware, took part in a strike over, among many things, paid holiday, which was being withheld in defiance of Egypt's labour laws. Also at stake, were an annual pay increase, payments for hazardous work, access to health care and a request to change the election procedure for trade union committees. As for that last point of dispute, a company attempting to control such processes is itself a breach of the Convention.

Rather than negotiate, the ceramics company closed down all power to the factory and called the police, providing them with details of the striking workers. On 17 February 2018, seven of those workers were arrested. During the arrest, one worker fell three stories and sustained serious injuries. He was arrested nevertheless. On 25 May, the workers were charged with inciting the strike, which – by coincidence – the Labour Office retrospectively adjudged illegal, just in time for their sentencing to 15 days' imprisonment on the same day. The workers were then forced to agree, in negotiations with the Ministry of Manpower, that they were to abandon several of their pre-strike demands, in return for the police ending their pursuit of other strike participants. The Ministry also compelled the workers to sign a no-strike agreement as part of the arrangement.

Ceramics and sanitary-ware producers are not listed as essential services by the ILO.

Finally, in April 2018, workers at a biscuit factory entered a dispute with their management over the distribution of profits after a productive and rewarding year for the factory. The workers joined the strike on 29 April 2018, and their protest lasted for seven days, at the end of which the security services arrested six of the workers and charged them with organising a protest without a licence. Biscuit production is also not listed as an essential service by the ILO.

These cases show that state interference in the activities of trade unions has continued up to very recent times, and promises of reform must be taken in the context of a total failure to change the behaviour of the Government and its enforcement agencies.

Government member, Brazil – Brazil thanks the Government of Egypt for the presentation of detailed information to the consideration of this Committee. Brazil shares Egypt's unease with various aspects of the supervisory system, and in particular the working methods of the Committee. This Committee is far from conforming to best practices in the multilateral system. It is not transparent, it is neither impartial nor objective, it is not tripartite in the house of tripartism, and it does not favour social dialogue in the house of social dialogue. The lack of due notice, the opaque nature of the selection of cases and the negotiation of conclusions, seriously hinder our efforts to build constructive dialogue and give meaningful consideration to the submissions of various parties.

A strong, effective and legitimate ILO, adapted to the contemporary challenges of the world of work and multilateralism, is of interest to all, governments, workers and employers. This should and can be achieved by means of cooperation, dialogue and partnership. The information from the Government shows that it has made clear efforts to seek social dialogue in recent years and that amendments to the Trade Union Law, approved by the Council of Ministers last month, are a promising development. Yet, we reiterate that in Brazil's view, only clearly defined standards to which a government has agreed, through the formal ratification process, should grant any questions or requests for clarification before this Committee.

The Office, this Committee and the ILO as a whole should recognize the important role of governments, national institutions and organizations in the interpretation of standards, with a view to accommodating national circumstances and capabilities.

Worker member, Belgium – First of all, we would like, once again, to draw attention to the fact that it has been three years since the mutilated body of the Italian student, Giulio Regeni, was found; he was 28 years old and did research on the organization of trade unions in Egypt. Trade unions, the very freedom of association and the protection of the right to organize are the reason we are discussing the case of Egypt today.

As the Committee of Experts notes in its report, the Government assures that it will continue to work with full transparency in cooperation with the ILO in order to overcome the challenges facing the Egyptian experience in establishing a nascent trade union freedom that has not been witnessed in the country for ages. Trade union freedom can

only be exercised if workers and trade unionists do not have to fear arrest, military trial enforced disappearance, dismissal and a range of disciplinary measures solely for exercising their right to strike and to form independent trade unions. It is a euphemism to describe these as serious obstacles impeding the full exercise of freedom of association for all workers. This is further aggravated by the fact that various contraventions of the Trade Union Law are penalized with imprisonment. Combined with the Egyptian authorities' use of solitary confinement as a tool to inflict additional punishment against prisoners as is infamous and has been widely documented by human rights organizations, this nascent trade union freedom the Government talks about is far from being a reality on the ground and seems to only exist on paper. As yet another example of the complete disdain by the Egyptian authorities for workers and trade unions we can refer to the arbitrary detention of the labour rights lawyer, Haytham Mohamdeen, that happened just last month; he had been on a probation since his release from months of arbitrary detention over trumped-up charges of inciting peaceful protests against austerity measures. Instead of stepping up the repression with a fresh round of arbitrary detentions, the authorities should immediately ensure that their citizens can peacefully exercise their right to freedom of association and protect their right to organize.

Government member, Plurinational State of Bolivia – The Plurinational State of Bolivia welcomes the information provided by the Government of Egypt in relation to the Convention. Freedom of association and protection of the right to organize are one of the fundamental pillars of the International Labour Organization. For that reason, in Bolivia the right of men and women workers is recognized to organize in unions in accordance with the law. In that regard, we welcome the fact that the Committee of Experts takes due note of the adoption of the new Trade Union Law in Egypt, which no longer refers to a specific union federation, but allows organizations to affiliate with other federations, to establish federations or act with autonomy, as indicated by the Government of Egypt.

We also emphasize the invitation to the Government to help those organizations that have not been able to regularize their situation up to now so that they can be registered in accordance with the law. For that reason, we encourage the Government of Egypt to continue its measures to promote and protect the right to organize.

Government member, Bahrain – I am speaking on behalf of the Governments of the Arab countries (Algeria, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen). The ILO Arab group would like to applaud the efforts made by the Egyptian Government to ensure full application of the Convention and also to implement the recommendations of the Committee. Over the course of the past two years, the Government has set up a council for social dialogue, involving all the social partners, and a very wide-ranging social dialogue effort has also been lodged. Trade union elections have also been planned and held in a transparent way. All of this shows how much importance Egypt attaches to the Convention and to the protection of freedom of association. We would encourage Egypt to continue cooperating with the ILO. The member States of the Arab group note that the efforts made by Egypt are very recent – these are all very recent initiatives. And so we would ask to give them a chance to bear fruit. We thank Egypt for all the efforts that it has made, and more specifically, we would like to draw attention to the efficient cooperation that is taking place between the social partners to ensure the stability of Egypt and its workplaces.

Government member, Ethiopia – My delegation takes due note of the observations of the Committee of Experts in relation to the application of the Convention in law and in practice on which the Government of Egypt is requested to provide information. We also learned that the Committee called on the Government of Egypt to take steps to ensure that all workers are ensured the full enjoyment of their fundamental right to freely organize and, in particular, to guarantee the independence of trade unions and the elimination of all forms of interference in workers' organizations.

The Committee had also requested the Government to lower the minimum membership requirements for forming a trade union at enterprise level, so as to ensure the rights of workers to form and join the organizations of their own choosing. In light of the above, the Government of Egypt had provided the required information with regard to the achievements and progress made towards advancing the application of the Convention, in point taking into account the observations of the Committee.

Accordingly, we have listened with keen interest that relevant provisions of the existing Trade Union Law were amended that include: number of workers required to form a trade union; number of unions required to form a general union; and number of general unions required to form a federation, among others. We are also informed by the Government of Egypt that the amendments of the Law in point included the abolition of penalties of imprisonment contained in the provisions of the Law, and includes only fines against illegal practices of any of the trade unions. We also learned that the Cabinet of Ministers approved the amended draft Law and referred it to the Parliament for adoption, which in our view is a positive step.

In conclusion, in light of the progress made by Egypt and commendable measures taken by the Government towards aligning its national legislation with Convention, we hope that the Committee will consider these developments while drawing its conclusions.

Government member, Sudan – We would like to thank the Government representative and his delegation. We have taken note of the efforts the Government has been making and the measures taken in order to bring law into line with the Convention. It is absolutely essential to support the efforts of the Government in order to be able to apply the amended 2017 Law, which has been brought into line with the request made by the Committee. Many trade unions have been established since the adoption of this Law which removed the restrictions on freedom of association. The initiatives and the efforts of the Government have not stopped there. We have heard that there is now a body which assists trade unions and federations to register their status and other matters.

This brings the Government much closer to applying the provisions of the Convention and we welcome Egypt's initiatives and would call on the country to use the technical assistance provided by the ILO.

Government representative – Allow me first to thank all of those who spoke in the discussion. I would like to thank everyone for their positive contributions. The idea here is to reach the best outcomes. We have noted all of the comments and we will take all of them into account.

I would particularly like to say that there is not a single State in the world which can meet the criteria and standards to 100 per cent, neither in law, nor in practice. However, some countries have better performance than others with regard to the adoption of decisions, to reinforce their compliance with international standards, and we would reiterate once again that for us in compliance with standards is one of our priority objectives, so that we can achieve social justice, stability and peace.

We have faith in the progress of the Egyptian trade union movement, and we are proud of the changes that have taken

place, maybe not enough yet, but we can say that we are on the right track.

On the occasion of the high-level and direct contact missions, I said that in Egypt we now have the opportunity which everybody can take. Trade unions now can look towards a trade union movement following years of absence.

A few points were raised which I would like to touch upon. For example, the representative of the Workers said that the Government had made certain amendments to legislation simply in response to this meeting taking place, and this case being on the list. That is not right. I would recall that there was an ILO high-level visit in August 2018 to Egypt, and then the Superior Council for Social Dialogue met on 9 October 2018. Because that is what was scheduled, that is what had been promised to the high-level mission. We said we would get right down to studying the amendments. They were studied. The study was commended to a technical committee for fine-tuning and then referred to the Superior Council for Social Dialogue. In December 2018, we sent a letter where we referred to these amendments. These changes have been made in order to better comply with our international obligations. Claiming that they were made simply at the last minute in response to us being on the list is something that we categorically reject.

We wanted to amend Egyptian legislation in order to better comply with the Convention, and we did that following a request that had been made by the Committee of Experts. The representative of the Workers' group referred to a series of articles in the new law. Now I cannot go into details, but I can say that there are errors in the interpretation of these provisions. Somebody has urged the Workers' group to make these comments, and I imagine that they did so in offering a personal and distorted interpretation.

Now we are open to discussing these matters with the Workers where we will be able to talk about the correct interpretation of the provisions, including those that they think violate the provisions of the Convention. We want to set things absolutely straight and if there is something that contradicts the Convention, then we can quite easily amend these articles to bring them into line.

A number of other speakers took the floor making claims or allegations. However, the ILO mission was able to see with their own eyes what the real situation is in Egypt. But let us pick up a few of these examples. For example, there has been interference in trade union elections by the State. Well there has been judicial oversight of the elections, nobody interfered however in any of the trade union electoral processes.

That is the first thing. The second thing, and with regards to the claim that there were prisoners taken and arrests made in Alexandria shipyard. Well what actually happened is that in one of the enterprises there were actions, disturbances and confrontations. What the enterprise did was turn to the authorities who stepped in and took decisions in accordance with the laws that are in force.

There were also comments relating to us hampering the creation of the Egyptian Workers' Democratic Organization. Now I talked about this a number of times. I talked about it with our colleagues who visited Egypt, and we talked about it on a number of different occasions. We discussed this question yesterday as well, and I will continue talking about this issue and reaffirming our position with regard to the union Egyptian Democratic Workers, who have acclaimed that they have more than 700,000 affiliates. Now before the law was adopted and before we have these trade union legislations, we looked into this issue, but then during a period of reconciliation, what we have tried to do, is enter into contact with them. But the problem is that no trade union committee has come to us and said, yes, they are affiliated to these confederations. So apparently, it has 700,000 affiliates, but it has not been able to provide documentation of a single affiliated union.

On the occasion of the ILO Centenary, I spoke to the President of this trade union confederation. I said, please provide us with the relevant documentation and we will protest your request so that we then cannot be accused that our Ministry is somehow blocking the registration of your organization, but we have not heard anything, despite having tried to enter into contact a number of times.

So how can this trade union say that they have so many affiliates? This is a confederation which claims to have affiliates but has not demonstrated any affiliates at all.

So we would like to say to the Committee that, in line with the recommendation of the Committee of Experts, we are creating a technical body to study all of the complaints of the trade unions that we have received, including considering the possible creation of new organizations to provide technical support. We asked the Cairo Office of the ILO to send a representative to this technical committee so that it can provide the support that would be helpful in processing all of these requests. About Mr Regeni, this is a case which is currently before the courts in Egypt. The Egyptian authorities and the Italian authorities are cooperating. I do not think that this is a case that merits being discussed here. Here, we deal with labour issues. We could talk about other cases, Egyptian workers who have been killed in other countries but we have not done this because this is not the appropriate place.

Some people yesterday asked whether we were being serious when it came to submitting amendments, whether our motivation was good. I can assure you that everything is being done properly. The Parliament has approved the legislation. The employers are part of the consultation which is taking place. Employers are obviously part of that consultation. The thing you have to remember is that we have grown economically in Egypt and we have, therefore, needed to make changes to the laws in correspondence with this. So, we will happily respond to any further points. We have taken measures to adapt to evolving situations. We want to cooperate with this Organization and continue benefiting from the technical assistance of this house.

Employer members – I would like to thank the distinguished Government delegate for his responding comments and I would like to thank everyone that took the floor to add their voice to the discussion of the case.

In the Employers' view, this case really deals with some fairly limited issues around whether obstacles exist in law and practice to the free and autonomous operation of trade unions. So we are hopeful that the spirit in which the Government attended and made its interventions represents a desire to work constructively with both social partners, workers' and employers' organizations at the national level to move forward to try to address some of the concerns that have been identified and to remove the obstacles both in law and in practice that exist for trade union registration.

And so from the Employers' perspective if we were able to see that kind of forward motion and progress we would think that those would be very positive developments and certainly, to the extent that it is possible, the Employers' group stands ready to participate in that process.

As a result, we think that this is a case in which the Government should be encouraged to remain open and willing to hear the stakeholders' concerns on these aspects of the case and should remain open and willing to remove any obstacles that will continue to exist in the new trade union law.

Worker members – I first wish to thank all those who have taken the floor to illustrate the discrepancies between the situation as described by the Government and reality.

The Government of Egypt is not happy to be included on the list. But, I can reassure it, I do not know any Government that would be content to be on the list. And yet, it is

clear that many of the provisions of the new Law that I mentioned are not in conformity with the Convention. The presence of Egypt on the list is therefore fully justified.

The Employer member of Egypt expressed certain opinions that need to be taken up. First, concerning the prohibition to establish unions founded on a religious, political or ideological basis. The honourable member appears to ignore the fact that, in many countries throughout the world, there are socialist, Christian, communist and even liberal unions. Yours truly is himself the President of a Christian union.

That does not mean that only Christians can become members of our organization, as we have among our ranks members of all religions, as well as atheists. It merely means that organizations have the right, on the basis of the Convention, to give their organization the ideological line that they wish without being subject to any interference. That is what is called freedom and pluralism.

The second point concerns financial control. The central accounting body is a public institution under the authority of the Office of the President of the Republic which is responsible for controlling the use of public finances. Contrary to the idea expressed by the honourable member, trade union dues are not public finances. Public resources are those raised through compulsory taxation. Trade union dues are paid on a voluntary basis arising out of membership of a union. It is not therefore public money. If this reasoning were to be extended, all commercial companies would also have to be controlled in the same way. The argument is therefore absurd.

These elements nevertheless bear witness to an unsupportable paternalistic attitude which claims to know the interests of the workers better than they do themselves. It treats them as minors, beasts or automata, as ignorant beings. It would appear that the Government has decided to apply the famous maxim of Di Lampedusa: "Everything must change, so that everything can stay the same."

In practice, what it is doing is continuing in its failure to comply with the Convention, while claiming that the changes that have been made guarantee freedom of association. The duty of the Workers' group is to exercise the right of vigilance by pointing out the traps for the unwary.

The adoption of a new law is not enough to guarantee freedom of association. It is still necessary in particular for its content to be in conformity with the Convention on all matters. In my opening intervention, I made many references to legal provisions that continue to raise problems. We insist in particular on the repeal of section 5, which prohibits the establishment of unions based on the criteria set out in that section.

The same applies to the provisions which empower the Minister to initiate a procedure for dissolution in the event of a serious fault in the financial and administrative management of an organization. We insist that it is not for the authorities to establish the conditions of eligibility for candidates to trade union office.

Similarly, the Workers' group invites the Government to withdraw the provisions which determine the competences of executive committees and regulate elections in general assemblies.

Moreover, the continuing problem that it is prohibited to join several unions must be resolved.

Finally, we invite the Government of Egypt to repeal the provisions setting out penal sanctions, including fines. For example, we do not see the use of establishing penal sanctions in the case of non-compliance with an exclusion procedure.

We invite the Government to register all the trade unions which have applied for registration and to meet without delay those that have lodged complaints.

We also call on the Government to provide a detailed report to the Committee of Experts by September 2019 on the action taken to follow up the requests made by our Committee.

As we are referring to problems that have persisted for several years and which relate to a fundamental aspect of freedom of association, we therefore call on the Government to accept a visit by a high-level mission.

The case of Egypt has been examined by our Committee on several occasions. Each time, the Government has chosen the path of restrictions and impediments of all types with, on each occasion, negative results. Perhaps the time has come for it to try the path of respect for freedom of association, as every other route invariably leads to a blockage, with all that that entails.

Conclusions of the Committee

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

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.

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.

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.**

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.

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.

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)

Discussion by the Committee

Government representative – We are present here in view of a decision made on 11 June by the social partners which included us on the list of countries required to report before this Committee.

In my intervention before the Assembly Plenary, and at the inauguration of the Government of President Nayib Bukele, of which I am a part since 1 June, I spoke out strongly about the importance of implementing an inclusive labour policy with the support of all the actors concerned, in line with the spirit of tripartism, and where the workers and the employers operate under equal conditions.

Our administration, which is in charge of the Ministry of Labour, is aware of the challenges, difficulties and solutions involved in creating and developing a labour policy based on a strong sense of equality for all social sectors, while taking into account the situation of the country, its laws and the legislative framework of the International Labour Organization (ILO) which sets out the same commitments for all.

Our country's record has resulted in our inclusion on the list of countries called to report before the Committee. I wish to make clear that our Government is deeply concerned by the cases that remain outstanding. The cases require our immediate attention, as instructed by President Nayib Bukele, in line with the vision of the Ministry.

In this way and as a result of our will to change, we have already initiated a constructive dialogue with employers and workers with the objective of ensuring full compliance with the ILO Conventions ratified by our country. In light of this new vision, we have implemented new actions aiming to fill the gaps that currently persist, particularly by reactivating the Higher Labour Council (CST), as a legally established national tripartite body, and by creating other spaces for social dialogue. Therefore, with clear and strong support from our Government, as approved by the ILO, we are certain of achieving the positive results desired.

Similarly, we are very much concerned by the case of trade union leader, Mr Abel Vega, which first arose in 2010. The case involves a crime that cannot be left unpunished. Our Government must set a precedent in our country to no longer attack the trade union movement.

In order to do so, we have begun discussions with the Prosecutor General's Office with the aim of speeding up the investigation and punishing those responsible for this crime on the grounds established by the Committee, while maintaining due respect for the separation of constitutional powers in our country. Our commitment is so strong that, upon my return, one of the first decisions I will take will be to visit the Prosecutor's Office, in my capacity as Minister. And our Government will not only stop at that. We will take additional measures because we cannot allow such things to happen in El Salvador.

In my first week in the administration, I spoke with the labour and business sectors, seeking consensus over the need to reactivate the CST as quickly as possible, for the benefit of all social partners and with a commitment to ensure equality for all. I can now confirm that this consensus has been reached.

As a result, we believe that the best way of setting in motion the new vision that we are seeking to implement in our country would be to immediately sign a tripartite agreement.

Before concluding this session, I would like to express my satisfaction over the efforts made by the ILO over these 100 years to improve relations between workers and employers at the international level. The role of the State is significant in that regard, and we, as the Government, cannot evade our responsibilities within the ILO. We are a founding member of the Organization, and to remain consistent, we must comply with its standards.

I believe that social harmony and harmony in the workplace lead to development and trust among compatriots. Let us not lose the opportunity to keep improving every day, especially the opportunity to improve working conditions and to build the trust of the business sector.

Our President has sent a clear message by appointing me as Minister as I used to be a trade union leader, a trade union leader who understands the need for both the productive sector and the workers sector, as well as for clear rules defined on an equal basis.

Employer members – We thank the Government of El Salvador for the information provided. The present case is being reviewed for a third time in a row. Prior to this, the Committee examined El Salvador's compliance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), during the International Labour Conference of 2015 and 2016.

Throughout the history of the case, concerns have been raised both by experts and by this Committee. The secretariat has also sent a direct contacts mission. The Director-General of the National Association of Private Enterprise (ANEP) and the International Organisation of Employers (IOE) submitted a request for urgent intervention as a result of government interference in the election of representatives at the Superintendency for the Electricity and Telecommunications Sectors (SIGET). The Government also interfered in the elections of other tripartite bodies, such as the National Minimum Wage Council (CNSM) and the Salvadoran Institute of Professional Education (INSAFORP).

The complaint filed by SIGET brings to light some very serious events. For example, the Government has been creating fake organizations to push its own agenda in the social dialogue committees, passing themselves off as employers' organizations. These events were revealed by the Prosecutor General's Office with a view to punishing those responsible for these crimes, including for the falsification of documents to establish the fake employer's organizations, while also obliging them to attend the Supreme Court of Justice.

Last year, this Committee expressed its concern that the Government of El Salvador was not complying with Convention No. 144, and that social dialogue was deficient in the country.

Let us recall some of the conclusions that were made last year. The Government was requested to stop interfering in the constitution of employers' organizations and to ensure that legitimate workers' and employers' organizations were properly represented. It was asked to immediately reactivate the CST as well as to develop, in consultation with the social partners, rules that enable its proper functioning. The Government was also asked to appoint the employers' representatives to the CST.

It is now time to analyse whether the country fulfilled the recommendations made by the Committee last year. More than one year has passed and the CST has still not resumed its activities since the Government did not convene or set it up. We remember the failed attempt to convene the body in 2017, during a visit of the direct contacts mission. However, this attempt was illegal because the Government did not follow CST rules of procedure.

In relation to the non-interference of the Government in the constitution of employers' organizations, we see the following: in July and August 2018, the Government invited fake organizations to vote in the election of the employers' representative to the Committee on Pension System Risks, disregarding the many appeals that it had received urging it not to do so.

We are also highly concerned that the Government has been upholding a generalized practice of delaying the delivery of credentials to the employers' organizations in different social dialogue fora.

In relation to the request to develop clear, objective, predictable and legally binding rules, in consultation with the social partners, for the reactivation and full functioning of the CST, the Government made use of technical assistance from the secretariat, which we welcome. Nevertheless, the proposals of the Government in this process were aimed at limiting the participation of the employers or interfering in the internal processes of employers' organizations. We all know well that this goes against freedom of association, as outlined in the fundamental Conventions of the ILO. For example, the following measures were suggested:

- authorizing the Government to regulate the process of electing employer representatives;
- permitting the Government to appoint committees to vet the process of electing employer representatives;
- giving the Government the power to establish participation quotas by size of company or by any other criteria, at its own discretion.

On the same topic, ANEP has informed us that it has agreed a draft law, in bipartite negotiations with workers' organizations, which would integrate the provisions and rules on the election and appointment of the social partners at the CST into the Labour Code. The proposal was submitted in September 2018, at the invitation of the Labour Committee of the Legislative Assembly.

We welcome this development as it shows that the social partners in El Salvador trust in and practice social dialogue. This proposal is also important because it would allow the workers' and employers' organizations to appoint their own representatives freely and independently.

Lastly, with regard to ensuring respect for the employers, their organizations and facilities as well as safeguarding their security, we are concerned that violent protests are still occurring at the ANEP offices. The protests are being carried out by activists and groups associated with the Government or tolerated by it, of course, with the aim of intimidating company directors.

We are aware that there has been a change in Government in El Salvador. We are also clear that the State is bound by the obligations outlined in the Convention. The new administration cannot but implement the previous recommendations in good faith following the departure of the previous administration, which did not do so. Indeed, the new administration has an opportunity in the sense that, by ensuring the full implementation of free-flowing social dialogue and taking a legitimate interest in the opinions, concerns and needs of the social partners, it will be able to design and implement policies that benefit all Salvadorans.

The facts presented here indicate that there is a disregard for social dialogue and for ensuring compliance with the obligations assumed by the Government of El Salvador when it ratified the Convention. The Convention promotes tripartite consultation, which as we know well, is one of its fundamental pillars and which helps to promote governance and good labour relations within countries. The biased actions of the Government meant that it lost the trust of the social partners.

Of course, the new Government has the opportunity to reverse the serious situation described above. This Committee should demand that of them in order to improve governance in the country and promote good relations between the social partners and the Government. Of course, this will result in the adoption and implementation of more and better social policies.

Therefore, we must urge the Government of El Salvador to immediately reactivate the CST in order to guarantee that employers' and workers' organizations have the freedom and autonomy to appoint representatives to social dialogue fora as well as to guarantee the security of company directors and their facilities.

Worker members – It is now the fifth consecutive year that the case of El Salvador is being examined by our Committee. During the previous sessions, we were already able to address the situation in the country which is extremely tense. Violence is all-pervading. Weapons, especially illegal one, are spreading quickly with one weapon for every 13 people.

Close to 30 per cent of the population lives below the poverty line, according to the World Bank.

Everybody remembers the murder of trade union activist, Victoriano Abel Vega on 15 January 2010. We continue to strongly insist that the Salvadoran authorities shed light on this murder.

This year is the third time that we are examining failures in relation to the Convention.

In 1919, the members of the Commission on International Labour Legislation at the Paris Peace Conference developed an institutional structure which was, at the time and still today, considered as one of the most original and most successful structures on the world stage. I am referring to tripartism, which is a key characteristic of our Organization. The fact that such a complex system of tripartite consultations was developed at the international level should inspire governments to implement and guarantee these tripartite consultations also at the national level. In addition to the procedure set out in the ILO Constitution, the ILO adopted Convention No. 144 which aims to encourage tripartite consultations at the national level on different ILO-related questions.

In its analysis, our Committee will touch upon three issues set out in the Convention. First, implementing effective tripartite consultations. Second, ensuring that the social partners can freely choose their representatives. Third, holding tripartite consultations with a view to presenting the Convention and any related recommendations to the competent authorities.

Problems persist with regard to the establishment of structures used for effective tripartite consultation on matters related to ILO activities, as required under Article 2 of the Convention. When it comes to respecting this obligation, what is important is that the social partners can voice their opinion before any final government decision is adopted. Consultations should therefore take place prior to adopting any final decision. The member States should have some flexibility to decide the nature and form of the procedure for tripartite consultations.

The Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), states that the member States are free to set up written consultations, if those involved in the consultative procedures are agreed that such consultations are appropriate and sufficient. The Higher Labour Council (CST) is a body competent to deal with questions related to ILO activities. The report of the Committee of Experts describes various comments made by the employers' organizations concerning the CST, whose functioning continues to pose a problem. We also understand that the Government has not taken any measures to reactivate this body. The body has not held a meeting since 2017.

Article 3(1) of the Convention sets out that the representatives of the workers and the employers should be chosen freely by the organizations representing them. The Government reported to the experts that the CST was convened but the organizations representing the employers refused to participate. Yet, according to information provided by those organizations, it seems that the sitting was convened illegally. Furthermore, these organizations also reported that it was clear that members of the CST were being elected unilaterally and on the basis of criteria determined

by the Government. I remind you at this point that, when this case was examined in the session before last, the trade unions had also voiced their objections to the way that the body operates.

The methods imposed by the Government of El Salvador reduce to zero each representative organization's freedom to choose. In order to ensure that the activities of the CST are resumed in a sustainable way, it is necessary to preapprove some clear and objective criteria as well as to agree an electoral process that is clear and permanent in nature and which guarantees that the organizations are represented as effectively as possible. In the event of an objection, the organizations should also be able to rely on an independent body to settle disputes and thus gain the trust of the parties. The events and activities described here are not in line with the Convention.

With regard to tripartite consultations, Article 5(1)(b) of the Convention stipulates that the consultations should be held in connection with the submission of Conventions and Recommendations to the competent authorities. It is through Article 2 of this same Convention that El Salvador has committed to this consultation procedure. According to some observations outlined in report of the Committee of Experts, it seems that El Salvador is not implementing a consultation procedure that is in line with the Convention.

It is true that the Government has received technical assistance from the ILO in order to implement a procedure for submitting reports within the framework of article 23 of the ILO Constitution. This process has led to the development of a Protocol containing guidelines on this issue. According to the Government, the Protocol will be subject to tripartite consultations as soon as it is finalized.

However, according to the employers' organization, it seems that consultations have not been held to align the above procedure with reports developed on the basis of article 23.

We take particular note of this information but emphasize that it is now more than high time to implement this procedure effectively in the near future.

It is essential that the representative organizations can submit their observations regarding actions that their Government wishes to take in relation to the ILO standard-setting initiatives, before the Government makes its proposal to the competent authority. No such prior consultations have been held for many years in El Salvador. The need to establish a consultation procedure to follow is directly connected with the proper functioning of the CST. It is not possible for this procedure to be established if the representatives of the representative organizations have not been appointed. Therefore, once again, we call upon El Salvador to find a lasting solution that ensures the proper functioning of the CST.

Our observations are limited to the application of the Convention in question. It is a situation where we cannot see the forest for the trees. Indeed, these observations overshadow the many other difficulties that we could address in the case of El Salvador. We remain convinced that improving social dialogue could ease a good number of tensions in the country.

Employer member, El Salvador – It seems to us that there is goodwill and we are optimistic that it will be possible to correct and resolve the arbitrary acts committed by the State in the recent past. We note with special interest the commitment of the new Government, which took office only two weeks ago, to refer itself to the ILO supervisory bodies and strictly comply with international Conventions.

Therefore, we hope that the CST is convened in a way that respects the autonomy of the organizations most representative of the workers and employers, allowing them to freely elect their representatives, as established in Convention No. 87 and Convention No. 144.

We are here for the fifth year in a row not only because the Government of El Salvador violated Convention No. 87, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and Convention No. 144, but also because it disregarded the resolutions of this Committee, the reports of the Committee of Experts and the conclusions of the direct contacts mission.

In 2018, the Committee expressed concern over the lack of compliance with Convention No. 144 and over the fact that social dialogue is deficient in the country.

As a result, the Committee made various recommendations to the Government of El Salvador. Mr President, members of the Committee, let me explain briefly what has happened since June 2018. First, I will refer to the conclusion in which the Government was instructed to immediately reactivate the CST with the participation of the organizations most representative of the workers and employers and through social dialogue, as well as to guarantee the proper functioning of this body.

Firstly, we regret that one year later, the CST is still not operational. The Government neither convened nor set it up.

Secondly, I will refer to the conclusion in which the Government was instructed to refrain from interfering in the establishment of employers' organizations and to facilitate representation by issuing the necessary credentials. In that regard, we would like to emphasize two unlawful acts committed by the Government in the last few months. First, it continued to use the fake organizations that it had itself created in 2017, of which there were 60, to influence the election of the SIGET board of directors.

In July 2008, the Government invited these fake associations to vote in the election of the employers' representative to the Committee on Pension System Risks, an entity that determines how pension savings are invested. All actions to prevent this from happening were not needed as, in the end, the organizations declined to participate, and the election went ahead as normal.

Second, the Government has continued its generalized practice of withholding credentials from the employers' organizations to prevent them from participating in the different election processes. One example is that of ANEP itself, whose credentials were withheld for 18 months. In November 2018, it finally received its credentials, but they were only valid for six months and have now expired.

Thirdly, I will refer to the conclusion which instructed the Government to develop clear, objective, predictable and legally binding rules, in consultation with the social partners, for the reactivation and full functioning of the CST. In that regard, the Government requested technical assistance from the ILO Regional Office in Costa Rica.

However, the Government, through its Ministry of Labour and in coordination with some 30 legal managers from ministries and autonomous public entities with whom it held frequent meetings, developed rules clearly aiming to impede the participation of ANEP, not only in the CST but also in other joint, tripartite entities.

The reforms developed to amend the rules violate international Conventions. The Government is using them to assign itself powers, such as altering and manipulating the list of business organizations with voting rights, approving rules for the internal election of employer representatives, appointing a committee to vet the process for electing employer representatives, and establishing a participation quota by size of company and by other criteria at the Government's discretion.

This topic is extremely sensitive because the power to approve and reform rules is exclusive to the President of the Republic who can do so unilaterally and without tripartite consensus. Last year, to prevent this from happening, at the invitation of the Labour Committee of the Legislative

Assembly, we submitted a proposal to integrate the regulatory provisions related to the election and appointment of social partners at the CST into the Labour Code. At the same time, we urged the delegates to invite the workers' organizations to be part of the CST, which is then what happened.

The proposals were developed in conjunction with workers and employers, within the framework of social dialogue, where we were able to discuss and develop various proposals concerning the workplace. The absence of tripartite dialogue can interrupt the labour agenda.

In this case, it is important to guarantee that we, the Workers and Employers, can elect our own representatives freely and independently, regardless of the government in power. We can resume this discussion once the CST is reactivated.

Fourth, the employers believe that the following conclusion is key: "appoint without delay representatives of the most representative employers' organizations in the CST where such appointments are still pending".

As the members of the Committee know, the case of El Salvador came before this Organization for these reasons when, in 2012, the Government expressly approved reforms to the rules of 19 autonomous public entities with a view to expelling from their boards the directors that had been elected and appointed by the employers. The case became known to the Committee on Freedom of Association, which concluded that, before carrying out this type of reform, the Government must consult the CST. It is precisely for that reason that the Government decided to block the CST, which has not convened since 2013.

ANEP turned to the Supreme Court of Justice which ruled in favour of the appeals and challenges alleging unconstitutionality and ordered that the employers be given back their power to freely appoint directors in the autonomous entities.

The Government, through its different mechanisms, has refused to comply with the decision of the Court. Not only has there been government interference within the CST but also in other joint tripartite entities. There are at least three cases pending in relation to the right of employers to freely appoint their representatives: INSAFORP, CNSM and SIGET.

In those three cases, the Supreme Court ordered precautionary measures. Over the last ten years, the Government has on three occasions introduced legislative reforms that changed the way in which the INSAFORP board of directors is put together.

Similarly, the CNSM election was carried out following an order that was issued illegally by the Ministry of Labour on the same day of the election.

The third case is, without doubt, the most scandalous, it refers to the process through which the employers elected the board of directors for SIGET, an entity responsible for regulating the electricity and telecommunications sectors. In this case, ANEP together with the International Organisation of Employers (IOE), called on the Director-General to intervene directly.

As this Committee will remember, while some public officials tended to the 2017 direct contacts mission at this time, others were planning to take the legitimate place of the employers in elections.

In record time, a total of 60 fake organizations were established. The organizations were registered in the country's poor municipalities, far away from the main cities, where there are no taxes or formal jobs nor is there a minimum wage. They used the public employer protocols of state-owned companies regulated by SIGET. The 60 organizations participated and won the election.

Not only did the Government refuse to speak with the legitimate representatives of the employers, not only did it withhold credentials from the employers' organizations, not only did it exclude business organizations from the list of voters, not only did it empower informal citizens' organizations that were not entrepreneurial in nature, but it also created fake ghost organizations to take the place of the legitimate social partners.

Lastly, we deplore the fact that, during the last year, violent protests have taken place repeatedly at the offices of ANEP, as well as at the offices of the Sugar Association and Chamber of Farming and Agroindustry, both of which are members of ANEP. The protests were carried out by activists and "shock groups" set up and sponsored by the Government.

At that time, the activists and shock groups took part in violent protests in which they even threw faeces, rubbish, contaminated water and burning tyres into the offices of ANEP. Through these acts of violence and abuse, they sought to intimidate the spokespeople for the employers, and make them responsible for the lack of solutions to problems in the country, which in turn sparked more protests.

Furthermore, we are concerned by a report issued last year by the Office for the Protection of Human Rights, which ordered the closure of a complaint filed by ANEP regarding the violence on its premises.

We are concerned that the institutions in El Salvador do not function properly and that we are left vulnerable and without protection in the face of violence by activists and shock groups. However, the report did recognize the passive attitude of the police and urged them to intervene in the event of something similar.

In the last ten years, the employers' organizations have experienced violence, abuse and exclusion at the hands of the Government and through all possible means.

We hope that this is now a matter of the past. We trust in the new Government and have faith that it will convene the CST, while respecting the autonomy of the most representative employers' and workers' organizations so that they can freely elect their representatives. It is in all of our interests to establish social dialogue as a tool to find solutions, boost development, bring in investments and create jobs, while also respecting the Constitution, the legal framework and international Conventions. We trust that El Salvador can make the most of this new historical opportunity.

Worker member, El Salvador – The last ten years have seen El Salvador frankly go backwards on tripartism, social dialogue, freedom of association and collective bargaining. Proof of that is the fact that the case of El Salvador remains before the Committee for the fifth consecutive year.

After examining the case of El Salvador last year, the Committee made a series of recommendations to our Government, but those recommendations were not implemented.

In addition, after nine years, the people physically and intellectually responsible for the murder of Mr Victoriano Abel Vega have still not been brought to justice because the State of El Salvador has not conducted an effective investigation.

In the private, public, and municipal sectors, there are persistent violations of the human and labour rights enshrined in our Constitution, in national labour laws and in the ILO Conventions ratified by our country. I will describe some of the most recent cases which exemplify the situation:

On 10 July 2018, the Union for the Cement Industry and Allied Workers (SICCA) was established. The business sector responded by dismissing all trade union leaders.

Similarly, young workers are also experiencing serious violations of their human rights, such as the rise of temporary jobs and the absence of a law on education that truly protects their rights.

In addition, employment requirements continue to discriminate on grounds of membership of the LGBTI community (lesbian, gay, bisexual, transsexual and intersex), disability, gender and age.

A public service law is being pushed through the Legislative Assembly without having duly consulted the workers' organizations. The law is damaging to the process of freedom of association and collective bargaining. For instance, it excludes such topics as salary review from collective bargaining and links it directly to working conditions. It allows for contracts to be declared as void if they go against the economic policy of the Government. It makes arbitration compulsory and uses an extensive but restrictive definition of essential services.

Social dialogue continues to be a formality that is carried out half-heartedly and is therefore a pending matter. The failure to set up the CST means that it cannot issue an opinion on the draft reforms of labour and social security legislation, nor can it make recommendations to the Government regarding the ratification of ILO Conventions that it considers appropriate.

For example, the Legislative Assembly passed a legislative reform on the pensions saving system, without holding consultations with the workers' organizations, which did not resolve pension-related problems, but instead focused entirely on fiscal and financial issues, with a view to boosting state finances. This goes against the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Social Protection Floors Recommendation, 2012 (No. 202) of the ILO.

We were also not consulted when developing the public policy on technical education, professional training and production systems. As a result, representatives of workers' organizations do not participate in sectoral committees, committee boards or coordination councils, which is clearly an anti-trade union strategy that violates various ILO Conventions ratified by our country.

In the current situation where there is a government that has only recently assumed the presidency of our country, it is of primary importance to reactivate the Higher Labour Council (CST) as a space for the discussion of macro policies to ensure social justice for Salvadoran families and promote democracy and governance in the country. It is through the CST, a mechanism for tripartite social dialogue, that it will be possible to reach a broad national consensus on topics such as: health reform, education for living, the future of work, the pensions system, wage policy, fiscal agreements, the creation of decent work, austerity policies, adaptation and resilience to climate change, citizenship and social control. Therefore, we would like to give the benefit of the doubt to the position expressed by the new Government and its Ministry of Labour in meetings held with trade unions, particularly with regard to its willingness to strengthen social dialogue, its commitment to respecting labour standards and withdrawing from discussions on draft laws such as the public service law so that they can be reviewed in the relevant tripartite bodies, and its commitment to establishing a committee to study pension systems.

The Higher Labour Council should be reactivated with broad participation from all trade unions, private companies and government officials, and with technical assistance from the ILO. Indeed, we believe that the solution to our historical and structural problems requires that effective social dialogue is re-established among the sectors as quickly as possible.

Worker representation is currently without a leader. The officials of the previous Ministry of Labour finished their term without holding even one meeting in two years. As a result, it is urgent that the workers' organizations appoint their representatives in line with Article 50 and in line with the rules of the Higher Labour Council, thereby complying with Convention No. 144.

We call on the ILO to ensure that worker representatives can freely determine their own robust, internal election procedures on the basis of specific, objective, pre-established criteria that ensure representativeness, while preventing arbitration and interference from both the Government and the employers. The ILO should also allow the workers to appoint their own representatives, with the need to take into account the function that they will perform but not necessarily their status. Once the Council is set up, it should carry out a comprehensive reform of Article 50 as well as of its own rules so as to ensure they cover all sectors. Furthermore, the case should be reviewed at the next session of the Executive Board and reported to the International Labour Conference in 2020.

As we can see, government authorities have for many years disregarded the recommendations of the supervisory bodies and the direct contacts mission. The actions of the Government of El Salvador through its Ministry of Labour pose a serious risk to freedom of association, demonstrate a lack of political will for social dialogue and show an absence of a democratic labour policy. As a result, it is necessary to issue recommendations that resolve the serious situation facing the workers, which has arisen because the previous Government of El Salvador and its administration made it government policy to violate freedom of association. We trust that the new Government of Mr Nayib Bukele will correct these mistakes and ensure full compliance with national and international standards so that we can create a climate of peace in the workplace and foster an effective and open social dialogue in the interests of all Salvadorans.

Government member, Brazil – Speaking on behalf of the significant majority of countries in Latin American and the Caribbean, I thank the Government of El Salvador for the information provided. We have listened carefully to the comments made in relation to ensuring tripartite consultations as outlined in international labour standards and within the framework of the Constitution and national legislation. National legislation designates the Higher Labour Council (CST) as the body responsible for holding tripartite consultations on international labour standards, as indicated by the distinguished delegation of El Salvador. We are aware that the Government of El Salvador has taken it upon itself to find tripartite solutions to pending issues, including on the reactivation of the Higher Labour Council as a legally established body. This will deliver definitive solutions that work well for all social sectors in the country. We support the commitment of the Government of El Salvador to implementing the Convention as well as the initiatives that it will take to fulfil the obligations outlined in that Convention.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The candidate countries, the Republic of North Macedonia, Montenegro and Albania, as well as the EFTA country Norway, member of the European Economic Area, align themselves with this statement. The European Union and its Member States are committed to the promotion, protection and respect of human and labour rights, as safeguarded by the fundamental ILO Conventions and other human rights instruments. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular.

We firmly believe that the compliance with ILO Conventions is essential for social and economic stability in any country and that an environment conductive to dialogue and trust between employers, workers and governments contributes to the creation of a basis for solid and sustainable growth and inclusive societies.

Convention No. 144 is intrinsically linked with two fundamental Conventions: No. 87 on freedom of association and protection of the right to organise and No. 98 on the right to organize and collective bargaining, as well as with at least five Sustainable Development Goals. Tripartite consultations and meaningful and effective social dialogue are essential elements of the application of fundamental principles and rights at work.

The European Union and its Member States are committed to the people of El Salvador through strong cooperation, political, and trade ties. The EU – Central America Political Dialogue and Cooperation Agreement, which entered into force in 2014, and the provisional application of the trade pillar of the EU – Central America Association Agreement since 2013, provide a framework for developing our partnership.

We wish to recall the commitment undertaken by El Salvador under the trade and sustainable development chapter (Title VIII) of the EU Central America Association Agreement, to effectively implement in law and practice the fundamental ILO Conventions.

We note with deep regret that this case was already discussed in the last two years in the Committee on the Application of Standards, including as a serious case in 2017. The Committee noted with concern the dysfunctional operation of social dialogue in the country and the non-compliance with ILO Convention No. 144. It has also provided clear recommendations related to the importance of non-interference with the constitution of employers' organizations and the need to ensure proper representation of legitimate employers' organizations.

The Committee demanded also the reactivation the Higher Labour Council (CST) by ensuring its full functioning with proper social partners' representation. The Council can only fulfil its role when it effectively puts into practice tripartism and genuine social dialogue. We observe with concern that the Council is still not operational.

We welcome the Government's recent calls for dialogue towards the prompt reconstitution of the Council following a cross-sector dialogue as required by the international standards. We nevertheless urge the new Government to take appropriate measures to reactivate the Higher Labour Council, by developing, in consultation with social partners, the rules of its functioning, in particular clear and transparent rules for the nomination of workers' representatives that comply with the criterion of representatively, as well as the process of its reactivation.

We also call on the Government to ensure full autonomy of the social partners and their participation in consultations related to employment and labour policies and legislation, in a transparent and inclusive manner and before a decision is taken. We encourage the Government to provide information on the outcome of the tripartite consultations held in relation to the Protocol on the submission procedure, as well as to provide updated information on the content and outcome of the tripartite consultations held on all the matters relating to international labour standards covered by Article 5(1)(a)–(e) of the Convention.

We also strongly encourage El Salvador to inform about the measures undertaken or in preparation in the framework of the ILO's technical assistance.

The European Union and its Member States remain committed to constructive engagement with El Salvador, including through cooperation projects, which aim to strengthen the Government's capacity to address all issues raised in the Committee's report.

Government member, Burkina Faso – As you know, the importance of Convention No. 144 is well established. Holding regular tripartite consultations such as those promoted in this Convention are a way to guarantee lasting social peace. Indeed, by institutionalizing and practising tripartism effectively, the world of work will be able to cultivate tolerance and constructive criticism, which are both necessary for development.

Tripartism, need I remind you, is the cornerstone of social dialogue, a concept that our Organization holds dear. It is also through tripartism, which is unique to the ILO, that governments and social partners come to agreements that can ensure better living and working conditions for the working population of our countries. The report of the Committee of Experts called on the Government of El Salvador to take appropriate measures to give full effect to the Convention that it ratified in 1995. With regard to the importance of tripartite consultation in the promotion and practice of social dialogue, the delegation of my country urges El Salvador to continue implementing the important provisions of the Convention and, if necessary, to request assistance from the secretariat.

Employer member, Spain – The Government has been unable to establish real social dialogue, hold tripartite consultations, adopt measures to reactivate the Higher Labour Council (CST), or guarantee the free and autonomous election of the legitimate representatives of the social partners within the CST.

This disregards the conclusions adopted by the Committee on the Application of Standards at the 107th Session of the International Labour Conference, which urged the Government of El Salvador to refrain from interfering in the constitution of employers' organizations and to facilitate, in accordance with national law, the proper representation of legitimate employers' organizations by issuing appropriate credentials; develop, in consultation with the social partners, clear, objective, predictable and legally binding rules for the reactivation and full functioning of the Higher Labour Council (CST); reactivate, without delay, the CST, through the most representative organizations of workers and employers and through social dialogue in order to ensure its full functioning; appoint without delay representatives of the most representative employers' organizations in the CST where such appointments are still pending; and avail itself of ILO technical assistance. It also recommended that the Government submit a detailed report for examination at the next session of the Committee of Experts.

These conclusions are simply a repetition of those adopted by the Committee on the Application of Standards in 2016 and 2017, also pursuant to Convention No. 144, as well as of the recommendations of the ILO direct contacts mission carried out between 3 and 7 June 2017. The lack of compliance with these conclusions demonstrates the lack of will by the Government of El Salvador to put procedures into practice that ensure effective consultations between representatives of the Government, the employers and the workers on issues related to the activities of the International Labour Organization. It also shows a lack of will to stop interfering in the autonomy of the worker and employer representatives who should be freely elected by their organizations.

We hope that the spirit of dialogue demonstrated by the current Government of El Salvador translates into compliance with the conclusions, the conclusion adopted successively by the Committee on the Application of Standards at the International Labour Conference, with a view to overcoming an anomalous situation that has persisted for ten years.

Worker member, Honduras – We regret that in recent years El Salvador has been accused by the employers of non-compliance with the Convention, whose primary objective is to ensure effective tripartite consultations. The Convention also recognizes, through the procedures laid out therein, that the Employer and Worker representatives should be freely elected by the representative organizations. Therefore, we condemn the interference within the

employers' sector. It is important to recognize the Employers as one legitimate group, and one group alone, in the labour sector.

We call on the employers to be coherent in their request to the Government regarding the immediate establishment of the Higher Labour Council. The Council should be certified, and it should participate actively and effectively without bias, while respecting the autonomy of the labour sector. We call on the Government to reactivate the Higher Labour Council as quickly as possible and to be respectful of the autonomy and independence of the labour sector in electing and appointing representatives to the tripartite bodies, as outlined in the rules of the Higher Labour Council.

In the same way, we call on the Government of Nayib Bukele to respect the Convention within the framework of tripartite social dialogue and to put an end to the situation in which public sector workers are dismissed without due process.

To conclude, we call on workers to continue promoting tripartite social dialogue and to do their utmost to ensure the proper functioning of the Higher Labour Council.

Government member, Colombia – Colombia thanks the Government of El Salvador for the information provided. The Ministry of Labour has a fundamental role to play in building bridges between employers and workers. There is a need for us to work together, to have open and honest dialogues, to recognize our successes, the agreements made, but also to respect our differences. For that reason, we value the efforts made by the Government of El Salvador to advance on social dialogue and thereby reactivate the Higher Labour Council.

Our Government trusts that, with the commitment of the Government of El Salvador, the will of all parties and technical assistance from the ILO, the institutions of social dialogue will reap benefits, and it will be possible to continue progressing towards compliance with international labour standards.

Employer member, Costa Rica – The employers of Coast Rica wish to support and echo the words of the employer representative of El Salvador. Convention No. 144 is one of the most important Conventions from the point of view of governance since tripartite consultations are part of the essence of the ILO.

The Higher Labour Council is, if not the most important, one of the most important tripartite bodies among the many others that the State can make use of. Article 1 of the rules of the Higher Labour Council states that the aim of this body is to institutionalize social dialogue and promote economic and social consensus among the public authorities and the employers' and workers' organizations.

Therefore, it is of vital importance to allow the CST to reconvene, while allowing the most representative organizations to choose their representatives freely. As set out in Article 2 of the Convention in question, "Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations … between representatives of the Government, of employers and of workers …".

As a result, it should be remembered that, among the actions recommended by the Committee at the 2018 Conference, was the need for the Government of El Salvador to "develop, in consultation with the social partners, clear, objective, predictable and legally binding rules for the reactivation and full functioning of the Higher Labour Council (CST)". However, the initiatives promoted by the Government of El Salvador violate Convention No. 87, Convention No. 98 and Convention No. 144. These include appointing government committees to take part in the process for electing representatives and imposing restrictive criteria.

As ANEP is the most representative employers' organization in El Salvador, we cannot and should not allow any impediment to the election of its representatives, not only within the CST but also in the other joint tripartite entities. In order to ensure legal security, which should be respected at all times, the organizations have the right to elect their representatives legitimately and without any intervention from the State. Otherwise, there is a clear violation of the above-mentioned Conventions.

As a result, it is extremely important that, when developing clear standards to ensure the reactivation and full functioning of the Council, this Committee must make sure that the rules are not reformed in such a way that they could constitute a violation of the autonomy and legitimate rights of the representative organizations.

It must be guaranteed that the organizations can elect their representatives freely, regardless of the government in power, and that the very important body that is the Higher Labour Council is swiftly reactivated.

Observer, Public Services International (PSI) – We take the floor to discuss the case of El Salvador on behalf of Public Services International and CONTUA in support of Salvadoran workers who have endured long-standing violations to their trade union rights. The case brought before the Committee of Experts addresses the country's lack of compliance with Convention No. 144. No real solution to the problem has been found given the fact that the Higher Labour Council has been suspended. It is important to immediately and urgently remove all obstacles to the functioning of the Higher Labour Council. There is a need to establish clear rules that are respectful of freedom of association, and respectful of the right of the social partners to organize autonomously and in good faith, so they can hold discussions and reach lasting agreements.

We emphasize the need for goodwill when promoting dialogue because even the most perfect legal standards will not be helpful if governments and social partners delay the appointment of representatives, fail to agree the topics for discussion or block the quorum or the decision-making processes.

There is a new Government in El Salvador. The trade union movement urges the President and his cabinet to prioritize the guidance of the experts, engage in dialogue with the social partners, and rapidly find a working dynamic that will enable the tasks of the Higher Labour Council to be resumed.

But we would also like to highlight that the ILO and its various supervisory bodies are processing dozens of complaints related to violations of the fundamental labour Conventions in El Salvador. Therefore, we also call on the new Government to respond urgently and to turn around any labour policies that violate trade union rights.

In particular, we would like to describe the situation of the public sector and give the example of trade unions from the electricity industry that are affiliated with Public Services International. The unions have been reporting anti-trade union practices since 2014, including disaffiliation campaigns initiated by government and company representatives who have been threatening unionized workers with dismissal and dismantling collective bargaining. This has led to the abolition of collective bargaining agreements and bullying of trade unions in the form of systematic court procedures as a means of resolving social conflicts.

The situation is so serious that the Secretary-General of a trade union from the electricity industry, our colleague Roxana Maribel Deras Acosta, has been subjected to an advanced dismissal process on the basis of falsehoods told by the management and with the only objective of discrediting her and her trade union.

We urge the Government to address this case or we will make an example of it. We will appear before this Com-

mittee once again next year in connection with the Convention No. 87. We will appear before the United Nations and before the human rights bodies of the Organization of American States, demanding justice and condemning those responsible.

As has already been mentioned, a new Government took office in El Salvador just a few days ago. The new administration has the opportunity to get things done, reverse the situation and administer labour relations in a way that respects freedom of association and tripartite dialogue. We hope to see it making decisions and showing signs of doing just that.

The ILO can collaborate with the new Government and with the social partners by providing them with technical assistance. The trade union movement is ready to sit at the table of tripartism if the assaults stop and a climate of respect and trust is established.

Employer member, Chile – The case of El Salvador is of interest given it refers to an issue that is fundamental for this Organization. Indeed, it relates to using tripartite consultations to promote the application of international labour standards, as outlined in Convention No. 144. In line with the objectives of this international instrument, simply by belonging to the ILO, Member States are making a commitment to carrying out consultations with the social partners on matters of interest, and in this way promoting the adoption of effective measures on a national level.

The issues we are addressing today were already discussed in previous years before the same Committee in light of the previous Government's failure to comply. The previous Government was ordered to take a series of measures, as requested by the employers' organization in this country as well as by the International Organisation of Employers.

The allegation that has been made repeatedly refers to the absence of real social dialogue and consultations, especially with regard to the Higher Labour Council which has never been established legally and has not convened since 2013. The current Government must reactivate the CST, while respecting the autonomy of the most representative organizations, which should have the right to elect officials freely without interference from the Government.

The little action taken by the previous Government lacked the necessary transparency to foster trust among the social partners. What is more, it had the appearance of legality, as was the case with the unsuccessful attempt to influence the process for electing an employer representative in the Committee on Pension System Risks through the creation of non-existent entities.

It seems that the present Government cannot repeat this mistaken policy. In doing so, it would be showing a clear lack of regard for social dialogue, which would, again, undermine trust between the social partners.

In these circumstances, the ILO and this Committee cannot remain indifferent or they will contribute to a loss of confidence in the supervisory bodies. It would be a kind of discrimination by neglect, which could, in the future, negatively affect the social partners of other ILO member States.

In view of the above, we respectfully ask the Government of El Salvador to implement, without delay, the recommendation to guarantee the freedom and autonomy of the most representative employers' and workers' organizations in the appointment of officials to social dialogue fora, refraining from carrying out any acts of interference in that regard.

Worker member, Dominican Republic – We support the statement made by the Worker of El Salvador regarding the complaints made repeatedly over many years regarding violations of trade union and labour rights in this country. In this specific case, the State has been violating the Convention in question. Nevertheless, we would like to urge the Government of El Salvador to allow Salvadoran trade unions to decide for themselves who they wish to appoint as their representatives to the tripartite bodies as well as to establish the Higher Labour Council.

We trust that this new Government will put an end to the arbitrary acts committed by the previous Government at the expense of Salvadoran trade unions and will respect their autonomy, thereby paving the way for effective and productive social dialogue.

Lastly, we remind the Government of El Salvador that social dialogue has a crucial role to play in achieving the objectives of the ILO, including the objective to promote equality of opportunities between men and women and to secure productive, decent work in conditions of freedom, security and dignity.

Employer member, Panama – Tripartism is the foundation of this Organization. Disregarding it at the national and international levels is to disregard the essence of the International Labour Organization. For good reason, the Organization requires that the relevant stakeholders report on and implement the international Conventions in a way that takes into account the opinion and participation of both the workers and the employers.

When a country ratifies a Convention, it does so not to appear on a list or to receive applause. By contrast, ratification obliges a country to comply fully with the Convention and, if necessary, amend its legislation to ensure compliance. El Salvador ratified Convention No. 144. Therefore, each and every one of the parties, I repeat, each and every one of the parties, should be able to elect their tripartite representatives in a free, independent way. If one of the parties does not appoint a representative, or if one of the parties appoints a representative in the name of another party, the consultations are not tripartite consultations, but rather a dialogue with one's self. This violates the foundation of this Organization and the spirit of the Convention.

The story of El Salvador's non-compliance with the Convention has been repeated by many different speakers this afternoon and I do not want to repeat the same violations again. I would like to echo the intention set out by the representative of El Salvador who expressed the Government's commitment to abiding by the law and complying with the Convention.

A country that wishes to develop, a country that wishes to grow, cannot rule out social dialogue or exclude some of the social partners from social dialogue, as this sets it up for discontent, criticism and protests. We most sincerely hope that the country complies with the Convention, amends the necessary laws with a view to ensuring the equal participation of the three sectors in social dialogue, and establishes the remaining mechanisms needed for tripartite consultations, including the National Minimum Wage Council. In the same way, we ask this supervisory body to fix a final deadline for the Government to fully comply with the Convention, which is a fundamental Convention for this Organization.

Government member, Argentina – My country supports the readiness of this Government to strengthen social dialogue as well as the initiatives that it will undertake within the context of the obligations outlined in this Convention. In particular, and in line with the statement made by GRULAC, we welcome the fact that the Government of El Salvador has assumed responsibility for finding tripartite solutions to pending issues. The statement by the Minister is proof of El Salvador's commitment to the ILO supervisory system. We are certain that the actions undertaken by the new authorities, with the help of the International Labour Organization, will be beneficial for all social sectors in the country.

Employer member, Honduras – For yet another year and for the third year in a row, the case of El Salvador is again appearing before this Committee for violating Convention

No. 144. The Government of El Salvador has made very little effort to ensure compliance with the recommendations and conclusions of the ILO supervisory bodies.

We hope that the new Government of El Salvador reviews the different observations, recommendations and conclusions issued by the supervisory bodies, recalling the importance of the Convention, a Convention about governance, which aims to achieve social justice, promote decent work and ensure sustainable growth for companies through social dialogue and tripartism among governments and representative organizations of the workers and employers. This is today even more important for strengthening social cohesion and rule of law.

It is important to remind the Government of El Salvador that effective tripartite consultation is more than just a mere exchange of information. It should consider the opinions of the most representative workers' and employers' organizations in decision-making processes. It should be an instrument seeking to develop public policies, while preserving the right of the Workers and Employers to accept or reject the final decisions or positions adopted by the Government and to pass on their opinions and comments directly to the ILO.

The actions of the Government of El Salvador are a serious violation of Convention No. 144. The disregard that the Government has shown for the National Association of Private Enterprise (ANEP), as the most representative organization, is particularly concerning as it violates Article 3 of the Convention by different means, including through the establishment of fake business organizations which are in no way independent. This is clear evidence of the absence of real social dialogue in El Salvador and of non-compliance with the Convention.

It is for the above reasons that we are gathered here for another year at the request of the employer representatives to discuss the case of El Salvador. It is the duty of the Committee on the Application of Standards to emphasize very clearly in its conclusions the vital need for the new Government of El Salvador to act in compliance with international labour standards and recognize ANEP as the most representative employers' organization in El Salvador. It must also take the necessary measures to eliminate all violence against the employers of El Salvador.

Employer member, Argentina – We have listened carefully to the statement made by the Government of El Salvador in which it expressed its readiness to set up the Higher Labour Council of El Salvador as quickly as possible and we are hopeful in that regard.

The region has had many good experiences which shows how positive it has been for countries in similar situations to receive technical assistance from the ILO secretariat and its respective regional and country offices, as well as to work together alongside ILO teams with the aim of strengthening the capacities of the social partners. Such measures help to ensure compliance with the rules of social dialogue– which should not be followed under any form of duress – as well as to guarantee full respect for freedom of association and for the autonomy of workers and employers.

We hope that this opportunity is taken to work towards establishing the necessary conditions to guarantee compliance with Convention No. 144 and ensure that the legitimate employers' organizations are duly represented in the different social dialogue bodies.

Employer member, Mexico – We regret that the Government has not recognized its lack of compliance with the Convention thus far. It is not possible to rectify a problem if it is not identified and accepted. We are not talking about something small, but about the violation of obligations that lie at the heart of this Organization, namely social dialogue and tripartite consultation. These obligations require the recognition of the social partners, that is, the most representative organizations of the employers and workers, and the rejection of any organization that is illegitimate or unrepresentative in which it is not possible to create real balance, reach the objectives of the Convention or hold effective consultations.

With those objectives in mind, the Government is asked to create an environment of trust, free of all interference in the internal affairs of the organizations, showing full respect for the rule of law. The Government, in its remarks, expressed its commitment to complying with its obligations, as a member State of this Organization. The Government should know that what we expect in this Committee and in this Organization is action, concrete facts which show that this well-intentioned commitment is becoming a reality. It could begin by setting up the tripartite bodies mentioned in the report of the Committee of Experts.

There is evidence of non-compliance by the Government, testimonies from the social sectors and proof that the tripartite bodies are not functioning properly or legitimately within the framework of tripartism. I draw attention to the fact that the Government did not manifest the intentions that it says it had. Thus far, it has not been unable to report convincingly to this Committee, let alone design a road map with deadlines and objectives that are clearly defined, measurable and verifiable. Using all the tools at the disposal of the Committee, it is important to make a forceful request to the Government, obliging it to rectify this unacceptable situation.

Government representative – Despite being in power for only a few days, we, the Government, recognize that the problem caused by previous governments is significant not only for the country but also for the world and the international community. The population of El Salvador demonstrated the greatest recognition of the problem when they voted for a change of government.

Today, we are making a firm, absolute and resounding commitment to reactivate the Higher Labour Council and allow El Salvador to hold free elections without interference from any other entity over another. These are historical legacies left by all sides.

We also make it categorically clear that all consultations will take place in a tripartite manner. Together with the cabinet and through the Ministry, I have decided that one of my first courses of action, as I have highlighted in many interviews, will be to remove from within the Legislative Assembly all legislative initiatives, including draft laws, which do not have tripartite consensus, until they have been discussed in a tripartite manner with all the parties concerned. This is a concrete decision that we are already executing as, just last week, we already discussed the matter in ongoing meetings with the National Association of Private Enterprise (ANEP) as well as with the workers and the trade unions.

I stress, I repeat, and I reaffirm that the commitment of the Government is in line with the needs of our country and addresses our country's historical debt. Personally, in my capacity as Minister, my commitment is strong and consistent with what I have previously done. The ILO has taken a personal approach and an inherently trade union-based approach, and today, now that we have a new cabinet, we cannot act otherwise as it would not be coherent with our own trajectory.

Today, we would like to make it clear before each and every one of you, just as we did when we made this commitment and in my conversation with the Director-General of the ILO, Mr Guy Ryder, that technical assistance and cooperation from the ILO is both necessary and timely because, in addition to providing legal and technical support, it serves as a guardian in our efforts to meet our obligations.

In order to meet the objectives related to the true implementation of ILO standards, I strongly believe that it is important and essential for this Organization to monitor progress, as a means of ensuring fulfilment of the commitments that we are now making. It is a strong message from our Government that, despite being in a state of transition, we have set things aside to be present here, with me in my capacity as the appointed representative of El Salvador.

We would like to make it categorically clear today before this very prestigious Organization of a legal and international character that we will settle our historical debt not only for legal reasons but also because those who love a country must join together united arm in arm: employers, workers and the State. The State must assume the real role that it is here to play. It must not interfere in any of the sectors or in the affairs of any of the parties, but rather facilitate national consensus in order to push the country forward.

Worker members – I thank all those who have enriched our discussions with their observations and remarks. We also take note of the information presented by the Government. We call on the Government to ensure full compliance with the Convention. It is a high priority Convention which embodies the principle of tripartism, a principle fundamental to our Organization.

On behalf of the Worker's group, I wish to emphasize two points in particular. First, the CST must be composed of members who are chosen freely by the organizations representing the workers and the employers. It is not the role of the Government to interfere in this process as doing so is a serious violation Convention No. 144. Second, we invite the Government to put in place an effective consultation process which allows all the organizations to express their point of view.

We note that a new president has assumed office in the country. We sincerely hope that a new dynamic will be set in motion. The challenges and the stakes are significant, and it is high time to tackle them. In order to help the Government in its work, we suggest that it accepts a contacts mission from the International Labour Organization.

Employer members – We welcome this discussion and thank the Government, the Workers and my Employer colleagues for their interventions. We take good note of the proactive attitude of the Government. We sincerely hope that the Minister and other officials from the Government of El Salvador take decisive action to turn the encouraging words that we have heard this afternoon into reality. We reiterate that the Government has a historical opportunity to change the course of events in El Salvador through the enhancement of social dialogue, which is not only the way to achieve good governance and lasting agreements, but also an end in itself, since it is one of the pillars of any democratic system.

We also trust that the representatives of the Government of El Salvador are now clear about the legitimate concerns raised by the Employers, which are very similar to those of the Workers. The concerns pertain to government interference in the election of representatives to the National Minimum Wage Council, the Salvadoran Institute of Professional Education, the Superintendency of the Electricity and Telecommunications Sectors and other tripartite bodies, as well as the failure of the Government to set up the Higher Labour Council. To change this situation, the Government had the opportunity to make legislative changes to the rules of the Higher Labour Council, but this did not happen. In addition, we are particularly concerned about the acts of intimidation and violence that have occurred against company directors and their organizations.

With that in mind, we hope that this Committee will once again request the Government of El Salvador to, urgently, and in consultation with the social partners, develop rules that ensure the proper functioning of the Higher Labour Council (CST) and to reactivate the CST through the appointment of its members, and to do the same in the country's other tripartite bodies. Similarly, the Government should guarantee the physical integrity of the leaders of business organizations and the security of their facilities. We remind the Government that it could benefit from technical assistance from the secretariat. We also request that it reports to the Committee of Experts on the implementation of the above-mentioned conclusions before its 2019 meeting.

Conclusions of the Committee

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

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.**

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.

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

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.

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.

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.

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.

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.

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: 1999)

Minimum Age Convention, 1973 (No. 138)

Written information provided by the Government

Background

The Government of Ethiopia is requested to supply full particulars to the Conference at its 108th Session and to reply in full to the comments made by the Committee on the Application of Standards (CAS) with regard to the application of the Minimum Age Convention, 1973 (No. 138).

Accordingly, the Government of Ethiopia took due note of the observations of the CAS with regard to the application of Convention No. 138 and wishes to reply in full on the necessary measures taken and progress made in view of the comments of the CAS on the application of the Convention in point.

1. National context

Ethiopia, with an estimated population of 100 million, is the second most populous country in Africa. It has a growing young population and children under 15 years of age account for more than a third of the total population.

The country is on a reform journey to ensure peace, democracy and good governance, and to realize broad-based, inclusive and sustained economic growth. To this effect, the Government has been fully committed and making significant progress to improve the well-being of Ethiopian people and expedite the country's march toward middle-income status by 2025. Over the last decade and a half, the Ethiopian economy has registered a double-digit growth rate and in recent years dubbed as one of the fastest growing economies in the world. During this time, significant attention has been given to upgrading economic and social infrastructure and promoting pro-poor spending on education, health, and other services to improve the well-being of the people.

On the labour front, the Government has been working in close collaboration with the UN agencies, social partners and non-governmental organizations (NGOs) to address issues that are related to child labour, forced labour and human trafficking. There have been significant policy developments and public awareness concerning child labour, forced labour and human trafficking in the country. The National Action Plan to Eliminate the Worst Forms of Child Labour and the Young Worker's Directive are among the legal instruments adopted since 2013.

In 2015, a comprehensive anti-trafficking law was passed by the Parliament to tighten existing anti-trafficking legislation, punish trafficking offences, and provide support to victims of trafficking, including children. The Overseas Employment Proclamation also calls for penalties for illegal recruitment, increases oversight of overseas recruitment agencies, and extends more protection to potential victims.

With the above country background, achievements and progress made in advancing the application of Convention No. 138 in Ethiopia is provided in the following section taking into account the observations of the CAS.

2. Progress made in the application of the Minimum Age Convention, 1973 (No. 138)

2.1. Article 2(1) of the Convention: Scope of application and application in practice

The first observation made by the Committee is that there are gaps between the scope of application of the Convention and the domestic laws, particularly the Labour Law as it does not protect all children under 14 years of age, particularly children working outside the formal employment relationship, such as children working on their own account or in the informal economy, who would have benefited from the protection laid down by the Convention.

In this regard, the Government is called upon to review the relevant provisions of the Labour Law so as to address these gaps and to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to protecting the rights of workers in general and those of children in particular in this sector.

Having taken note of the observations of the Committee with regard to the gaps between the scope of application of the Convention and the application in practice, the Government wishes to provide the following information on progress made so far in connection with the comments made by the Committee:

(a) With the purview of the Labour Law, there is an initiative by the Government to extend labour advisory services in the informal sector towards filling the gaps between the scope of application of the Convention and the application in practice with the aim of protecting the rights of all workers, including young workers, and of avoiding children working outside formal employment relationships, such as those working on their own account or in the informal economy.

(b) The Government is also making all possible efforts to strengthen the labour inspectorate system in the country so as to ensure that such services are effectively accessible to all enterprises and workplaces and to ensure the full application of the Convention and the enforcement of domestic labour laws with more focus on child labour and forced labour.

(c) The Government's initiative regarding the national child labour survey (2015) should also be considered as a positive step, as the survey results provide reliable and timely information for taking informed policy measures with regard to child labour. Therefore, the Government is of the view that the national survey on child labour is an achievement in itself.

2.2. Article 2(3). Age of completion of compulsory schooling

Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures to provide for compulsory education up to the minimum age of admission to employment of 14 years. The Committee also requests the Government to intensify its efforts to increase school enrolment rates and decrease drop-out rates at the primary level with a view to preventing children under 14 years of age from being engaged in work.

The improvement and expansion of primary education has been high on the development agenda of governments and bilateral and multilateral organizations. An important step in this regard has clearly been the declaration made by the UN in making primary education a "universal human right", followed by the inclusion of a right to education in the International Covenant on Economic, Social and Cultural Rights and other legally binding treaties.

Recognizing the right to education as a human right, Ethiopia is a party to many of the international conventions and treaties, and has, therefore, shown efforts in harmonizing national legislation with the provisions of the various international treaties to fulfil its obligations in the education sector. Ethiopia is committed to achieving primary Education for All (EFA) and is working tirelessly in expanding access, minimizing wastage in education (efficiency), ensuring equity and improving quality of education. The Government has given top priority to achieving universal and quality primary education for all school-age children and its determination is clearly stated in the education and training policy and in the Education Sector Development Programme strategies (ESDP).

In implementing the education and training policy and the ESDP and through the commitment to realize universalization of primary education, the following results have been achieved in Ethiopia:

(a) the number of primary schools has increased from 33,373 in 2014–15 to 36,466 in 2017–18;
(b) the net enrolment rate (NER) was raised from 94.3 per cent in 2014–15 to 100 per cent in 2017–18, implying that the NER target for primary level has been fully achieved;
(c) with regard to efficiency of primary education, gender parity index (GPI) was raised from about 0.7 in 1999–2000 to 0.9 in 2017–18 while the drop-out rate was improved from 18 per cent in 2008–09 to 9 per cent in 2013–14.

The national child labour survey report (2015) revealed that the school attendance rate of children in the age cohort 5–17 was 61.3 per cent. However, it would be worth nothing that those children out of school and drop-outs in pastoral areas do not necessarily work due to the fact that those children are moving from one place to another with their families (because of their lifestyle) and can have access to ***"mobile schools"*** that are made available for children of pastoral communities.

Furthermore, children out of school and drop-outs, particularly in rural areas (due to different factors), may stay at home with their families rather than look for a job, as there is great social and cultural value attached to children by parents.

That said, however, there are certain issues – such as accessibility, equity, efficiency, quality and financing of primary education – that have to be further examined and improved so as to ensure the goal of primary education for all is achieved and sustained in Ethiopia.

2.3. Article 3. Minimum age for admission to, and determination of, hazardous work, and application in practice

The Committee observes that a significant number of children under 18 years of age are engaged in hazardous work and urges the Government to strengthen its efforts to ensure that, in practice, children under 18 years of age are not engaged in hazardous work in either urban or rural areas. The Committee also requests the Government to provide information in this regard. The Committee further requests the Government to indicate whether a new list of types of hazardous work was adopted and to supply a copy.

The Government takes note of the observations of the Committee with regard to minimum age for admission to hazardous work and application in practice, and wishes to provide the following information on progress made in addressing the issues in point.

(a) The recently revised national Labour Law, which was submitted to the competent authority for possible adoption, raises the minimum working age limit of young persons from 14 to 15 years and excludes them from the labour market with the intention of protecting their well-being. Accordingly, the age limits of young workers as per the revised Labour Law will be in the age cohort 15–17 while it is 14–17 in the prevailing Labour Law. The revision of the Labour Law in this regard can serve to withdraw children that are already engaged in hazardous work and to prohibit new entries in such works.
(b) As raised by the Committee, a directive that prescribes the list of activities prohibited to young workers was revised in consultation with social partners and issued by the Ministry of Labour and Social Affairs in 2013 and has been applied since then.

3. Request for ILO technical support

Experience has shown that full and sustained application of the Convention in all economic activities of the country requires a vibrant and well-functioning labour inspectorate system. Furthermore, social dialogue and tripartite consultation can also be instrumental forums for the effective implementation of the Convention.

In view of this, the Government strongly requests ILO support for strengthening the national labour inspectorate system (for instance, digitalizing labour inspection services) and building the institutional capacities of the constituents for their full and effective engagement in the application of the Convention.

4. Conclusion

From the information provided above, the Government of Ethiopia is of the view that commendable progress and achievements have been made (in line with the comments and observations made by the Committee) towards advancing the application of Convention No. 138 in the country, although there are still some areas for improvement.

The Government of Ethiopia would like to seize this opportunity to express its commitment for the full application of the Convention in point and other ILO instruments to the extent possible. Technical support of the ILO and other development partners to Ethiopia in this regard are also of crucial importance for achieving social justice and decent work for all.

Finally, if the information provided in this report does not satisfy the Committee's expectations in light of its observations on the application of the Convention in point, the Government of Ethiopia is ready to supply any additional information as required.

Discussion by the Committee

Government representative – I am taking the floor to provide information on progress made in light of the observations and comments made by the Committee on the Application of Standards with regard to the application of Convention No. 138 in Ethiopia. My Government took note of the observations of the Committee of Experts pertaining to the application of the Convention in Ethiopia based on a CSA standalone survey data in 2015 and published in December 2018. I just would like to provide necessary information on measures that are being taken and progress made in this regard after the survey was conducted. We highly value the importance of the ILO supervisory mechanism as a unique platform for assessing the application of labour standards in a manner that takes into account the universality, interdependence and indivisibility of human rights and

labour rights. For a country like Ethiopia, which is undergoing a process of profound reform recently aimed at revitalizing the enjoyment of human rights, especially that of child rights, this platform will offer us a great opportunity to deliberate upon and learn from the progress we have made and the challenges that we have faced in our endeavour to protect labour rights in general and child rights in particular. It is with this spirit that I am going to deliver my intervention.

Ethiopia, with an estimated population of 100 million, is the second most populous country in Africa; and the country is experiencing a growing young population and children under 15 years of age that accounts for more than one third of the total population. The Constitution of Ethiopia, which is the supreme law of the land, incorporated the international human rights, including child rights instruments, ratified by Ethiopia into the national laws of the country. Furthermore, various national laws such as the Civil Code, the Criminal Code, the Family Code, and the Labour Law contain provisions protecting children from child labour. A comprehensive anti-trafficking law was also passed by the Parliament to tighten existing anti-trafficking legislation, punish trafficking offences, and provide support to victims of trafficking including children. Our national law on overseas employment also calls for penalties for illegal recruitment, increases oversight of overseas recruitment agencies, and extends more protection to potential victims, including children.

Ethiopia also subscribes to the international instruments which are specifically concerned with the protection of the rights of children such as the United Nations Convention on the Rights of the Child (UNCRC), 1989; the ILO's Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); and the Forced Labour Convention, 1930 (No. 29), just to mention a few.

We also have national policies and programmes that deal with child labour, including the National Social Protection Policy, National Employment Policy, the National Occupational Safety and Health Policy, the Education and Training Policy, the National Plan of Action for Children, the National Plan of Action on Sexual Abuse and Exploitation of Children and the National Action Plan on the Elimination of the Worst Forms of Child Labour (WFCL), among others.

Though we have comprehensive and robust laws and policies at hand, still we are facing challenges in implementing them fully as it has been expected to be. Now, Ethiopia is on a reform journey to ensure peace, democracy and good governance, and to realize an inclusive and sustained growth. To this effect, the Government has been fully committed and making significant progress to improve the well-being of the Ethiopian people and expedite the country's march towards middle-income level by 2025. During this time, significant attention has been given to upgrading economic and social infrastructure and expanding pro-poor spending on education, health and other services to improve the well-being of the people. The Government of Ethiopia strongly believes that through strengthening the social protection system and reforming the system in place to protect children from labour exploitation is the priority agenda of the Government to create a prosperous and stable nation.

With the above brief background on the reform that is taking place in Ethiopia, let me now revert to the achievements and progress made in advancing the application of the Convention in Ethiopia in view of the observations of the Committee. Concerning the observation of the Committee of Experts with respect to the gap between the scope of application of the Convention and the domestic laws, the Government is called for to review the relevant provisions of the Labour Law so as to address these gaps and to take necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to protect the rights of labour in general and that of children under 15 years of age in particular in this sector. The Labour Law under revision has been approved by the Cabinet and expected to be ratified by the Parliament very soon. In this regard, I wish to bring to the attention of the Committee that due to socio-cultural and economic differences around the world, addressing the issues of child labour remains a challenge not only for Ethiopia but also for the rest of the world, particularly for developing countries. That said, however, the Government is taking all possible measures to address child labour issues in Ethiopia.

Firstly, concerted efforts are made to strengthen the labour inspectorate system in the country so as to ensure that such services are effectively accessible to all enterprises and workplaces towards the full application of the Convention and the enforcement of national laws with more focus on child labour, forced labour and human trafficking. Secondly, there is an ongoing initiative to extend labour advisory services in the informal sector towards filling the gap between the scope of application of the Convention and the application of domestic laws, with the aim to protect the rights of all workers including young workers, and prevent children under 15 years of age working outside a formal employment relationship such as those working on their own account or in the informal economy. Thirdly, there is a supportive legal and policy framework in the country to facilitate the transition of the informal economy to the formal economy so that labour inspection services can be accessible to this sector.

The second observation of the Committee is concerned with compulsory education. Recognizing that the right to education is a human right, Ethiopia is committed to achieve primary Education for All (EFA) and to this end the Government is working tirelessly in expanding access to education, minimizing wastage, ensuring equity and improving quality of education, which is clearly stated in the Education and Training Policy and in the Education Sector Development Programs (ESDP). The implementation of the Education and Training Policy and the Education Sector Development Programs, in conjunction with the national development plans, has witnessed the achievements of the following results in Ethiopia: (i) the number of primary schools has increased from 33,373 in 2014–15 to 36,466 in 2017–18; (ii) net enrolment rates have increased from 94.3 per cent in 2014–15 to nearly 100 per cent in 2017–18, with a gender parity index (GPI) of 0.9, which implies that more has to be done to improve girls' participation in primary education; (iii) the primary education drop-out rate has slightly improved from 11.7 per cent in 2015–16 to 11.3 per cent in 2016–17. Again, it implies the need for improving the quality of primary education in the country.

The aforementioned progress has been achieved by the strong commitment of the Government through making significant interventions so far. Among different interventions, the School Feeding Programme has been taken as one of the flagship programmes for primary school children. The evidence demonstrates that school feeding, supplemented by specific interventions targeted particularly at girl students, has significantly improved inclusiveness, participation and achievements in education. More specifically, enhanced school enrolment and a more favourable gender parity index is achieved and dropouts and grade repetition rates are consistently reduced. Considering that poverty is one of the factors inhibiting children from attending schools, our Government, in collaboration with different development partners, established a programme known as the Productive Safety Net Programme (PSNP)

aimed at enabling the rural poor facing chronic food insecurity to resist shocks, create assets and become food self-sufficient. Similarly, we have developed an urban Productive Safety Net Programme to improve income of targeted poor households and establish rural–urban safety net mechanisms that helped to put a social protection system in place, which has a positive impact on the livelihoods of households and increased utilization of education. Moreover, to address the gap in access to and quality of education, recently the Ethiopian Education Development Roadmap for the period 2018–2030 was developed and under discussion with the aim to enhance the country's education system. On the other hand, as mobility is an inherent lifestyle and means to survive of the pastoralist and semi-pastoralist communities in Ethiopia, mobile schools among other Alternative Basic Education (ABE) modalities have become an alternative way of providing education for out-of-school and hard-to-reach children in such communities. That said, however, there are issues such as accessibility, equity, efficiency, quality and financing of primary education that should be further looked at and improved so that the goal of primary education for all is achieved and sustained in Ethiopia.

The third and final observation of the Committee is related to the minimum age for admission to, and determination of, hazardous work and application in practice. In this regard, I wish to provide the following information on progress made in addressing the issue in point: (i) the recently revised national Labour Law, which is submitted to the concerned authority for possible adoption, raises the minimum working age limit of young persons from 14 to 15 years and excludes them from the labour market with the intention to protect their well-being. Accordingly, the age limits of young workers as per the revised Labour Law will be in the age cohort 15–17. The revisions of the Labour Law in this regard serves to withdraw children that are already engaged in hazardous work and to prohibit new entries in such works; and (ii) as requested by the Committee, a directive that prescribes the list of activities prohibited to young workers was revised in consultation with the social partners and issued by the Ministry of Labour and Social Affairs in 2013, and it has been applied since then. The copy of the list is ready for submission to the Committee.

We learnt that full and sustained application of the Convention in all economic activities of the country calls for a vibrant and well-functioning labour inspectorate system, and effective tripartite social dialogue. To this effect, we look forward to the ILO's technical support in the full application of the Convention. There is also a need for ILO support in our endeavour to transform the informal economy to the formal economy. Based on the information that I have tried to provide above, my Government is of the view that significant progress has been made, in line with the comments and observations of the Committee towards advancing the application of the Convention in Ethiopia, although there are still areas for improvement.

Finally, I would like to seize this opportunity to affirm the commitment of my Government for the full application of the Convention in point and other ILO instruments to the extent possible. We believe that the ILO's technical support and other development partners' assistance in this regard are of great importance for advancing social justice and promoting decent work for all. As Ethiopia is a founding member of ILO, we are ambitious to end child labour and to ensure no one is left behind to make the future of work human-centred that ensures rights of all humankind.

Worker members – Combating the economic exploitation of children is at the heart of the ILO's mandate. This has been a central concern of the ILO ever since it was founded. In 1919, a first standard regulating the minimum age for admission to employment in the industrial sector was already adopted, and over the years the number of international standards relating to the minimum age has increased in many sectors.

Convention No. 138, with its inter-sectoral scope, was adopted in 1973. This instrument invites member States to adopt a national policy aimed at ensuring the effective abolition of child labour. Fixing a minimum age for admission to employment ensures that children are in a position to attend school, regulates the forms of economic activity which they are allowed to perform, and protects their health and safety. This Convention embodies the deep-seated conviction of ILO constituents that childhood must be a period of life devoted to physical and mental development, not a period spent working.

Like almost all member States of our Organization, Ethiopia has also ratified Convention No. 138. The application of this Convention by Ethiopia forms the subject of the Committee of Experts' observations since 2009 and direct requests since 2003. This year too, the Committee of Experts made observations relating to Ethiopia's application of Convention No. 138. The Committee of Experts also considered that the case of Ethiopia should be a "double-footnoted" case, underlining the seriousness and persistence of the problem.

The informal economy represents a large proportion of Ethiopia's economy, and it is within the informal economy that child labour occurs. The figures revealed by the 2015 survey, published in 2018, are extremely challenging. According to this survey, over 13 million children between 5 and 13 years of age were working. This means that a significant proportion of children working in the world are Ethiopian children. The vast majority of these children were, and probably still are, occupied in sectors of activity such as agriculture, forestry and fishing, all of which are particularly dangerous sectors.

The Convention applies to all persons performing an economic activity, whether or not this is within an employment relationship and whether or not it is paid. Hence workers in the informal economy and those working on their own account are both concerned. In contravention of this fundamental principle of the Convention, section 89-2 of the Labour Law of 1993 (Proclamation 42), which prohibits the employment of persons under 14 years of age, does not cover work performed outside an employment relationship. This is a gap which must be filled as quickly as possible.

The Government of Ethiopia indicates that the Ethiopian Constitution guarantees the right of all children, without discrimination, to be protected against all forms of exploitation, irrespective of whether they are employees, working on their own account or occupied in the informal economy. The provisions of a Constitution are often couched in general terms, and it would be useful to state explicitly and precisely how the provisions of the Labour Law apply to child labour in the informal economy. The Government also indicates that tools are at the disposal of the inspection services to combat the economic exploitation of children. It would be interesting to have statistics relating to the findings of the inspection services in Ethiopia with regard to child labour.

Although we do not doubt the sincerity of the Ethiopian Government's commitments at the international level arising from the ratification of Convention No. 138, the results of the 2015 survey nevertheless demonstrate that child labour still exists on a massive scale in Ethiopia. The Government's initiatives to equip the inspection services are welcome but unfortunately remain completely inadequate. As it has been invited to do by the Committee of Experts, the Ethiopian Government needs to strengthen its body of legislation for combating child labour by reviewing the Labour Law in order to fill the gaps in it and also needs to

strengthen the capacity of the labour inspectorate, particularly to boost its action in the informal economy.

There is a very close link between education and the issue of the minimum age for admission to employment. Depriving children of the possibility of education and training seriously damages their prospects of social progress and increases the risk of them being drawn into the world of work far too early. Compulsory schooling is the most effective means of combating child labour. It is therefore crucial that compulsory schooling is introduced at least until the minimum age for admission to employment, namely 14 years. However, it appears that primary education is not compulsory in Ethiopia, and so the school enrolment rate is very low. According to UNICEF figures, although slightly over six out of ten children are in primary education, this proportion drops to slightly over one in ten children for secondary education. This is a source of extreme concern. However, the Government indicates that it is drafting a bill aimed at making primary education compulsory. We hope that this bill will materialize very soon and will be effectively implemented in order to reverse the trends observed until now.

The Convention also provides that the minimum age for admission to hazardous work shall be 18 years. However, it appears from the findings of the 2015 survey that nearly one in five children between 5 and 17 years of age is employed in hazardous work. This proportion is particularly high in rural areas. Apart from the dangerous nature of the work itself, these children are exposed to dangers arising from their conditions of work, such as very long working hours, work at night, work in an insalubrious environment or work using dangerous equipment.

It is very clear that there is a great number of risks to which very young, growing children are exposed. The physical and psychological consequences of an accident occurring at a young age can be devastating and irreversible. For this reason it is essential that young children should be kept away from performing hazardous work.

Ethiopia's body of legislation includes a decree containing a detailed list of hazardous types of work which young workers are not allowed to perform. A general ban on all other types of work likely to jeopardize the health or morals of young workers is also laid down in this decree. The Government also indicates that it is revising the list of hazardous types of work. We hope that this revision has been taking place in close consultation with the representative organizations of workers and employers, as provided for in Article 3(2) of the Convention. Apart from the revision of this list, we hope that measures will also be implemented to ensure that no child under 18 years of age is employed in hazardous work in practice.

Employer members – The Employers' group would like to thank the Government for the written submissions that were made, as well as for the information submitted here today, and would also like to thank the Workers for their submissions here today.

As the Worker members said, this is a case involving Convention No. 138, which Ethiopia ratified back in 1999. And today marks the first time that the CAS is examining Ethiopia's application of this very important fundamental instrument in law and in practice. We note though that the Committee of Experts has made four observations in the past on Ethiopia's application of this Convention in 2009, 2010 and 2011, as well as in 2014. Ethiopia has been a member of the ILO since 1923 and it has ratified, in total, 23 instruments to date, including all of the eight fundamental Conventions. And being the second most populous nation in Africa, with around 110 million people, according to the latest United Nations estimates, Ethiopia does face many significant development challenges.

We note that Ethiopia received support from the ILO Decent Work Country Programme between 2014 and 15 to improve implementation of international labour standards and social dialogue, to promote decent employment as a means towards poverty eradication, and to improve social protection for sustainable development. Furthermore, we note that Ethiopia has adopted the National Action Plan to Eliminate the Worst Forms of Child Labour and the Young Workers Directive since 2013.

The Committee of Experts have observed three issues in respect of Ethiopia's application of the Convention, and we will discuss them individually in turn. The first one relates to the scope of application and the application in practice of the Convention and here we are looking at Article 2(1) in particular. The Experts have observed that there is a gap between the scope of application of the Convention and the domestic laws in Ethiopia, with a high number of children under the minimum age working in the informal economy and mostly as unpaid family workers. Article 2(1) states that each member which ratifies the Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory, and subject to Articles 4 to 8 of this Convention no one under that age shall be admitted to employment or work in any occupation.

The Experts indicated some alarming figures from the 2015 ILO Child Labour Survey. More than 13 million children between the ages of 5 and 13 are working in sectors such as agriculture, forestry, fishing, as well as the wholesale and retail trade. The majority of these children, about 95.5 per cent, performing economic activities were working as unpaid family workers.

The Government noted in its report that the Constitution offers children the right to be protected from any form of exploitative labour and that a labour inspection manual has been prepared for inspectors to detect and protect children from child labour in both the formal and informal sectors of the economy.

We welcome the Government's use of the D document, and the information it provided on progress made so far in its written submission. We note that the Government highlighted three actions that it is undertaking to close the gap between the scope of application and application in practice, and this being: extending the labour advisory services in the informal sector; strengthening the labour inspectorate system in the country to make it accessible to all enterprises and workplaces; and taking initiative to the national child labour survey of 2015.

The Employers commend the Government for taking these measures which we believe are positive and a step in the right direction towards closing the gap. The Minimum Age Convention is one of the most important instruments to combat child labour, along with the Worst Forms of Child Labour Convention, 1999 (No. 182). It is important that it is applied to children working in all sectors of economic activity, not just the formal ones, and specifically it should address those informal sectors and family businesses where child labour is most common and often tolerated.

We fully support the Committee's recommendations for the Government to take the necessary measures to ensure that all children under 14 years of age benefit from the protection in the Convention. We also trust that the actions taken by the Government will yield concrete results and we encourage the Government to report any updates at the next Committee of Experts meeting scheduled for November 2019.

The second issue, as observed by the Committee of Experts, is the age of completion of compulsory school. Here the observation is that Ethiopia rather lacks free and compulsory education for children. There is also low attendance and enrolment rate as well as a very high percentage of school dropouts. We recall that Article 2(3) states that the minimum age specified in pursuance of paragraph 1 of

this Article shall not be less than the age of completion of compulsory schooling, and in any case shall not be less than 15 years.

The Committee of Experts indicates from the UNICEF statistics that only around 65 per cent of children attend primary schools and only 15 per cent of them continue to secondary school. A staggering more than 2.8 million children have dropped out of school. Statistics also show that there are more working children dropping out of school than those who do not work and this correlation is a clear indication of the impact child labour has on children's access to education. The Experts urge the Government to take the necessary measures to provide compulsory education, to increase school enrolment and decrease the number of dropouts among children under 14 years of age.

We welcome the information provided by the Government on this issue. The Government has indicated that it has started the process of drafting legislation, which aims at making primary education compulsory. In addition, we note that the Government has noted that some positive results have already been achieved in terms of the universalization of primary education, including an increase in the number of primary schools from 33,373 to 36,466; full achievement of the net enrolment rate for primary school levels; an increase in gender parity index from 0.7 to 0.9; and a decrease in the drop-out rate from 18 per cent to 9 per cent.

Furthermore, we are pleased that the Government has provided access to mobile schools for children of pastoral and semi-pastoral communities. In our view, this is particularly important as access to education is essential not only for the development of children's individual well-being but also for the well-being of the country.

More concretely, education and training can improve the skills of the young generation who can later contribute to the overall economic development of the country when they legally enter the workforce. So, we agree with the Committee of Experts' view that compulsory education is one of the most effective means of combating child labour. To this end, it is essential that all children, regardless of gender, class or age, should have access to free and compulsory primary and secondary education.

Finally, we welcome the Government's willingness to explore further ways of improving the accessibility, equity, efficiency, quality and financing of primary education in pursuit of the ultimate goal of achieving primary education for all in Ethiopia. We encourage the Government to consult with the most representative workers' and employers' organizations in Ethiopia in this process.

The final issue observed by the Experts is the minimum age for admission to and determination of hazardous work, in legislation and practice. This issue concerns a significant number of children under 18 years of age who are engaged in hazardous work in Ethiopia. Article 3 of the Convention requires that the minimum age for admission to any type of employment or work, which by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years. Based on the Child Labour Survey, the Experts report that 23 per cent of children are engaged in hazardous work on an average of 42 hours per week. They also report that the youngest group of children in the age range of 5–11 years is engaged in relatively longer hours than other age groups. In their observations, the Committee of Experts urges the Government to strengthen its efforts to prohibit children under the age of 18 years from engaging in any forms of hazardous work. The Government has previously indicated that the Decree of the Minister of Labour and Social Affairs of 2 September 2017 would revise the list of hazardous work and general prohibition of dangerous work for children. We welcome the information provided in this regard by the Government indicating that some progress has been made on this issue. In particular, a revision of the national Labour Law to raise the age limit of young workers from 14–17 to 15–17 years old, as well as a directive that prescribes the list of activities prohibited to young workers, which was revised in consultation with the social partners in Ethiopia. We recommend in this regard the Government to provide copies of these instruments and to report updates on the progress made to the Committee of Experts at its next meeting.

The Employers strongly condemn the engagement of children in any form of child labour, especially where such activity also constitutes hazardous work. Being one of the most vulnerable groups in society, children need adequate protection and care from any type of work that poses serious physical and mental risks. The development of children, especially in terms of their education, is a worthy investment that any country would be remiss not to make. For governments to continuously work to eliminate child labour including hazardous work, while improving access to education for children is a moral imperative and a building block for future stable, economically productive societies. We urge Ethiopia to continue on the path of reform, by demonstrating full commitment to the Convention in its national laws and practice.

Worker member, Ethiopia – I will provide my comments on the observations of the Committee of Experts on the Ethiopia case on behalf of the Confederation of Ethiopian and Trade Unions (CETU). First of all, I would like to appreciate the observations of the Committee of Experts on the application of the Convention in Ethiopia. The situation of under-aged children working is a challenge in Ethiopia. However, we are optimistic that things will improve very soon. Our optimism is based largely on the new political dawn that Ethiopia is witnessing. The current Government is also conscious of the incidence of child labour and has demonstrated and continues to demonstrate real intentions to overcome it.

Regarding the observations of the Committee of Experts on the gap between the scope of application of the Convention and the domestic laws, the Labour Law does not protect all children working outside the formal employment relationship, such as working on their own account or in the informal economy. As a matter of fact, the existing Labour Law does not apply to the informal sector.

With regard to compulsory education up to the minimum age of admission to employment of 14 years, the Ethiopian Education and Development Roadmap for the period 2018–30 is drafted and under discussion. It contains provisions to provide compulsory education up to grade eight. Furthermore, the recently revised Labour Law, which is submitted to the Parliament for approval, raises the minimum working age limit of young persons from 14 to 15 years. We want to inform this Committee that we participated actively in the amendment process as a member of Ethiopian social partners. Additionally, to exclude and withdraw children that are already employed and engaged in hazardous work, a directive which prescribes the list of activities to prohibit young workers was published in 2013 and circulated for the stakeholders to which we participated as representative of workers.

We have observed that, based on the severity and profoundness of the incidence of child labour, the Government will need to be assisted and supported to mount and implement a sustained effort to defeat the problem of child labour. We, therefore, urge this Committee to agree on ways and the measures that the Ethiopian Government will be encouraged to continue in her quest to defeat child labour and better protect the rights of children.

In conclusion, the CETU wishes to reiterate its call on this Committee to continue to provide measures and the means compatible with benchmarks and evaluation mech-

anisms to the Government of Ethiopia necessary for the effective implementation of the provisions of this Convention. We are confident that this new Government will chart a path to the successful defeat of child labour in our country.

Another Worker member, Ethiopia – I am taking this chance on behalf of the Ethiopian Teachers Association, member of Education International which is a global teacher union federation of over 30 million members. I have read the observations and comments of the Committee of Experts which is very much useful in supporting Ethiopian children to remain in and/or attend school. It is, therefore, a huge cause for concern for us as teachers and parents when children who ought to be in schools are in farms and construction sites. This is because my organization, whose members are daily busy in nurturing children in schools, advocates for free and compulsory primary education.

Nevertheless, I wish to recognize the attempt that the Government of Ethiopia is making to provide education by allocating about 25 per cent of the annual government budget from its scarce financial resource due to its commitment to providing education to its citizen.

With a huge reform in the education sector that is under way by the current Government leadership, education and training policy of the country which existed for more than 25 years without amendment is under revision. This is supplemented by a strategy termed Ethiopian Education and Training Roadmap 2018–30. Let me, therefore, point out that we as the Ethiopian Teachers Association are excited that part of the reform agenda will have compulsory and free primary education for children up to 15 years of age. No doubt this measure will help children stay in schools and prevent them from being engaged in work.

While the plan to have free and compulsory primary education is a positive measure to move forward to support children, we will work with our Government as critical stakeholders to ensure that the high drop-out rates, gender parity challenge and that of quality education are addressed positively in the interest of the children.

Further, the Committee must impress on the Government the need to consciously and genuinely mobilize all stakeholders in the education sector so as to aggregate their contributions in providing quality education for the children. To be able to effectively aggregate the contributions of teachers, it is important that they are allowed and accorded the full and unbridged right to organize and freely associate. An organized and representative teachers' voice will add value to education management and development in Ethiopia.

Employer member, Ethiopia – I would like to brief you on the background of our Federation first, and then go to air our statement. Convention No. 138 was of course ratified by the Ethiopian Government in 1999 and we have also seen and gone through the observation that the Committee of Experts have done. What we have mentioned earlier and what we are airing now is that the Experts have not seen what we have done the last two years. Recently we have achieved lots of programmes, awareness-creation trainings, and so on and so forth, to fulfil the situation on the ground. Of course all three issues have been discussed a lot in our Confederation. By the way, I am here as the President of the Ethiopian Employers' Federation, which was following the matter for the last four years, and now we have transformed our Federation into a Confederation, naming it the Ethiopian Industry Employers' Confederation.

The Confederation started seeing the observations and then tried to solve them from the grass-root level. The Ethiopian economy has been enjoying a double-digit growth for about ten years and now it is trying to maintain this, but the economy is a little bit shrinking for the last year and half or maybe two years. Because of that, a bigger appetite for employers was created, both at the formal and the informal market. The informal market of Ethiopia was to lead as a single mum-/parent-run business, with the family, and the other challenge in a low-resource economy where destabilization is still in its infancy, vital statistics are still mostly paperwork and distinguishing between 13-year-olds and maybe 17 year-old children will be very difficult. That has been observed even in our sportsmen and women. Knowing this, the Confederation has tried to do a lot from its side. Of course, the Government has also cooperated on this with us. With the new Government in power, a reform is being taken and lots of positive changes are coming into the mission, especially on the economy side. Having said this, I would like to go and air the statement as the Ethiopian Industry Employers' Confederation.

The Ethiopian Industry Employers' Confederation has conducted a child labour study in four regional states in large farm areas via its founding federation, the Ethiopian Employers' Federation. Based on the recommendation of the study, it has conducted a number of awareness-creation programmes so that the employers will not hire children. The outcome of these programmes was a decline in the number of children working in large plantations. The Government of Ethiopia is also working to reduce the prevalence of child labour in the country and it has issued another law, which was discussed earlier by our social partners, which penalize employers who engage children in their firms. Recently, it has raised the minimum working age of youth from 14 to 15 years of age.

In addition to this, the Government has also expanded the primary school coverage in the country and thereby increased enrolment rates of primary education at a larger and significant amount. Poverty in Ethiopia is still prevalent. The Government is trying its best to boost the economy of the country by issuing a number of policies and programmes, which should be assisted by developed countries and developmental partners, like the ILO.

Thus, as I mentioned earlier, while the Experts pointed out three issues, we highly recommend that they come back and also see what we have been achieving the last couple of years as the Employers' Confederation.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries: the Republic of North Macedonia, Montenegro and Albania as well as the EFTA country Norway, member of the European Economic Area and the Republic of Moldova and Georgia align themselves with this statement.

The EU and its Member States are committed to the promotion, protection and respect of human rights, as safeguarded by the fundamental ILO Conventions and other human rights instruments. We welcome the new universal ratification of the UN Convention on the Rights of the Child, the ILO Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and continue to strive for universal ratification and implementation, including through dialogue with third countries.

A child is first and foremost a child and every single child has the right to grow up in a safe environment, with the right to education, with the right to a childhood free from abuse or any kind of exploitation. It is our collective responsibility to ensure those rights are respected. Provisions against child labour are part of the International Labour Organization's core labour standards and ILO Members have an obligation to respect, promote and realize the principles concerning such fundamental rights.

The elimination and prevention of child labour is an important priority for the European Union and its Member States reflected in its core acquis. Commitment to protect

the rights of the child is embedded in the Treaty of the European Union and in the Charter of Fundamental Rights of the EU. The EU's overreaching strategy to strengthen efforts to ensure every child, in particular, the most marginalized, is reached by EU policies and actions is set out in the EU Guidelines for the Promotion and Protection of the Rights of the Child, and implemented through many policies and projects undertaken in the region and worldwide.

We note with deep regret that child labour remains a prevalent problem in Ethiopia. The scale of the challenge is overwhelming. In the country, children aged 5 to 17 are more than a third of the total population and half of them are engaged in economic activities. Among them, 23 per cent are exposed to hazardous work. The number of children aged 5–13 years engaged in child labour was estimated at about 13 million with a higher representation of the youngest children. However, it should be noted that child labour in Ethiopia is one of the symptoms of pervasive poverty and its related problems, as shown by the fact that the majority of children performing activities were actually working as unpaid family workers, 95.6 per cent in the rural, informal economy.

The European Union and its Member States and Ethiopia have been engaged in development dialogue and cooperation for more than 40 years. We recognize the progress made towards eliminating child labour. Ethiopia has made important improvements to its policy and legislation on eliminating child labour by endorsing the National Children's Policy in April 2018; developing Education Operational Response Plans for Oromia, Somali, and the Southern Nations, Nationalities, and People's Region for the 2017–18 school year; and has issued a Young Worker's Directive and has done so in partnership with UN agencies as well as NGOs to address the issue and related ones.

However, while the Labour Law Proclamation of 1993 prohibits the employment of persons under 14 years of age, its provisions do not cover work performed outside an employment relationship, such as children working on their own account or in the informal economy. Despite the fact that the Government of Ethiopia trained 110 labour inspectors on child labour issues in 2017, labour inspectorate is underfunded and still lacks very necessary means to ensure proper application.

Through development cooperation programmes such as the "Jobs Compact" to increase decent job opportunities in the country, we engage in policy dialogue with Ethiopia in order to strengthen labour law implementation, promote social dialogue and collective bargaining arrangements, conduct and disclose decent work country profile reports for Ethiopia.

The EU and its Member States support the Committee's recommendations and urge the Government to take the necessary measures for all children under the minimum age of 14 to be fully protected by the Convention. To this end, the scope of law should be increased as to include work performed outside an employment relationship, in particular children working on their own account or in the informal sector. The capacity of the labour inspection should also be increased to tackle these issues, especially in the informal economy.

The comprehensive education of children also remains a challenge even if Ethiopia has already committed to achieve primary Education for All. According to UNICEF's Demographic and Health Survey 2016, the primary school net attendance ratio for the population aged 7–14 is 71 per cent (72 per cent for girls and 71 per cent for boys). Rates are low even if considering that data do not fully capture access granted through "mobile schools" that are made available for children of pastoral communities. Importantly, the secondary school net attendance ratio drops drastically to only 18 per cent. Recognizing that compulsory education is one of the most effective means of combating child labour, we urge the Government to spare no effort to provide for compulsory education up to the minimum age of admission to employment of 14 years. We also encourage the Government to intensify its efforts to increase school enrolment rates and decrease drop-out rates in order to prevent child labour.

Additionally, we appeal to the Government to develop more comprehensive legislation on hazardous work to prohibit, in law and in practice, work in hazardous conditions for children under 18. As detailed in the report the rate of hazardous work among children aged 5–17 years is 23.3 per cent (28 per cent for boys versus 18.2 per cent of girls), which remains high. Moreover, rates are much higher in the rural areas. We urge the Government to address existing gaps in legislation in order to ensure compliance, both in law and practice.

Closely linked to the Convention, we are also deeply concerned that despite the continuous efforts, the worst forms of child labour also persist, in particular trafficking in children abroad and within the country for the purpose of domestic servitude, commercial sexual exploitation and exploitation in other worst forms. The Committee previously noted that there were approximately 6,500–7,500 child domestic workers in Addis Ababa, who were subject to extreme exploitation, working long hours for minimal pay or modest food and shelter, and that they are vulnerable to physical and sexual abuse. Although the EU and its Member States acknowledge the Government's increased enforcement efforts, we ask the Government to devote more work to the fight against domestic human trafficking and commercial sexual exploitation as a result of child trafficking and to ensure that effective and dissuasive penalties are imposed to those engaged in child trafficking.

The EU and its Member States will continue to cooperate with Ethiopia and stand ready to support the country in their continuous work towards achieving the sustainable elimination of all forms of child labour.

Government member, Mauritania – The delegation of Mauritania followed with interest the statement delivered by Her Excellency the Minister of Labour of the Republic of Ethiopia regarding the measures taken by her Government to give effect to the provisions of the Convention. This presentation apprised our honourable delegations of the important gains made by this country in the areas of social justice, the protection of children from anything likely to harm their physical, moral or psychological state and, generally speaking, all development sectors, especially those dedicated to promoting human rights.

Indeed, the statement demonstrates that the Government of Ethiopia has made herculean efforts to make the country's labour inspection system more effective and efficient so that it covers the various types of enterprise, particularly those that are considered informal and therefore difficult to reach by the regular supervision of inspectors. These efforts should lead, in time, to the full implementation of the instruments ratified by the country, with special emphasis, because this is about the Convention, on reducing as far as possible all forms of child labour, as the Government remains convinced that a country that allows this scourge to persist, even on a small scale, condemns itself to forever lag behind the rest of humanity. Moreover, in order to boost these measures, the Government is working to ensure the transition from the informal to the formal economy, where the use of child labour is exceptional, if not non-existent.

In the wake of the implementation of the above-mentioned measures, Ethiopia is striving to expand access to education, ensure equity and improve the quality of the education offered, while making the provision of universal primary education to all children of school age an absolute priority, as indicated in the education sector development strategy. We can certainly all agree that this will help to strengthen the protection of children from child labour.

For all these reasons, the delegation of Mauritania believes that the Government of Ethiopia deserves to be encouraged and, if necessary, supported, to put into practice the ambitious policies it has adopted.

Worker member, Togo – I am speaking on behalf of the members of the Organization of Trade Unions of West Africa (OTUWA). When children and young persons carry out hazardous work, the possibilities of their health and physical and moral well-being being impaired and endangered are immediate, direct and pronounced. It is also worrying to note that the consequences may sometimes be lasting and irreversible. According to the Committee's report based on the survey of child labour, the proportion of children between 5 and 17 years of age employed in hazardous work is 23.3 per cent (28 per cent for boys compared with 18.2 per cent for girls). It is 9.2 per cent in urban areas compared with 26.4 per cent in rural areas. These figures are highly significant. Nevertheless, the report also contains some glimmers of hope, as shown by some of the specific measures taken by the Ethiopian Government to combat hazardous work for children. These include the provision of a detailed list of hazardous types of work and the general prohibition on any other kind of work likely to jeopardize the physical and psychological well-being of children, and also the reference to a subsequent revision of the list in the hope of further reducing hazardous work for children. These measures are laudable but certainly need to be improved by constant practice in order to ensure that children under 18 years of age involved in hazardous work in insalubrious environments are protected against such working arrangements.

The need to review and improve the labour inspection system, in particular in agriculture and in rural areas, should be given urgent consideration and set in motion. We consider that the Ethiopian Government should make greater efforts to ensure real progress in practice through the combination of an effective labour inspection system and ongoing public awareness-raising. A more sincere expression of the desire to tackle this menace will be visible if Ethiopia ratifies the Labour Inspection Convention, 1947 (No. 81).

Moreover, the trafficking of children is a source of serious concern. In Ethiopia, the Committee noted measures taken by the Ethiopian Government to deal with this scourge. These measures are commendable, in particular the adoption of the 2015 law against trafficking in persons, which, inter alia, establishes the penalty of 25 years' imprisonment for human trafficking, including the trafficking of children. Consequently, we wish to urge the Ethiopian Government to guarantee the effectiveness of these measures by ensuring that the security forces tasked with action against trafficking, on the one hand, and officers of the judiciary, on the other hand, are adequately trained and provided with the necessary resources to be able to identify, investigate and prosecute perpetrators and to apply effectively the penalty of 25 years' imprisonment for persons trafficking children abroad and within the country for the purposes of domestic servitude, commercial sexual exploitation and exploitation in the worst forms of child labour.

The rehabilitation and reintegration of the victims of trafficking in persons must be a priority. The Ethiopian Government must be urged to establish and provide funding for care centres for victims so that they can receive medical and psychological assistance geared to their age.

Government member, Switzerland – Switzerland agrees with the points raised by the European Union and would like to add a few of its own. The elimination of child labour, in which Convention No. 138 plays a role, is one of the most important objectives of the ILO. Switzerland attaches great importance to this fundamental Convention, and also to the Worst Forms of Child Labour Convention, 1999 (No. 182), and the United Nations Convention on the Rights of the Child. Despite the efforts made to fight child labour in the world, particularly through legislation, many children often still work in difficult conditions, especially in the informal economy.

While recognizing the great efforts made by the Ethiopian Government to eliminate child labour and to make primary education compulsory, the number of children between 5 and 13 years of age who are working remains high. The low school enrolment rate is also a major source of concern.

Switzerland commends the progress made in Ethiopia in recent months, in particular at the political level. With this in mind, it encourages the Ethiopian Government to continue its efforts and to take all necessary steps as soon as possible to fix the minimum age for admission to employment in accordance with Convention No. 138.

It is also crucial to ensure that children who work outside an employment relationship enjoy the protection established by the Convention. At the same time, the capacities of the labour inspectorate must be reinforced in this respect.

Lastly, Switzerland encourages the Government to fix the age of compulsory education in a clear manner in accordance with the terms of the Convention and to step up its efforts to eliminate all forms of child labour.

Government member, Senegal – On behalf of Senegal, I would like to thank the Ethiopian delegation for the information it has kindly provided to the Committee. The Government of Ethiopia has informed us of its concerted efforts to strengthen its labour inspection system in order to make it accessible to all enterprises and places of work to ensure full implementation of the Convention and national labour legislation. Particular emphasis has been placed on combating child labour and forced labour. We hope that these measures will soon be fully operational with a view to ensuring the protection provided for under the Convention.

In addition, Senegal notes that the Ethiopian Government has informed the Committee of the planned measures to improve access to and the quality of education. We strongly encourage the Government to continue these efforts and urge it to develop the programmes planned in this regard.

Furthermore, we welcome the measures taken by the Ethiopian Government regarding the revision, with its social partners, of the list of types of work to which workers, and particularly children, should not be exposed.

In view of all the efforts made by the Ethiopian Government, Senegal appreciates the commitment demonstrated by the country and invites the Committee to take these initiatives into account in its conclusions. Senegal also requests the Office to support Ethiopia to implement programmes and projects that give full effect to the principles set out in the Convention.

Government member, Morocco – First of all, I would like to thank the Government of Ethiopia for the information it has provided, which demonstrates the effort made by the country to respond to the various comments and observations made in this regard by the Committee of Experts.

Indeed, the comments of the Committee of Experts address a number of subjects directly related to the implementation of the Convention, particularly with regard to: the number of children working in the informal sector; the obligation to provide free education; and the prohibition of hazardous work for minors.

The Minister of Labour of Ethiopia indicated in her intervention that significant measures have been taken by the Government with regard to legislation, the strengthening of labour inspection, and education and training. These various measures demonstrate the desire of the Government of Ethiopia to bring its national law and practice into line with the provisions and principles of the Convention. To this

end, we support the efforts made by the Government of Ethiopia and encourage it to continue in that regard.

Observer, Education International (EI) – Education workers welcome the Government's information about the current legislative process of extending the age of compulsory schooling which will become the minimum age for employment. Teachers also welcome the Minister's commitment that the Government intensifies efforts to invest in new school infrastructure and in training opportunities, to increase school enrolment rates, and to decrease dropouts, particularly focusing on girls.

As representatives of teachers worldwide we know that making schools more attractive and learning more relevant are key in eradicating child labour. Increased public funding to make more educational institutions available, completely free of charge, to children and youth, particularly those from disadvantaged and marginalized communities, is a priority.

Providing professional development programmes to headmasters and teachers is also important to raise awareness on child labour in education settings and among communities and parents. Schools are at the heart of communities and having the whole education stakeholders commit to make schools welcoming and relevant to working and out-of-school children makes a real difference. But teachers must be trained to interact with children and students who have been exploited, or those who have never come to school. The practice of corporal punishment for example needs to be addressed. Education and training are also central components of rehabilitation programmes.

Education unions have developed expertise in supporting education authorities, at local and national level, to develop plans of action to eradicate child labour. Education unions also develop programmes on health education to raise awareness about HIV/AIDS and other transmittable diseases.

But as stated by the representative of the Ethiopian Teachers Association, unions are willing to share their expertise and partner, through social dialogue, with the Government and with employers to help and support children and youth whose education is hampered by child labour practices.

However, in Ethiopia today, teachers do not yet enjoy the right to form a union. The Ethiopian Teachers Association affiliated to Education International is a professional association and not yet a union. The Labour Act should therefore be reviewed to allow teachers, as public servants, to form unions and enter into collective bargaining to address issues such as child labour.

We trust that with the technical assistance requested by the Minister, the new Government will implement robust and time-bound programmes to meet the recommendations of the Committee of Experts.

Education International supports the initiatives taken by the current Government to defend and promote the human rights of children, including the right to quality, inclusive public education for all. Education International will also continue to advocate for freedom of association and collective bargaining rights being extended to Ethiopian teachers.

Worker member, France – In this predominantly agricultural country, most rural families cannot afford to send their children to school because parents believe that if children are in school they can neither contribute to household chores nor work. Despite this alarming finding, which was confirmed by the experts' report, Ethiopia has nevertheless made tangible progress in the education sector; the system has grown from 10 million learners a decade ago to more than 25 million today. To further strengthen this upward trend, Ethiopia has developed a sectoral programme covering the period 2015–16 to 2019–20, the Education Sector Development Programme, which is guided by the vision of maintaining momentum, improving equal access and broadening quality general education.

Nevertheless, despite evidence that the current Government is promoting educational emancipation as a guarantee of all-round development, it remains clear that there is a gap between the determination that seems to motivate the Government and implementation on the ground. We note with concern that, beyond the issue of education in general and despite the National Action Plan for Gender Equality, which was implemented by the Government from 2005 to 2010, educational disparities between girls and boys remain significant. Sixty-four per cent of young Ethiopians are illiterate, 77 per cent of whom are girls. While there has been progress in access to education at all levels in Ethiopia, men are the main beneficiaries. This observation on the application of the minimum age highlights various difficulties that exacerbate the consequences of non-application of Convention No. 138 in that gender equality is not respected.

Ethiopia ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women in 1981. However, the country has not ratified its Optional Protocol or the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Beyond the unavoidable need to legislate in the field of education to establish free and compulsory schooling, it is clear that legislation must also combat all forms of discrimination, including gender discrimination, and this legislative work to draw up an education code accompanied by programmes to combat all forms of discrimination must be done in full and genuine consultation with the social partners, particularly trade union organizations.

The consultations we are advocating must guarantee a constructive social dialogue that promotes values that are likely to bring about the social changes essential to the country's development, through the education of its young people. I would therefore request you, Mr Chairperson, to highlight in your conclusions the seriousness of the case that has hampered the country's future. I also hope that you will offer the Government adequate technical assistance from the Office to help it update its legislation to bring it into line with the standards, with a view to informing us of substantial progress as early as next year.

Government member, Algeria – Algeria would like to thank Ethiopia for presenting its report. We note with satisfaction the progress made in implementing the recommendations of the Committee of Experts to combat child labour and respect the minimum age of admission to employment.

Algeria would like to commend the measures taken by Ethiopia to prevent and combat violence against children with a view to fully respecting children's rights. In addition, the Algerian delegation would like to congratulate Ethiopia on its efforts to strengthen the labour inspection system in order to promote the full application of the Convention. We particularly appreciate the open and constructive attitude of the Ethiopian Government in its efforts to amend the labour legislation in this area.

Algeria believes that the Office should take into account national realities and specific circumstances in its assessment of the application of the Convention. The Office should also plan to support Ethiopia in its social mobilization against child labour, with particular emphasis on the need to integrate child labour issues into national policies and strategies for sustainable development.

Government member, Mozambique – Mozambique would like to congratulate the Government of Ethiopia for the comprehensive report it has provided on the measures taken to address child labour issues. The Government of Mozambique noticed that the Government of Ethiopia has revised its labour laws in consultation with the social partners towards addressing child labour issues among others.

We want to commend Ethiopia in this regard. The Government of Ethiopia is also committed to expanding universal primary education for all and legislative achievements in this regard seem to be impressive. Mozambique would want the Office to walk with the Government of Ethiopia and the social partners in addressing any issues that may be outstanding.

Worker member, South Africa – We are excited about the recent developments and promising news coming out of and from Ethiopia as a result of the renewed and focused dedication of the current Government to improve the social, economic and political situation in the country. It is from this background that we make this intervention so that the children can also be direct and real beneficiaries of the intentions of the Government to improve the situation on the ground. Given the various figures, the Committee of Experts' Report pointed to the number of children engaged in child labour, those not in school and those that dropped out of school for sundry reasons. One can see that the situation of children in Ethiopia is dire and profound. Of course the Report did not talk about the 120,000 street children in major cities, notably Addis Ababa, that are begging for survival. Thus, one can infer that dealing with the plight of children in Ethiopia will need a concerted, real, steadfast, strategic and well-resourced response which in fact is doable and winnable.

In terms of a concerted response, the Ethiopian Government is urged to consider infrastructure and amenities development in rural areas so as to check the influx of rural dwellers to the city. Most of these new city arrivals have been reported to deploy their children onto the streets as beggars, largely because they were led by the push to see and feel the good life of the city. When children are subjected to hard and harsh conditions, their physiological, mental and social development are arrested and their future can be blank and blighted.

Further, for economies such as Ethiopia, striving for a better and developed society, the children, as its heritage, resource and future must be protected and secured. We are excited that the Ethiopian Government has pledged its commitment to include the national minimum wage adoption in application in its proposed labour law reforms process. This is because we know that aside from the fact that concentrated infrastructure development lures people away from the rural areas to the cities, poor wages equally drive migration and movement from rural to urban areas and also induce and exacerbate child labour. It is equally imperative that the Ethiopian Government considers upscaling its labour inspection duties so as to be able to better identify, reverse and tame child labour. In the cases where children are engaged in workplaces and by unscrupulous employers, an effective and responsive labour inspection regime will be able to identify, investigate and sanction such offenders.

Government member, Namibia – Namibia takes note of the several legal instruments that were adopted by the Government of Ethiopia since 2013. This is a step in the right direction as the legal instruments will assist the eradication of child labour, forced labour and human trafficking in Ethiopia. The results as presented by the Government of Ethiopia in their reply today, on the universalization of primary education, it yielded positive results as there are increases in both the number of primary schools and the net enrolment rate as well as improvement in the drop-out rate.

The efforts undertaken by the Government of Ethiopia in the advancement of the application of Convention is commendable. Thus, we encourage the ILO to avail technical assistance to compliment the Government's robust efforts to strengthen the labour inspectorate system in the country and ensure the full application of the Minimum Age Convention. Finally, the Committee in its conclusions should take into to consideration the efforts taken by the Government of Ethiopia.

Government member, Zimbabwe – The Government of Ethiopia has informed us of the concerted efforts that they have made to strengthen Ethiopia's labour inspectorate system, so as to ensure that related services are more effectively accessible to all enterprises and workplaces towards the full application of the Convention and enforcement of national labour laws, with a distinct focus on child labour, forced labour and human trafficking. We derive full confidence from indications given that this will soon be fully operational in compliance with the protections laid down in the Convention.

The Government of Zimbabwe further notes that the Government of Ethiopia has informed this Committee about the modalities that it is going to employ to expand access to education and also to improve the quality of education for its people. This is a development which other governments are encouraged to emulate. Most significantly, it is encouraging to note that the Government of Ethiopia has also provided information to the effect that it is currently revising its labour laws with a view to setting the minimum age for admission into employment. This is a positive development which will go a long way in enhancing compliance with the Convention, which forms the basis of our discussion.

The Government of Ethiopia has informed this august house that it worked with social partners in revising the list of the hazardous work to which children and young people should not be subjected. This in itself demonstrates that the Government of Ethiopia has not only embraced the principle of social dialogue, but also applies it when addressing socio-economic issues, including child labour situations.

Finally, the Government of Zimbabwe applauds the readiness of the Government of Ethiopia to continue working with its social partners and indeed with the ILO in implementing programmes and projects that give effect to the principles enshrined in the Convention.

Government member, Nigeria – Nigeria takes the floor to support the progress made by the Government of Ethiopia in improving the application of the Convention. As already presented, the Government of Ethiopia has embarked upon an ambitious Labour Law reform aimed at addressing the observed gaps and discrepancies with a view to reinforcing the existing capacity of labour inspection in the informal sector of its economy. This will go a long way to protecting the rights and improving the general working conditions of workers as well as reducing the prevalence of child labour. Ethiopia has also embarked on improvement of its children school enrolment rate in recent years through the adoption of the Education and Training Policy and the Education Sector Development Programmes, respectively. The adoption of the School Feeding Programme as done in Nigeria is another laudable programme of the Ethiopian Government aimed at improving the school enrolment rate as well as a reduction in the rate of dropouts. Furthermore, the establishment of mobile schools in line with the demands of its pastoral communities further attests to the Government's desire to improve on the education opportunities to children of all ages regardless of their socio-cultural background. In the matter of the minimum age of admissibility to work and the determination of hazardous work, Ethiopia has also made appreciable progress as presented in the current review of its national Labour Law exercise that has raised the minimum working age of young persons from 14 to 15 years. In the light of the foregoing, Nigeria is of the view that these programmes and reform measures should be given the opportunity to take root with a view to complying with the required standard of the Committee.

Government member, Angola – The Government of Angola acknowledges that Ethiopia has made great efforts

with regard to Convention No. 138 through the strengthening of the labour inspection system, regulation in the informal sector and implementation of the education programme. Our Government therefore encourages Ethiopia to continue to make progress.

Government member, Egypt – First of all, we would like to thank the representative of the Government of Ethiopia for the information provided with regards to the implementation of the Convention. We have taken note of all the measures adopted by the Ethiopian Government in order to respect, in practice, the provisions of this extremely important Convention and we await the review of the Labour Code and the strengthening of the labour inspections system ensuring coverage of the informal and formal sectors. We also await news of the further developments of the national education strategy to reduce dropouts and increase schooling levels. We also welcome the recognition of the principle of social dialogue in Ethiopia and all of its dimensions. So we wish to underscore our appreciation of all the initiates taken by the Government and urge the ILO to take all measures necessary to support the Government in its efforts to ensure full respective of the Convention.

Government member, Uganda – My delegation has taken note of the steps that the Ethiopian Government is taking to improve application of the Convention, which include among others, the education road map and it informs the municipal laws to bring them into conformity with international labour standards. The Ethiopian Education Programme will go a long way in addressing the problems of lack of access to education which is a key driver for eliminating all forms of child labour. We urge the Ethiopian Government to continue on the path and therefore call upon the Committee to take note of the progress made.

Government member, Kenya – The Kenyan delegation welcomes the comprehensive statement made by the Government representative from Ethiopia in regard to the issues raised by the Committee regarding the country's compliance with the provisions of the ratified Convention. We have taken careful note of the statement and are encouraged by the efforts that are under way with a view of ensuring full compliance with the Convention. Just like many other developing countries, various challenges sometimes impede the full realization of the objectives of the Convention, but what is needed is unwavering commitment on education to overcome the challenges, something which the Ethiopian Government has demonstrated in its statement. The Kenyan delegation wishes to call upon this Committee to exercise a little patience with the Ethiopian Government and allow it to complete the various reforms and programmes that are being undertaken with respect to the Committee's observations.

Finally, because of the ambitious and expansive nature of some of the programmes, it will be useful for the Organization working with the Government to consider areas where technical cooperation support can be availed to help in addressing the identified gaps.

Government representative – I have been listening carefully to the discussion inspired on our case. I would like to thank the social partners and those governments for their constructive interventions that are insightful for advancing the application of the Convention in point. We have benefited a lot from the discussion that will help us to improve our effort to mitigate the gaps so far identified by the Committee with respect to child labour.

As the survey was done in 2015, a lot has been done by the Ethiopian Government but still we have a long way to go and we are left with assignments to do. Considering that lack of awareness among the public is contributing to child labour, we have been organizing campaigns to mark the annual Day Against Child Labour– which is today – to sensitize the public with the aim to promote an integrated approach to tackle the root causes of child labour and engagement of stakeholders including our social partners to strengthen workplace safety and health for all workers with the specific safeguarding to young workers between the ages of 15 and 18. That said, I would like to reflect on some of the issues raised in the house.

So one of the issues raised is related to free and compulsory education in Ethiopia. Let me be clear on this point, achieving universal primary education is one of the public policies in Ethiopia and public spending on education has increased over the decades. In this regard, beside the interventions that I have mentioned earlier, the education sector has been receiving more than 24 per cent of the total national expenditure meeting the global benchmark which is 20 per cent of the national budget spent on education as put forth by Education for All. This is an impressive achievement which calls for maintaining a share of Government expenditure being spent on education.

Though I have mentioned some progress earlier, it is important to mention some of the unexpected reforms made by the Government that could tell us that it is not impossible to change any backlogs that we had. My Government in this regard is working a profound reform journey and working strongly to empower women in education, politics and economy believing that empowering women is empowering the society in which children would enjoy fully their rights to education, health-care and other social services.

In cognizance of this, it is just recently that 50 per cent of the Cabinet members become women, of which I am one of them. Besides, for the first time in Ethiopian history, a woman has been appointed as a President of the country. It is in this reform movement that both the President of the Supreme Court and Spokesperson of the House of Federation become women. Such a reform was never told of to happen in the past. This political empowerment of women will lay down a foundation for other reforms for women in different spheres that could bring a significant change in the lives of society in general and the lives of children and girl children specifically.

It is my stronger conviction that the profound reform that is taking place in Ethiopia would help to change the prevailing scenario of child labour in line with the national and international instruments that intend to protect them. I would also like to inform the Committee that Sustainable Development Goals, particularly Goal 4 which aims at ensuring an inclusive and equitable quality education and promoting lifelong learning opportunities for all, are integrated into our national development plan and progress has been made in this regard.

In conclusion, I would like to once again affirm the commitment of my Government for the full application of the Convention in point taking into account the discussions inspired in this august house and we are open for the ILO's technical support and other development partners' assistance in this regard.

Employer members – Having listened to all the submissions from the Government and the interventions from the Workers as well as from the floor, as Employers, we are encouraged that significant progress has been and is being made by Ethiopia in harmonizing its national laws and practice with the Convention.

We are equally encouraged by the commitment of the Ethiopian Employers' Confederation to work closely with the Government to ensure that employers do not take any under-age child into employment. We believe this will go a long way to tackling and finally eradicating the problem of child labour in Ethiopia. The Employers recognize that child labour deprives children of their childhood, their dignity and it is often harmful to their physical and mental development. With a global record of 152 million children in child labour and 73 million of them in hazardous work, it

is one of the most serious challenges we face today in the world. The United Nations 2030 Agenda for Sustainable Development has called upon the international community to respond urgently to this challenge. In particular, we note that under the SDG on decent work and economic growth, all countries commit to achieving target 8.7, namely "take immediate and effective measures to eradicate forced labour and modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers and by 2025 child labour in all its forms". Convention No. 138 provides the legal framework for the elimination of child labour. As primary objective, as indicated in Article 1, is the pursuit of a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. This Convention, together with Convention No. 182, constitutes the most authoritative international normative framework to address this problem. We welcome the Government's commitment to full application of the Convention and its willingness to seek support from the ILO and other partners in combating child labour. Considering the severity of the present situation in Ethiopia, we suggest that the Committee recommend the Government of Ethiopia to take the following actions: first, the Government should strengthen its national legal framework and enforcement of laws aimed at abolishing child labour, including the periodic review and update of a national list of hazardous work prohibited for all children. This should be done in consultation with the most representative employers' and workers' organizations in that country. The Government should also seek to align its legal framework with the policies relevant for the eradication of child labour in line with the Convention.

Second, the Government should strengthen the capacity of labour inspectorate and other enforcement services, regarding both material and human resources, and conduct training for inspectors to better detect and address child labour to promote and ensure compliance with legislation. Third, the Government should strengthen its policies aimed at ensuring equal access to free, public and compulsory education for all children in quality and inclusive education systems. Furthermore, the Government should seek technical assistance from the ILO in developing a plan to promote lifelong skills training, quality apprenticeships and a smooth school-to-work transition for its youth population. Finally, the Government should deepen its efforts to promote partnerships with employers' and workers' organizations and other relevant stakeholders to eliminate and prohibit child labour through social dialogue and strong cooperation. While we believe that the situation of child labour in Ethiopia is very serious, we recognize that the Government of Ethiopia has demonstrated its commitment and desire to combat this issue head on. With technical assistance from the ILO and support from the international community, we have confidence that the Government of Ethiopia will be able to implement the recommendations of the Committee and to fully apply the Convention.

Worker members – I would like to thank all the speakers, and in particular the representative of the Ethiopian Government for the information she was able to provide to our Committee.

Ethiopian children are the future of the country. It is therefore essential to provide them with a basic education that will enable them to make a significant contribution to the country's social and economic development. Guaranteeing them this basic education involves removing them from employment in scrupulous observance of the Convention.

Regarding the scope of application of the legislation on the prohibition of child labour, it is essential that an explicit provision in the Labour Law specifies that the provisions on the prohibition of child labour apply beyond contractual employment relationships and cover both workers in the informal economy and those working on their own account. A legal provision that explicitly extends the scope of this legislation to these categories of workers will also legitimize the action of the inspection services.

Capacity-building for labour inspection, particularly in the informal economy, seems to us to be essential. Compliance in practice with the prohibition of child labour can only be achieved by setting up an inspection body that has the necessary resources to ensure the effectiveness of its action. Moreover, the Government itself has called for assistance from the Office to work on building the capacity of these inspection services.

It would also be useful for the Ethiopian Government to share the results obtained by the inspection services in the informal sector in terms of combating child labour. In the information provided to us by the Government, many initiatives are highlighted to demonstrate that progress has been made in improving the coverage of legislation relating to child labour. However, in this information provided in writing to the Committee, we do not find any government initiatives aimed at filling the legislative gaps identified with regard to the scope of application of legislation concerning child labour.

However, we have heard that draft legislative reforms to address these gaps are being developed. It would be useful for the Government to provide any relevant information in writing to the Committee of Experts. Accordingly, we call on the Government to implement a legislative amendment that aims to extend the application of the legislation beyond employment relationships that are established under a contract of employment.

As we have seen, there is a close link between compulsory education and the abolition of child labour. It is therefore essential that Ethiopia introduce compulsory schooling at least up to the minimum age for admission to employment, namely 15 years of age. In this regard, it is encouraging that the Government has announced the introduction of a bill to raise the age of admission to employment in Ethiopia from 14 to 15 years of age. We hope that this legislative amendment will come to fruition.

The Ethiopian Government has also confirmed that a legislative process is under way to make primary education compulsory. We will closely monitor the effective implementation of this compulsory education and we invite the Government to provide any information in this regard in the future. This will be a welcome step. It will then be necessary to continue these reforms and make education compulsory up to 15 years of age in order to ensure full compliance with the Convention in this regard.

Hazardous work is also an issue in Ethiopia. Many young children are still engaged in such work. The existing list of hazardous and prohibited types of work for children under 18 years of age is currently being revised. The Ethiopian Government will ensure that it consults the social partners during the revision of this list. Beyond the drawing up of such a list, the necessary measures should be taken to ensure that, in practice, children under 18 years of age are no longer employed in hazardous activities.

We are confident that the Government will take seriously our Committee's call for the establishment of a genuine national policy for the effective abolition of child labour in Ethiopia. Child labour is still present on a massive scale in Ethiopia, and it is time to reverse this trend.

The Ethiopian Government can rely on the desire of everyone present in this room to assist it in this colossal challenge, which nevertheless must be faced. The Government has expressed its openness to receiving technical assistance from the Office. We welcome the constructive spirit demonstrated by the Government to engage in resolving

the shortcomings that we cannot fail to observe in the application of the Convention. We therefore recommend that the Ethiopian Government seek technical assistance from the Office.

Conclusions of the Committee

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.

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 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.**

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.

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 reaffirm 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 conclusions of the Committee and we request the Committee to give us a reasonably sufficient time to address child labour issues in Ethiopia which indeed are complex and require support of various development partners including the ILO.

FIJI (ratification: 2002)

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

Written information provided by the Government

Response to the observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on trade union and civil liberties

Mr Felix Anthony has been able to organize and carry out his union activities without any interference from the Fijian Government. The Fijian Constitution ensures that all workers have the right to fair employment practices, including the right to join a trade union and participate in its activities. The Fijian Constitution also guarantees all workers their right to freedom of association.

The Commissioner of Police (hereinafter "the Commissioner") as provided for under the Fijian Constitution is authorized to investigate circumstances of a possible violation of any laws. This authority includes the power to arrest, search and detain as necessary. Similarly, the Office of the Director of Public Prosecutions (ODPP) is responsible for the conduct of criminal prosecutions and is not subject to the direction or control of the Fijian Government. Therefore, any actions taken by the Commissioner or police officers at the arrest, search and detention of any person as alleged by the FTUC and the ITUC were not intended to harass and intimidate trade unionists but to allow the Commissioner to conduct further investigations into alleged violations of relevant laws. The subsequent prosecution of any persons as a result of such investigations is decided by the ODPP and is not subject to the control of the Fijian Government.

Response to the observations of the CEACR on legislative issues

1. Employment Relations Advisory Board (ERAB)

The ERAB is established under the Act and consists of public officers as representatives of the Government, representatives of employers and representatives of workers.

The Minister for Employment is the appointing authority for the ERAB. In making appointments, the Minister must appoint persons who, in the opinion of the Minister, have experience and expertise in the areas covered by the functions of the ERAB or in employment relations, industrial, commercial, legal, business or administrative matters.

With respect to the appointment of representatives for employers and workers, the Minister is required to appoint persons nominated by bodies representing employers or workers, respectively.

Following the expiry of the previous members' term, the Minister for Employment appointed new members to the Board. Nominees were received from the Fiji Islands Council of Trade Unions, the Fiji Public Service Association and the Fiji Bank and Finance Sector Employees Union. The appointment of workers' representatives and employers' representatives to ERAB are based on the nominations received by the Minister.

2. Fiji National Provident Fund (FNPF)

With respect to the Fiji National Provident Fund Board, the appointing authority is the Minister responsible for finance (hereinafter "the Minister for Economy").

The Board members are appointed in accordance with the process for appointment and criteria for selection for appointment under the Fiji National Provident Fund Act 2009 (hereinafter "the FNPF Act"). The FNPF Act only allows for one public official to be a member of the Board.

With respect to any appointments to the Board, the Minister must be satisfied that the members would between them have appropriate skills and expertise in investment management, corporate governance, accounting and auditing, finance and banking, risk management, law, acting as an actuary or an auditor, and information technology or a similar engineering discipline.

3. Fiji National University (FNU)

The Council of the Fiji National University (hereinafter "the Council") is the Fiji National University's (hereinafter "the FNU") governing body. The Council is made up of four ex officio members, 14 appointed members, five elected members and up to three co-opted members, as follows:

(a) Ex officio members:
  (i) the Chancellor;
  (ii) the Deputy Chancellor;
  (iii) the Vice-Chancellor; and
  (iv) the Permanent Secretary for Education.
(b) Members appointed by the Minister for Economy who, according to the Minister, have adequate qualifications, skills, expertise and knowledge to contribute to the disciplines offered by the FNU and the general administration and financial management of a tertiary institution.
(c) Elected members, as follows:
  (i) one head of a college of the FNU;
  (ii) one member of the FNU's full-time professorial staff;
  (iii) one member of the FNU's full-time non-professorial academic staff;
  (iv) one student representing undergraduate students;
  (v) one student representing postgraduate students; and
(d) up to three co-opted members as appointed by the Council.

4. Wages council

The Minister may, on the recommendation of the ERAB and having been satisfied that no adequate machinery exists for setting effective remuneration for a class of workers or that the existing machinery is likely to exist or is inadequate, establish a wages council.

Prior to the making of an order for a wages council, the Minister for Employment is required to firstly inform the public by way of publication in the *Gazette* of the proposed wages council order and allow for any objections to be made to the proposed order.

5. Air Terminal Services (Fiji) Limited (ATS)

ATS is a private company in which the Fijian Government holds 51 per cent of shares and the ATS Employee Trust (hereinafter "ATSET") holds the remaining 49 per cent of the shares.

The ATS Board consists of seven members out of which four members are appointed by the Government and three workers' representatives are appointed by ATSET. The Fijian Government accordingly appoints its representatives to the ATS Board. The Fijian Government does not have any authority over the appointment of persons to the Board made by ATSET.

The ERAB is the only statutory body that provides for a tripartite composition inclusive of representatives for workers. The functions of the ERAB are clearly stipulated in the Act. The FNPF and FNU are statutory bodies with their own statutory functions provided in their respective laws, and the compositions for their governing bodies are distinct from the ERAB. Furthermore, ATS is a private company and its Board members are determined in accordance with the shareholding structure of ATS.

Response to the observations of the CEACR on the review of the labour legislation, as agreed in the Joint Implementation Report (JIR)

In the spirit of social dialogue and tripartism, the Fijian Government continues to engage with its social partners on the way forward to implement the outstanding matters in the JIR. The tripartite partners recently met to discuss the way forward and proposed timelines for dealing with the outstanding matters of the JIR.

The Fijian Government has been able to hold the following meetings:

(a) 11 March 2019 meeting with the Minister for Employment, Productivity and Industrial Relations, Honourable Parveen Kumar, Permanent Secretary for Employment, Osea Cawaru, trade unionists Felix Anthony, Daniel Urai and two union officials, and employers' representative, Nezbitt Hazelman; and
(b) 3 April 2019 meeting with the tripartite partners, ILO Director for Pacific Island Countries, Donglin Li, and ILO Decent Work and International Labour Standards Specialist, Ms Elena Gerasimova.

During the 3 April 2019 meeting, the tripartite parties agreed that the Fijian Government has implemented a number of matters under the JIR, primarily by way of amendments to the Act. These amendments relate to:

(i) the restoration of check-off facilities;
(ii) reduction of strike notice to 14 days for essential services and industries;
(iii) reinstatement of grievances which were discontinued by the Essential National Industries Decree;
(iv) removal of all references to bargaining units in the Act and allowing workers to freely join or form a trade union (including an enterprise trade union);
(v) repeal of sections 191X and 191BC of the Act;
(vi) application for compensation for workers employed in an essential national industry or a designated corporation or designated company under the Essential National Industries (Employment) Decree 2011 (hereafter "the Decree") whose employment was terminated during operation of the Decree; and
(vii) any trade union deregistered was entitled to apply to be registered again.

The outstanding matters under the JIR which the tripartite parties are working towards implementing include the review of labour laws and the review of the list of essential services and industries. The ILO has offered to provide technical assistance for the review of the list of essential services and industries. The Fijian Government is liaising with the ILO on the proposed tentative date provided by the ILO technical expert in relation to the workshop to be conducted for the social partners.

The Fijian Government also met with its tripartite partners on 30 April 2019 to review the agreed proposed amendments to the Act. During this meeting, the tripartite partners made good progress on the discussion of the proposed amendments to the Act and agreed to continue discussions. While the Fijian Government had proposed to continue discussions during the third week of May, Fiji Trade Union Congress (FTUC) representative, Mr Felix Anthony, informed that they would be providing their response to their participation at the tripartite dialogue on 1 June 2019.

Despite the FTUC's withdrawal from participating in the tripartite dialogue and Board meeting on 5 September 2018, the Fijian Government remains committed to undertake its obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144),

and continues to recognize the FTUC and the Fiji Commerce and Employers Federation as tripartite partners in advancing social dialogue.

Response to the observations of the CEACR on Article 2 of the Convention concerning pending matters under the Employment Relations (Amendment) Act 2016

The ERAB is continuing its review of the labour laws and the inclusion of any proposed amendments to the Act. Any agreed proposed amendments will subsequently be submitted to the Parliament of the Republic of Fiji for its deliberation.

Response to the observations of the CEACR on Article 3 of the Convention concerning the list of essential services and industries

The Fijian Government acknowledges that an outstanding matter under the JIR is the review of the list of essential services and industries. The Fijian Government confirms that the ILO has offered to provide technical assistance for the review of the list of essential services and industries.

On 29 May 2019, the Permanent Secretary for Employment, Mr Osea Cawaru, and team met with Mr Felix Anthony to discuss the union's case against the Water Authority. In this meeting Mr Anthony and the Permanent Secretary agreed on a suitable date to have the Essential National Industries Workshop, tentatively towards the end of October or early November 2019. This was communicated to the ILO Office of the Pacific Island Countries in Suva on 30 May 2019. The Fijian Government has been advised that the ILO Suva Office is liaising with the technical expert on the proposed dates.

Response to the observations of the CEACR on the outstanding matters under the Employment Relations Promulgation (ERP)

The Fijian Government notes the comments provided by the Committee of Experts and will continue to work with its tripartite partners in reviewing the labour laws.

Response to the observations of the CEACR on the right to assembly under the Public Order (Amendment) Decree (POAD)

The Fijian Government notes the request from the Committee. It, however, restates that the permit requirement under section 8 of the Public Order Act 1969 applies to all persons in Fiji. The permit requirement is appropriate and necessary for the purpose of determining matters of public importance such as national security, public safety, public order, public morality, public health or the orderly conduct of elections and the protection of the rights and freedoms of others.

Response to the observations of the CEACR on the need to amend the Political Parties Decree

The Fijian Government reiterates that the activities of any trade unionist and employers' organization representatives must be apolitical and for the purpose of regulating the relationship between workers and employers.

The restriction of a public officer (which includes holding an office in any trade union) from joining a political party and from engaging in any political activity under the relevant laws ensures political neutrality in the performance of the functions of the public office. It also ensures that persons holding public offices do not use their public office resources, including funds, to finance their political campaigns or advance their political agenda, and safeguards against abuse of office.

However, a public office holder intending to join a political party or engage in any political activity may do so by resigning from their public office.

Response to additional issues raised

1. *Complaint of the FTUC against the Water Authority of Fiji (National Union of Workers v. Water Authority of Fiji)*

The Fijian Government is not privy to the employment dispute lodged by the National Union of Workers against the Water Authority of Fiji and is therefore not in a position to comment on the complaint.

Under the Act, any employment dispute successfully lodged with the Permanent Secretary for Employment is referred to the Employment Relations Tribunal (hereinafter "the Tribunal") or in the case of an essential service and industry, lodged with and determined by the Arbitration Court. The jurisdiction, powers and functions of the Tribunal and Arbitration Court are provided under the Act and their decisions are subject to appeal.

2. *Right to strike*

The Fijian Constitution guarantees every person in Fiji the right, peacefully and unarmed, to assemble, demonstrate, picket and present petitions. The Act also makes provision for the prerequisites for undertaking a strike, including the provision of a notice of secret ballot to the Registrar of Trade Unions 21 days prior to the nominated date to hold the ballot.

3. *Air Terminal Services dispute where workers were locked out in 2017–18*

Matters regarding Air Terminal Services Limited in relation to the 2017–18 lockout were heard and determined by the Employment Relations Tribunal. The Fijian Government was not a party to the proceedings and did not have authority to intervene in the proceedings.

4. *Long-standing Vatukoula Gold Mines strike (29 years) still appears in the CEACR Report*

By way of background, in or about 1991, 436 miners, who were members of the Fiji Mine Union Workers (FMWU) went on strike against their employer, Emperor Gold Mining Company (Emperor) Limited (hereinafter "the VGM"). The VGM dismissed the workers between April and July 1991.

Thereafter, the Permanent Secretary for Employment (hereinafter "the Permanent Secretary") purportedly accepted a report of a trade dispute (hereinafter "the trade dispute") under the Trade Disputes Act [Cap 96A] from a group of workers calling themselves *"the organizing committee of the mine workers"*. The VGM then filed a judicial review application against the Permanent Secretary's acceptance of the trade dispute, and the Fijian High Court ruled in favour of the VGM by determining that the Permanent Secretary did not have authority to accept the trade dispute *(State v. Permanent Secretary of the Ministry of Employment, Industrial Relations ex parte: Emperor Gold Mining Company Limited, Jubilee Mining Company Limited and Koula Mining Company Limited, Judicial Review No. 32 of 1991)*.

In a separate court proceeding, the Fijian High Court determined that the termination of the 436 workers by the VGM was lawful *(Emperor Gold Mining Company Limited, Jubilee Mining Company Limited and Koula Mining Company Limited v. Jone Cagi & Ors 205 of 1991 in State v. Permanent Secretary of the Ministry of Employment, Industrial Relations ex parte: Emperor Gold Mining Company Limited, Jubilee Mining Company Limited and Koula*

Mining Company Limited, Judicial Review No. 32 of 1991).

In or about May 2014, the Fijian Government met with the FMWU representatives who sought compensation of $2 million for every worker involved in the 1991 strike – 364 workers in total. Noting that the Fijian Government is not legally obliged to compensate the workers, the Fijian Government is considering the request from the FMWU representatives.

5. Imposition of individual contracts

The Fijian Government has undertaken a job evaluation exercise of its employment positions in 2017. This exercise included the broad banding of positions and benchmarking to the private sector to decrease administration, streamline salary management, and provide attractive and competitive salaries across the civil service. During the job evaluation exercise, the Fijian Government consulted and discussed the proposed changes to the salary structure with public sector unions. Following the job evaluation exercise, new employment contracts were offered to all civil servants in August 2017 to reflect the new working conditions and ensure consistency across the civil service. However, some civil servants have opted to remain as permanent employees and therefore did not sign the new contracts.

Employment contracts were introduced into the Fijian civil service in 2009. Prior to the 2017 job evaluation exercise, about 74 per cent of civil servants held employment contracts. To date, 99 per cent of civil servants hold employment contracts.

Discussion by the Committee

Government representative – In reference to the issues raised concerning the Joint Implementation Report (JIR) of 29 January 2016, legislative aspects of labour legislation and trade union rights and civil liberties, the response of the Fijian Government is as follows.

Mr Felix Anthony has been able to organize and carry out his union activities without any interference from the Fijian Government. The Fijian Constitution ensures that all workers have the right to fair employment practices including the right to join a trade union and participate in its activities. The Fijian Constitution also guarantees all workers their right to freedom of association. The Commissioner of Police as provided for under the Fijian Constitution is authorized to investigate circumstances of a possible violation of any laws. This authority includes the power to arrest, search and detain as necessary. Similarly, the Office of the Director of Public Prosecutions (ODPP) is responsible for the conduct of criminal prosecutions and is not subject to the direction or control of the Fijian Government. Therefore any actions taken by the Commissioner of Police or its police officers at the arrest, search and detention of any person as alleged by the Fiji Trades Union Congress (FTUC) and the International Trade Union Confederation (ITUC) were not intended to harass and intimidate trade unionists but to allow the Commissioner to conduct further investigations into alleged violation of relevant laws. The subsequent prosecution of any persons as a result of such investigations is decided by the ODPP and is not subject to the control of the Fijian Government.

On labour laws reform, I wish to draw the attention of the Committee to the following. First, the Employment Relations Advisory Board (ERAB) is established under the Employment Relations Act of 2007 (the Act) and it consists of public officers and representatives of Government, representatives of employers and representatives of workers. The Minister of Employment is the appointing authority for the ERAB. In making appointments, the Minister must appoint persons who, in the opinion of the Minister, have the experience, the expertise, in the areas covered by the functions of the ERAB or in employment relations, industrial, commercial, legal, business or administrative matters. With respect to the appointments of representatives for employers and workers, the Minister is required to appoint persons nominated by bodies representing employers or workers, respectively. Following the expiry of the previous members' term, the Minister for Employment appointed new members to the Board. Nominees were received from the Fiji Islands Council of Trade Unions, Fiji Public Service Association and the Fiji Bank and Finance Sector Employees Union. The appointment of workers' representatives and employers' representatives to the ERAB are based on the nominees received by the Minister.

Concerning the Fiji National Provident Fund (FNPF) Board, the appointing authority is the Minister responsible for finance. In this case the Minister for Economy. The Board members are appointed in accordance with the process of appointment and criteria for selection for appointment under the FNPF Act. The FNPF Act allows for one public official to be a member of the Board. With respect to any appointments to the Board, the Minister must be satisfied that the members would between them have appropriate skills and expertise in investment management, corporate governance, accounting and auditing, finance and banking, risk management, law, acting as an actuary or an auditor, and information technology or a similar engineering discipline.

As to the Fiji National University (FNU), the Council of the FNU (the Council) is the FNU governing body. The Council is made up of 4 ex officio members, 14 appointed members, 5 elected members and up to 3 co-opted members as follows: (i) the ex officio members: the Chancellor; the Deputy Chancellor; the Vice-Chancellor; and the Permanent Secretary for Education; (ii) members appointed by the Minister for Economy who, according to the Minster, have adequate qualifications, skills, expertise and knowledge to contribute to the disciplines offered by the FNU and the general administration and financial management of a tertiary institution; (iii) elected members, as follows: one head of college of the FNU; one member of the FNU's full-time professional staff; one member of the FNU's full-time and non-professional academic staff; one student representative of the undergraduates; and one student representing postgraduate students; and (iv) up to three co-opted members as appointed by the Council.

On the wages council. The Minister may, on the recommendation of the ERAB and having been satisfied that no adequate machinery exists for the setting of effective remuneration for a class of workers or that the existing machinery is likely to exist or inadequate, establish a wages council. Prior to the making of an order for a wages council, the Minister for Employment is required to firstly inform the public by way of publication in the *Gazette* of the proposed wages council order and allow for any objections to be made to the proposed order.

On the Air Terminal Services (Fiji) Limited (ATS). ATS is a private company in which the Fijian Government holds 51 per cent of shares and the ATS Employee Trust (ATSET) holds the remaining 49 per cent of the shares. The ATS Board consists of seven members, out of which four members are appointed by Government and three workers' representatives appointed by ATSET. The Fijian Government accordingly appoints its representatives to the ATS Board. The Fijian Government does not have any authority over the appointment of persons to the Board made by ATSET. The ERAB is the only statutory body that provides for a tripartite composition inclusive of representatives of workers. The functions of the ERAB are clearly stipulated in the Act. The FNPF and FNU are statutory bodies with their own statutory functions provided in their respective laws, and the compositions for their governing bodies are distinct from the ERAB. Furthermore, ATS is a

private company and its Board members are determined in accordance with the shareholding structure of ATS.

In the spirit of social dialogue and tripartism, the Fijian Government continues to engage with its social partners on the way forward to implement the outstanding matters in the JIR. The tripartite partners recently met to discuss the way forward and proposed timelines for dealing with the outstanding matters of the JIR. The Fijian Government have been able to hold the following meetings. On 11 March 2019, meeting with the Minister for Employment, the Honourable Parveen Kumar, the Permanent Secretary, myself, the trade unionists Mr Anthony, Mr Daniel Urai and two other union officials, and the employers' representative, Mr Nezbitt Hazelman. On 3 April 2019, meeting with the tripartite partners, that included the ILO Director for the Pacific Island Countries, Mr Donglin Li, and the ILO Decent Work and International Labour Standards specialist, Ms Elena Gerasimova. During the 3 April 2019 meeting, the tripartite parties agreed that the Fijian Government has implemented a number of matters under the JIR. Primarily, by way of amendments to the Act, these amendments relate to: (i) the restoration of check-off facilities; (ii) reduction of strike notice to 14 days for essential services and industries; (iii) the reinstatement of grievances which were discontinued by the Essential National Industries (Employment) Decree 2011; (iv) the removal of all references to bargaining units in the Act and allowing workers to freely join or form a trade union, including an enterprise trade union; (v) repeal of sections 191X and 191BC of the Act, (vi); the application for compensation for workers employed in an essential national industry or a designated corporation or designated company under the Essential National Industries (Employment) Decree 2011 whose employment was terminated during the operation of the Decree; and (vii) any trade union deregistered was entitled to apply to be registered again. The outstanding matters under the JIR which the tripartite parties are working towards implementing includes the review of labour laws and the review of the list of essential services and industries. The ILO has offered to provide technical assistance for the review of the list of essential national services and industries. The Fijian Government is liaising with the ILO on the proposed tentative date provided by the ILO technical expert in relation to the workshop to be conducted for social partners. The Fijian Government also met with its tripartite partners on 30 April to review the agreed proposed amendments to the Act. During this meeting, the tripartite partners made good progress on the discussion of the proposed amendments to the Act and agreed to continue discussions. While the Fijian Government had proposed to continue discussions during the third week of May, the FTUC representative, Mr Anthony, informed that they would be providing their response to their participation at the tripartite dialogue on 1 June 2019. Despite the FTUC's withdrawal from participating in the tripartite dialogue and the Board meeting on 5 September 2018, the Fijian Government remains committed to undertaking its obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and continues to recognize the FTUC and the Fiji Commerce and Employers' Federation as tripartite partners in advancing social dialogue.

In relation to Article 2 of the Convention, I wish to address that the ERAB is continuing its review of the labour laws and the inclusion of any proposed amendments to the Act. Any agreed proposed amendments will subsequently be submitted to the Parliament of the Republic of Fiji for its deliberation.

In relation to technical assistance from the ILO on the definition of essential services, I wish to advise that the Fijian Government acknowledges that an outstanding matter under the JIR is the review of the list of essential services and industries. The Fijian Government confirms that the ILO has offered to provide technical assistance for the review of the list of essential services and industries. On 29 May 2019, the Permanent Secretary, Mr Cawaru, met with Mr Anthony to discuss the union's case against the Water Authority. In this meeting, Mr Anthony and the Permanent Secretary agreed to a suitable date to have the Essential National Industries Workshop, tentatively towards the end of October or early November 2019. This was communicated to the ILO Office of the Pacific Island Countries in Suva on 30 May and the Fijian Government has been advised that the ILO Suva Office is liaising with the technical experts on the proposed dates.

In relation to the obligation of union officials to be employees of the relevant industries or trade, and other issues concerning strikes and assemblies under the Employment Relations Act, the Fijian Government notes the comments provided by the Committee of Experts and will continue to work with its tripartite partners in reviewing the labour laws.

In relation to the Public Order Act, the Fijian Government notes the request from the Committee of Experts. It, however, restates that the permit requirement under section 8 of the Public Order Act 1969 applies to all persons in Fiji. The permit requirement is appropriate and necessary for the purpose of determining matters of public importance such as national security, public safety, public order, public morality, public health and the orderly conduct of elections and the protection of the rights and the freedom of others.

As for the Political Parties Decree, the Committee of Experts recalled that in its previous comments it had noted that under section 14 of the 2013 Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity, including merely expressing support or opposition to a political party; and that sections 113(2) and 115(1) of the Electoral Decree prohibit any public officer from conducting campaign activities and any persons, entity or organization that receives any funding or assistance from a foreign government, inter-governmental or non-governmental organization to engage in, participate in or conduct any campaign, including organizing debates, public forums, meetings, interviews, panel discussions or publishing any material that is related to the election, and had requested information in this regard. The Committee noted the Government's reiteration that it has undertaken reforms, including the voting system, to create transparent rules of governance and that these provisions seek to ensure the political neutrality of public officers which include trade union officers. It further noted the continuing concerns of the FTUC that these provisions have created fear among the trade unionists as they have been accused of taking part in political activities when they have simply participated in union meetings, while the Decree itself denies the basic right of unionists to participate in political activities.

A full report of our response was provided in advance to the Committee last week and we seek the indulgence of the Committee to also rely on that report as I have used up my time.

Worker members – The violation of freedom of association in Fiji continues to be a very serious concern. As you recall, the Government of Fiji has a long history of hostility to the exercise of this fundamental right, as well as the institution of the ILO itself.

In June 2011, the Committee called on the then military Government of Fiji to establish tripartite dialogue with ILO assistance. In September 2012, a direct contacts mission attempted to visit the country but had been expelled. In 2013, having noted the lack of cooperation by the Government, the Governing Body of the ILO repeated its request to find

appropriate solutions and to accept a direct contacts mission. In November 2015, the ILO Governing Body authorized a tripartite mission. That mission visited Fiji at the end of January 2016. At the conclusion of the mission, the Government acknowledged that its legal reforms did not comply with the Convention and agreed to another tripartite agreement to reform its legislation and comply with the terms of its previous agreement. The Government of Fiji was required to complete all agreed reforms before the March 2016 session of the Governing Body. While some reforms were made and led to the withdrawal of the Commission of Inquiry complaint, many important issues were not addressed. Regrettably, the Government did not follow through on these outstanding commitments. Since the eyes of the international community turned away in 2016, the Government has walked away from its commitments and has instead returned to the use of threats, arbitrary arrests, pre-trial detentions and harassment. The persistent refusal to make progress on the JIR, and the continued and rising attacks on the exercise of the right to freedom of association requires the Committee to prioritize this serious case. We can simply not allow this situation to continue in Fiji.

We are deeply concerned about the return to violence against unionists and the repression of trade union rights and civil liberties. For example, on 1 May this year, hundreds of workers of the Water Authority of Fiji were preparing to picket against the Authority. The picket was lawful. However, the riot- and plain-clothed police stormed the union property and prevented the picket from taking place. Twenty-nine members of the National Union of Workers were arrested. Mr Felix Anthony, the National Secretary of the FTUC, was also arrested on the same day. Shockingly, he was arrested during a tripartite meeting that took place at the Ministry in the presence of the ILO. How can we talk about respect for freedom of association and social dialogue when tripartite meetings are disrupted in this manner by the police? The arrest was followed by the search of trade union offices and the confiscation of documents, computers, USB keys and the interrogation of union staff. Mr Anthony remains under surveillance. A further detail to these incidents that is of serious concern to us is the fact that the police relied on the Public Order Decree in order to restrict trade union gatherings and meetings. Section 8 of the Public Order (Amendment) Decree provides public authorities with the discretion to refuse a permit to hold an assembly to those that had previously been denied a permit. Moreover, the authorities may deny the permit to allow assemblies on very broad and undefined grounds. Any assembly that could be considered to prejudice peace, public safety and good order may be denied. The section also criminalizes any person or organization who would allegedly undermine or sabotage the economy or financial integrity of Fiji. These are very broad grounds and therefore prone to abuse. Indeed, as we have seen in the incidences I just mentioned, this provision continues to be applied in a manner that interferes, prevents and frustrates peaceful trade union meetings and assemblies. This is a blatant violation of the Convention. The right of trade unions to hold meetings in their premises, without prior authorization and interference by the authorities, is an essential element of freedom of association. Public authorities must stop interfering with trade union affairs. In light of these violations perpetrated by the Government, immediate steps must be taken to review the Public Order Decree, especially section 8, to bring it into line with the Convention. The right to freedom of assembly must be guaranteed both in law and in practice. The harassment and intimidation of workers by the security forces is persistent, more generally speaking. These tactics are used to undermine and silence social partners as they pursue their legitimate activities and objectives. Using detention and other police tactics against trade union leaders or members to influence their activities or membership is contrary to the principles of freedom of association and civil liberties. The Government must take steps to ensure that the police and other security forces abide by Fiji's international labour standards obligations.

Second, it is deeply concerning that the Fijian Government is manipulating national tripartite bodies to undermine the effective representation of workers' and employers' organizations. The Committee of Experts report indicates that the Government has interfered in the representation of workers' and employers' bodies such as the Fiji National Provident Fund, the Productivity Authority of Fiji, the Air Terminal Service and the wages councils, the Arbitration Court and the ERAB by removing or replacing members. Clearly, this is a gross interference in union affairs weakening the union from carrying out its basic function, which is to represent the interests of the workers. The protection of the autonomy and independence of workers' and employers' organizations in relation to the public authorities demands that the organizations determine their own representatives to national tripartite or representative bodies. The Government must address these concerns rapidly.

Third, we once again remind the Committee, and particularly the Government of Fiji, that the closure of the article 26 complaint was premised on the commitment of the Government to make steady progress with the realization of the JIR. This critically includes the review of the labour laws. We join the Committee of Experts that no progress whatsoever has been made. The Employment Relations Promulgation continues to retain repressive provisions which violate the Convention. Time will not allow me to detail all non-compliant provisions. However, I would like to point at a few examples that demonstrate the restrictive nature of the national legislative framework. The Law denies the right to establish trade unions without prior authorization. The Registrar retains excessively wide discretionary powers to refuse the registration of a trade union under section 125. Section 3(2) denies prison workers the right to form or join unions. Section 127(d) prohibits non-citizens from becoming trade union officers. Section 184 permits interference in the making of union by-laws. Section 128(3) grants excessive powers to the Registrar to demand access to trade union accounts at any time rather than calling for yearly audits as permitted under the Convention. The Law, in other sections, permits imprisonment in case of peaceful strikes in essential services. The Law also grants wide discretionary powers to the Minister with respect to the appointment and removal of members of the Arbitration Court and the appointment of mediators. I could go on and on with more examples, but I stop here.

The Committee of Experts has on several occasions reviewed these provisions as violating the Convention and has called on the Government to amend the provisions including the labour law as a whole. It is simply unacceptable that the Government has done nothing in four years to review these provisions. The Government should take urgent steps, in consultation with the social partners, to review these laws in line with the JIR. The Committee of Experts also points out that section 14 of the 2013 Political Parties Decree bans office holders in workers' and employers' organizations from membership or office in any political party. The exclusion of union office holders from political activities is confirmed by sections 113(2) and 115(1) of the Electoral Decree, which prohibits any public officer from conducting campaign activities. The Decree bans any entity that receives funding or assistance from a foreign government, intergovernmental or non-governmental entities from engaging in, participating in or conducting any campaign that is related to the elections. The ban and restrictions on trade unions, either directly or indirectly, from engaging in political activities constitutes a manifest viola-

tion of the Convention and the principles of freedom of association and civil liberties. Trade unions must enjoy the right to engage in public debates concerning economic and social policy without the fear that they may face retaliation or other consequences that would limit their rights under the Convention. The decision to cooperate with organizations outside the country must also be left to the discretion of the trade union. These provisions have been called out by the Committee of Experts as unduly restrictive. We join the Committee of Experts in calling for immediate amendments of the laws. Despite repeated disappointments over the Government's failure to make a genuine effort to fully implement the JIR, we still believe that this must be the way forward. The Government must immediately return to the negotiating table with the social partners and fully implement the JIR. Safeguards and guarantees for those participating in such a dialogue must be guaranteed. We repeat that violent police interference targeting trade union leaders is not conducive in this respect. This must never happen again. The Government must walk the talk and demonstrate meaningful action in order translate its stated commitments into actual change that will finally put an end to these violations.

Employer members – The Employers' group would like to begin by thanking the Government for their intervention today, and the provision of written information in advance. We note the Government's submissions regarding its efforts to engage in consultation with national workers' and employers' organizations, as well as the Government's submissions regarding its efforts to collaborate with the ILO.

This case stems from claims made by the FTUC that it and its members have been discriminated against by the Government. These claims relate primarily to a claimed lack of progress in the implementation of the JIR signed by the Government, the FTUC and the Fiji Commerce and Employers Federation on 29 January 2016, which, as the Worker spokesperson has explained, gave rise to the closure of the procedure earlier invoked under article 26 of the ILO Constitution. The FTUC claims that a persistent lack of progress in implementing the JIR, as well as continuing harassment and intimidation of trade unionists and violations of human rights continues. It is mainly for this reason that the Committee of Experts has decided to examine the Convention outside of its normal reporting cycle.

The FTUC also alleges that the Government has systematically dismantled tripartism by removing or replacing the tripartite representation on a number of bodies, including the ERAB, the National Provide Fund, the Fiji National University Training, the Productivity Authority of Fiji, the Air Terminal Service and the wages councils, with its own nominees.

A third general area of concern expressed by the FTUC relates to the Political Parties Decree, under section 14 of which persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity including expressing support or opposition. The FTUC has explained that its concerns relate to these provisions placing trade unionists at risk of being accused of taking part in political activities by participating in union meetings. At the outset, the Employers note that from a principle perspective we do not necessarily object to the notation that activities of any employers' or workers' organizations should be apolitical. Restrictions on public officers in engaging in political activity could be used to attempt to ensure political neutrality in the performance of the functions of the public office. It could also provide confidence that persons holding public offices do not use their public office resources, including funds, to finance political campaigns or advance a particular political agenda. Political activity may still be possible though the resignation from public office. This kind of restriction has been done in the past and the employers' or workers' representative can resume their role in the trade union or employer federation after contesting the general election. Having made this preliminary note, we would wish to make the following observations regarding the Committee of Experts' more detailed observations on this case. We note that the Fijian Constitution guarantees all employees the right to the freedom of association. This makes the recent arrest and subsequent release of the FTUC General Secretary all the more unfortunate, since the tripartite parties had just come to an agreement and set definite timelines to achieving the remaining two items under the JIR, which were a review of the list of organizations under the essential services and a review of the Employment Relations Act. It appears that the incident had the equally unfortunate effect of dissuading the FTUC from taking further part in progressing the work of the items remaining under the JIR. The Employers sincerely hope that the FTUC decides to return to the discussion table so that the two outstanding issues within the JIR can be achieved before the November Governing Body meeting. In seeking the re-engagement of the FTUC, the Employers agree that more can be done and should be done by the Government to ensure that regular meetings take place in a climate free from intimidation. Recent changes to the management of the Ministry of Employment, Productivity and Industrial Relations, and the chairmanship of the ERAB will, in the Employers' opinion, potentially serve to make a constructive difference to progress.

Unlike the FTUC, the Employers understand that the Fiji Commerce and Employers Federation has no issue with the idea that statutory bodies be comprised of competent individuals. It accepts that this means that no one organization has absolute rights to representation on such bodies if their candidates do not possess the requisite attributes. This general view appears to apply to bodies such as the National Provident Fund, the National University and the ERAB. Employees, through such organizations as the FTUC used to enjoy board memberships as part of the tripartite requirement to certain boards. With respect to any appointment to the Fiji National Provident Fund Board, the appointing Minister must be satisfied that the members would between them have appropriate skills and expertise in investment management, corporate governance, accounting and auditing, finance and banking, risk management, law, actuary or auditor experience, and information technology or similar engineering experience and professional accreditation. In respect of the Fiji National University council members, we understand that the Minister appointing council members must be satisfied that the person appointed to the council must have adequate qualifications, skills, expertise and knowledge to contribute to the disciplines offered at the Fiji National University, as well as the general administration and financial management of such an institution. Currently, the Fiji Commerce and Employers Federation continues to be invited to submit a nominee to the Minister. However, we understand the FTUC is not extended such an invitation. The Employers are of the view that it would be appropriate for the FTUC to also be invited to submit candidates on the understanding that neither the employers nor the union have a right to have their candidate selected if such candidates do not possess the appropriate expertise.

In respect of the ERAB, this is a statutory body that provides for a tripartite composition inclusive of representatives for workers. Its functions are clearly stipulated in the Employment Relations Act. Importantly, it is the principle tripartite mechanism for discussing and agreeing changes to Fiji's labour relations environment. Until recently, progress towards giving effect to the JIR has been steady. The Fiji Commerce and Employers' Federation together with the FTUC have on two occasions gone through a review of

the entire Act and agreed to, we understand, 90 per cent of the proposed changes in an effort to ensure compatibility to the Conventions taking into account the comments offered by the Committee of Experts. As evidence of this progress, on 3 April 2019, the tripartite parties agreed that a number of matters under the JIR have been implemented, primarily by way of amendments to the Act. These amendments relate to: the restoration of check-off facilities; the reduction of strike notice; the reinstatement of grievances; the removal of references to bargaining units in the Act; repeal of certain sections – 191 and 191X and 191BC of the Act, as well as dealing with trade union deregistration and the entitlement to become registered once again. There are still outstanding matters under the JIR which the tripartite parties, we understand, are working towards progress in implementation, which includes the review of labour laws and the review of the list of essential services and industries. A date has been proposed to receive an ILO technical expert on essential services which we hope and expect will see this activity completed. In addition, as part of the development of a new employment relations regime, the Fijian employers have gone on record seeking the Government to set up a formal mechanism when dealing with wage setting across the ten industries covered under the national wage-fixing mechanism. We understand that any wage adjustment must first see the approval of the ERAB whose role is to advise the Minister and that discussions are continuing on this point. An outstanding matter under the JIR is noted, which is the review of the list of essential services and industries. We understand that the ILO has offered technical assistance for a review of this list of essential services and industries and we encourage the Government to avail itself of this assistance while ensuring that it continues consultations with social partners on this issue.

Therefore, the Employers' group would urge the Government to encourage the FTUC to re-engage with the JIR process. We also urge the Government to ensure that the invitation for candidatures for public office are sent widely, including to the FTUC, so that the widest pool of suitable candidates may be identified and considered. We also urge the Government to review its position on the Political Parties Decree to the extent that simple membership of a political party may not be grounds for punitive action, focusing instead on the consideration of the regulation of political activities while an individual is in public office. Finally, the Employers' group urges the Government to accept technical assistance from the ILO to complete its review of the essential services while continuing true and genuine consultation with the social partners.

Worker member, Fiji – 1 May is a very special day for workers the world over. That is the day where workers celebrate struggles over the decades. In Fiji, 1 May this year, some 2,075 workers were summarily terminated; 29 workers were arrested for simply being on union property for unlawful assembly and jailed for two days and charged by police; trade union leaders who dared to speak up for workers were arrested and jailed for two days; union offices were raided by police and staff and members were threatened and intimidated by police in riot gear. This summarizes the state of our democracy and the atmosphere in which trade unions and workers work in Fiji. The Government's response in defence of its actions – it attempts to rely on the Public Order Amendment Decree which was imposed by the military Government and violates human and trade union rights.

In March 2015, the tripartite partners signed a JIR in the presence of the Director-General of the ILO. The Government of Fiji agreed to address all of the 33 issues identified by the Committee of Experts in 2015, which were bundled together under the labour law review process. This JIR was signed only the night before the Governing Body meeting was due to take place on the Fiji case and averted the decision for a Commission of Inquiry into Fiji under article 26 of the ILO Constitution. While the Government addressed some of the issues, labour law review and the essential services listing remained outstanding. Since then, no progress has been made despite a further contacts mission in 2016 where a second JIR was signed. The same commitments were given by the Government of Fiji. On the contrary, the Government unilaterally continued to impose the open merit system to assess workers' performance and made it a condition of employment for workers to sign these individual contracts, more particularly for civil servants, government-owned entities and all those industries that the Government had redefined as essential services, including banks, airlines and local government workers. These contract periods were anywhere from three months to three years. In most government-owned entities, blue collar workers were only given three-month contracts which would be renewed every so often after a week's break to deny workers their minimum entitlements. This effectively meant that while the Essential National Industries Decree was repealed, the same conditions intended by the Decree continued thus denying workers freedom of association and unions the right to collective bargaining and reducing union density and coverage. Existing collective agreements that were in existence at the time of the imposition of the Decree and which were made invalid by the Decree have not been reinstated despite the Committee of Experts' request. The Government's explanation that they have been replaced by new negotiated collective agreements is simply not true. There have been no negotiations on collective bargaining except for the timber industry. We do not see any valid reason why the collective agreements that existed prior to the Decree cannot be reinstated. They were negotiated and agreed to after all. We are dealing with issues that the Committee dealt with for over seven years. On every occasion, we have had the Government's undertaking that they would completely respect workers' rights and address the violations. Yet little has been done and in fact the situation has actually worsened. The Government's inaction and disregard for the decisions of the Committee has amounted to wasting the valuable time of the Committee. We would like to see the Government of Fiji behave more responsibly and take seriously its commitments to the Committee.

I would like to address some of the issues that have not been implemented. The labour law review which is part of the JIR which the Government has not honoured till today. This was to address 31 issues that the 2015 and 2016 Committee of Experts had asked the Government to act upon and to ensure compliance with all core Conventions. The violations are again listed in the most recent report of the Committee of Experts. The list of essential industries was also part of the JIR. The parties had agreed to act upon this. What we find is that it is only now, just before this meeting, that the Government has actually requested technical assistance from the ILO to address this issue.

The report cites the Public Order Amendment Decree and had urged the Government consistently to address violations. This Act gives sweeping powers to the police and the Commissioner of Police to deny any form of protest or assembly in either public or private places and to arrest and charge any persons. The Act defines terrorism as any person who attempts or incites any action that would either damage or potentially damage the economy or cause unrest. The penalty for this is life imprisonment. Because of this, unions cannot undertake any strike or protest action. In this respect, more recently the FTUC had made four applications to organize peaceful marches in protest against the violation of workers' rights. These have all been denied by the police without providing any reasons. More recently, on 30 April, the General Secretary of the Nurses'

Union and the General Secretary of the Fijian Teachers Association and a union organizer were arrested and detained for 48 hours. On 1 May, I was arrested and detained for 48 hours and questioned about the protests and marches that the FTUC had planned. On the same day, 29 other members of the National Union of Workers who were terminated by the Water Authority of Fiji were arrested on union property for alleged unlawful assembly and charged under the Public Order Amendment Act. Strict bail conditions were imposed including a curfew from 6 p.m. to 6 a.m. and a travel ban. On 1 May, the workers of the Water Authority were summarily terminated with the employer citing that the contracts had come to an end. The police intervened and guarded the entrance to the workplace and disallowed workers from entering the premises. On 1 and 2 May, the National Union of Workers and FTUC premises were raided by the police, and documents and electronic equipment including files, computers and mobile phones were confiscated. My computer and phone have not been returned to me until today.

The report also questions the powers of the Registrar of Trade Unions. This has been well covered by the spokesperson for the Workers. On the Political Parties Decree, I also do not see the need for me to elaborate on that other than to state that a trade union officer is not a public official. Trade unions are membership-based organizations and it is the membership that actually pays for the running of the trade union and it is not paid by the Government at all. We do not believe that trade unions should be classified as public offices, quite apart from the fact of denial of our fundamental rights and not partaking in the political process of the country.

The Committee of Experts has consistently called on the Government to allow prison officers to join or form unions. Currently, prison officers are not allowed to exercise their freedom of association. The Government stubbornly continues to refuse prison officers this right.

As to the long-standing 26 year-old strike by Vatukoula Gold Mines, we recall that the Government had presented an elaborate plan for the mineworkers in 2016 before the Committee. I note that the Government's current position has changed totally where they claim no responsibility or liability for mineworkers at all.

Workers in Fiji work under a cloud of fear. Their jobs are insecure, unionists are unable to carry out their legitimate activities. Tripartism in Fiji is dead and this includes all the tripartite bodies where the workers had traditionally been represented. I would just like to say that we note that the Government's response is that the appointments are made according to law. What the Government has omitted to tell the Committee is that the laws that they refer to were amended by this very Government more recently where they have excluded the workers' and the employers' representatives. We note that the Government has referred to recent meetings which were initiated by the ILO Suva Office to explore the way forward for the social partners. The partners and the ILO had agreed that these meetings would be informal and that no party would refer to these meetings or publicize them. Obviously, the Government has not kept its part of the deal, as usual. This now puts the social partners in a more difficult situation for further discussions.

Lastly, the Government of Fiji continually attempts to demonize the trade union movement in Fiji and its officers. Most recently, the Prime Minister and the Attorney-General publicly called unions irrelevant. They have removed unions from tripartite bodies and imposed precarious and insecure working conditions that violate workers and trade union and human rights. Yet they come to the Committee and applaud decent work, social dialogue and tripartism. This hypocrisy has to stop.

Employer member, Fiji – The Fiji Commerce and Employers Federation enjoys a very healthy working relationship with the social partners. This relationship is built on sound respect and good faith in each other. The Federation has and continues to play a mediator role between the Government and the FTUC, and this was seen as evident in 2015–16 when we had article 26 hanging over our heads. Like the trade union movement, the Fiji Commerce and Employers Federation enjoys full rights to organize and bargain and carry out its legitimate functions. The Fijian Constitution again guarantees all employers the right to freedom of association.

I just want to make a comment on the JIR. I would like the Committee to note that out of the nine issues that are on the table, we have achieved seven. There are only two outstanding items left, that being the review of the list of the organizations under the Essential National Industries Decree and the review of the Employment Relations Act. This current process has begun. I have been sitting in meetings where we have discussed this – although on an informal basis we have sat. The fact is that we need to get this done before the Governing Body meeting in November and I will urge the Government to ensure that the parties meet well before that to ensure that we have these two items addressed and done away with. It is important that we take this on board because the Fiji Commerce and Employers Federation was a signatory to the JIR and we are serious about our commitment in this area.

It was very unfortunate that in our presence the National Secretary of the FTUC was detained and arrested. It happened at a time when we were just about to come to an agreement on the way forward in relation to the JIR. I personally hope that the FTUC will come back to the table, come back to the bargaining table and reconvene with the social partners and let us carry on where we left off. There is an opportunity for that and we should not lose it. There was a lot of goodwill displayed in our first meeting where we managed to get to quite a bit of work on the areas relating to the labour laws. There are 376 articles or clauses we have to go over, so the task is cut out for us to achieve that, and the Employers will be there to assist wherever we can and we will take full participation in ensuring that we achieve this. We request that the social partners come to us at the table where we can discuss this. We have much to lose if Fiji goes into a Commission of Inquiry, Employers, as we are seen to be sort of the meat between the sandwich in these cases.

The Employers agree that a lot can be done by the Government in ensuring that when we agree to timelines for meetings that these meetings do take place, and that minutes are kept and that all social parties are told of this. The Employers are not concerned about the make-up of the ERAB or any other body. We are concerned with outcomes. What we can do to achieve an environment where everybody can live in harmony and all the laws relating to the ILO are kept in sync with our obligations.

In conclusion, all I want to say is that there has been a lot of goodwill shown of late. I am sitting here, I sometimes wonder whether if I am still sitting in the same country as the speakers are saying, because I am sitting at the meetings and I know for sure that there is a lot of goodwill being displayed and we need to carry on with that goodwill and the spirit of that goodwill in ensuring that the JIR is achieved. The other aspects will be covered when we manage the areas where we deal with labour law, the areas that have been raised, and I am sure that we can achieve this, come the next Governing Body meeting.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The Candidate Countries, the Republic of North Macedonia, Montenegro and Albania as well as the EFTA country,

Norway, member of the European Economic Area, align themselves with this statement.

We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights. We call on all countries to protect, promote and respect all human rights and labour rights and we attach the highest importance to freedom of association and the right to organize. Compliance with the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is essential in this respect.

As signatories to the Cotonou Agreement, the EU and Fiji have agreed to a comprehensive, balanced and deep political dialogue, covering human rights, including labour rights, as a pre-condition for sustainable development, growth and poverty reduction. The fourth enhanced EU–Fiji High-Level Political Dialogue under article 8 of the Agreement on 20 May reiterated the centrality of promotion of access to justice and respect to human rights. Fiji and the EU also cooperate through the Economic Partnership Agreement applied since July 2014 which commits parties to supporting social rights.

We note with regret the observations of the Committee of Experts' report on Fiji's implementation of the fundamental Convention. It is particularly worrying to see insufficient progress in implementation of the JIR signed by the national tripartite partners in January 2016 to avert establishment of the Commission of Inquiry. We also express deep concern over allegedly continuing harassment and intimidation of trade unionists, as well as violations of fundamental human rights. We urge the Government to provide updated information in this regard.

We also note with regret that the ERAB established to review the labour laws as agreed under the JIR has not created an environment conducive to dialogue and trust between employers, workers and the Government. In view of the Committee of Experts' observations, we urge the Government, in line with the Convention, to fully recognize the role of representative national workers' and employers' organizations in determining representatives on national bodies, such as the ERAB and to refrain from any interference in this process.

We also note with regret that we have seen insufficient progress on the legislative changes required to bring the legislation into conformity with the Convention as agreed in the JIR, including the labour legislation, as well as the Employment Relations Amendment Act from 2016, the latter in particular in relation to excessively wide discretionary power of the Registrar and the denial of the right to organize to prison guards.

Similarly, as agreed in the JIR, we note with disappointment that the Government has not taken measures to review numerous provisions of the Employment Relations Promulgation. Revision of the list of essential services developed under the Employment Relations Promulgation has still not been determined in any way, agreed in the JIR, delay which is surprising given the possibility of the ILO's technical assistance. We call on the Government to take all the necessary measures to review the above-mentioned provisions of the ERP, in accordance with the agreement in the JIR and in a tripartite manner so as to bring the legislation into full conformity with the Convention.

We also note with regret that the application of the Public Order Amendment Decree with regard to the free exercise of the right to assembly is not in line with the Convention. We therefore urge the Government to take the necessary measures to bring section 8 of the Public Order Amendment Decree into line with the Convention.

We also draw the attention of the Government that, as indicated by the Committee of Experts, the provisions of the Political Parties Decree are unduly restrictive in prohibiting membership in a political party or any expression of political support or opposition by officers of workers' and employers' organizations. We request the Government to take measures to amend, in a tripartite manner, the above provisions. The EU and its Member States will continue to support Fiji in these endeavours.

Government member, United States – In January 2016, the tripartite signing of the JIR brought the worker-filed article 26 complaint to an end. The JIR provides the tripartite participants with a framework to address labour issues in the country. Three years after the signing of this important agreement, the Government has yet to fully implement key provisions of the JIR. Specifically: the Government has not yet amended the labour legislation; in the two years between the JIR signing and the mid-2018 withdrawal of workers' representatives, the ERAB did not complete the review of the labour laws or prepare any amendments, and workers have had difficulties in conducting legitimate union activities, including organizing demonstrations, holding meetings, and resolving disputes.

We are troubled by reports of harassment and intimidation against trade unionists, including recent reports by the ITUC of arrests, detention and criminal prosecution of trade unionists in Fiji for acts related to trade union work. We have also seen a deterioration of social dialogue. We urge the Government to take all measures necessary to implement the JIR, specifically: to reconvene the ERAB to review labour laws, including the relevant provisions of the Employment Relations Promulgation; determine the list of essential services and industries in collaboration with the ILO and the social partners; amend the Political Parties Act to ensure it is not overly restrictive in prohibiting membership in a workers' or employers' organization; and ensure that workers' and employers' organizations can exercise freedom of association in a climate free from intimidation.

We call on the Government to take all necessary measures to implement its commitments made in the 2016 JIR and comply with its international labour obligations, including to work with the ILO and the social partners.

Worker member, Australia – When the National Secretary of the FTUC was arrested by police on 1 May, the Fiji Commissioner of Police said that if he wanted to understand the reasons for his arrest he should read the Public Order Act. We want to take up the Commissioner's invitation, we want to expose this law and its impact on rights of association in Fiji to the scrutiny of the Committee. Under this Act, anyone who wants to organize a meeting in a public place must apply to the authorities, seven days in advance, for a permit to do so. A public place includes all buildings that are not private dwellings. The authorities have a wide discretion to refuse a permit because the meeting would "prejudice the maintenance of peace or good order". Even if a permit is issued, the Minister can override it. There is no express right to appeal a decision to refuse a permit. If a meeting takes place without a permit, the organizers face possible imprisonment for up to five years. Police have the power to arrest and detain, without charge, anyone they think is about to breach the Act. Those organizing or inciting an unlawful meeting also face possible imprisonment. Furthermore, the Public Order Decree defines "terrorism" to include any act that involves serious disruption to critical infrastructure – itself broadly defined – done with the intention of advancing an ideological cause. How does this law operate in practice? Earlier this year, the FTUC applied for a permit to assemble in Nadi on 3 May. On 29 April, the police arrived at the Fijian Teachers Association and ordered 13 officials to report to the police station for questioning about the protest. They were questioned for about four hours and released. On 30 April, the general secretaries of the Fiji Nurses Association and the Fijian Teachers Association were detained and questioned for 48 hours by police. Separately, when the Fiji Water Authority terminated 2,075 workers on 25 April, the union

filed a motion in the Employment Tribunal to stop the terminations. The workers went to work on 1 May. At worksites across the country, they found armed police in riot gear at the gates threatening them with arrest and ordering that they not enter or assemble at the gate. In Lautoka, workers were chased from their workplace. They gathered on union premises. The police forcefully entered and dispersed them despite being told that it was private property – 29 workers refused to go. They were charged with unlawful assembly and jailed for 48 hours. In Suva, police in riot gear entered FTUC property and threatened workers with arrest. Members were told not to do "live broadcasts" or social media posts on the issues faced by the terminated workers. The office of the FTUC was surrounded by police in trucks and police in riot gear for three days. While ever these laws remain on the statute books, freedom of association does not exist in Fiji. The effectiveness of Fijian industrial laws can be completely overridden by laws that criminalize ordinary industrial conduct.

Government member, India – We thank the Government of Fiji for providing the latest comprehensive update on this issue. India appreciates the high-level commitment of the Government of Fiji to fulfil its international labour obligations especially those related to the Convention by engaging with its social partners in the spirit of social dialogue and tripartism including on the way forward to implement the outstanding matters in the JIR of 2016 based on a timeline. It is noteworthy that the Constitution of Fiji itself guarantees all workers the right to freedom of association, the main object and purpose of the Convention.

We welcome the positive steps taken by the Government of Fiji in response to the observations made by the Committee of Experts including measures to undertake a progressive review of the domestic labour laws through tripartite consultations. It may be needless to add that such efforts of the Government would be in accordance with the specific national contexts and aligned with its socio-economic priorities.

We take positive note of the ILO's offer to provide necessary technical assistance, as required and requested by the Government of Fiji. In fulfilling its labour-related obligations, we request the ILO and its constituents to continue to fully support the Government of Fiji and provide further assistance that it may seek in this regard.

Lastly, we take this opportunity to wish the Government of Fiji all success in its endeavours.

Worker member, United Kingdom – Among many duties, it is the job of trade unions to critique government policy – be those governments friendly, indifferent or hostile to those unions. It is hard to discuss issues of economic models, social policy and trade union rights without considering the role of politics in shaping them. It is a glib and easy accusation to make by any government that criticisms are "political", but it is more insidiously effective if it accompanies the possibility of legal sanction and even, as we have heard, violent suppression. The restraints on political freedoms placed on union leaders, as applied by the Government of Fiji, place unacceptable limits on their activities in servicing the interests of the union and its membership. As the Committee of Experts said in 2015: "Provisions imposing a general prohibition on political activities by trade unions or employers' organizations for the promotion of their specific objectives are contrary to Convention No. 87."

All our societies benefit from politicians with world-of-work experience, be it as worker, employer or, in many cases, both. Silencing voices from unions and employer associations muffles expert and representative criticism and removes some of the most engaged groups from vital political discourse. Equally, it may deny the associations of the social partners the possibility to benefit from the service of people dedicated to ambitious societal change if they have to make a difficult choice between helping some workers and businesses, or helping all workers and businesses. This unnecessary choice not only inhibits democracy, but constitutes very real interference in the independent running of our organizations, in defiance of the Convention. Perhaps if the Government had more members who had previously been active trade union or employer representatives, it would not make such an unfortunate mistake. This choice is not just hypothetical, it is one that Fijian trade unionists have to make all the time, with many examples of trade union officials having to make the hard decision of whether to give up their posts to engage in campaigning or stand in elections.

The Government has defended itself on the basis that it also enforces the political neutrality of public officials. Trade unionists are not public officials unless, of course, they are in a trade union for public officials. Previous ILO cases have made a clear distinction between trade unionists and public officials, such as Committee on Freedom of Association Case No. 2355. By definition, trade unions and employer associations have members, and they work on behalf of and represent those members. Yes, that membership, and the democratic structures that go along with that, give us the legitimacy to advocate on behalf of the public good and on the wider world of work, but we remain – or certainly should remain – distinct from and wholly independent of government. By contrast, most definitions of public officials include some element of direct state control or ownership, something completely unacceptable for trade unions, as laid out in ILO standards. For as long as the Government fails to grasp this, it will fall into the trap of attempting to control and assimilate unions in defiance of the Convention. Besides, this dedication to policing the worlds of unions and government only seems to work one way. While trade union leaders are forbidden from expressing opinion about the government during elections, government is empowered by law to vet trade unionists' right to stand in their own elections, with those ballots then run by government officials. This is not only a clear breach of the Convention, but it is also rank hypocrisy. This lack of trust in union democracy undermines not only the application of the Convention, but hinders the functioning of tripartism and social dialogue, core principles of not only ILO membership, but also of sound economic management.

Observer, Public Services International (PSI) – I speak on behalf of the PSI and the International Transport Workers' Federation. The violation of trade union rights are being perpetuated in all areas across the Fijian public service which has been brought under essential services to undermine their right to collective bargaining. Therefore, all disputes of interest are referred to the Arbitration Court which is then referred to the Minister for Employment for compulsory conference under sections 191(S) and 191(T) which the Minister chairs to settle that dispute. It is ironic that a pay rise claim by a public sector employee, where the Minister is required to mediate, has a clear conflict of interest but the Employment Relations (Amendment) Act 2015 allows this process. The right to industrial action is not allowed in the public service by law which was enforced through the Employment Relations (Amendment) Act No. 4, 2015. This is contrary to the core labour standards of the ILO and the Fiji Government's approach to industrial relations remains obstructive and defiant. Provisions of the Essential National Industries (Employment) Decree have been incorporated into the Employment Relations Act, 2007, and this has taken away the collective bargaining rights of the workers; airports and related services have been classified as essential services. For example, in March this year, the Arbitration Court ordered the Fiji airport air traffic controllers (ATC) to return to work and to end their protest. Soon after the decision of the Court, the Executive Chairman of the company suspended 22 ATC

staff in absolute defiance of the Court order. The provisions of the Arbitration Court require immediate amendments to make it workable and a full-time chairman of the Court be appointed to avoid backlogs which has been hibernating in the system for years. This is an urgent issue as justice delayed is justice denied.

The amended Essential National Industries Decree 2014 as a transitional condition terminated the collective agreement and required negotiations between ATC staff and Airport Fiji Limited of a new contract between the parties. To date, the ATC officers do not have a formal contract and none of them has seen the company's HR policy under which four licensed air traffic controllers have been dismissed. The Government's failure to give compensatory guarantees for workers deprived of the right to strike has led to the extreme dire outcomes of the workers. In another twist, the Fiji Revenue and Customs Services is a statutory authority informing its employees that they are not allowed to discuss the terms and conditions of their contract with a third party which is the union and the union has a registered collective agreement with the statutory authorities. This a blatant violation of the Convention. The list goes on.

The job evaluation exercise as a public service has been used to convert all tenured employees to individual contract appointment which has no correlation to convert tenured employees to compulsory contract appointment. The oppressive clauses in the fixed-term individual contract are brutal: renewal of the contract is at the absolute discretion of the Government; civil servants to agree irrevocably that non-renewal will not be challenged; renewal subject to the Government requiring services; and the Government has the right to change the contract at any time.

The Confederation of Public Sector Unions is trying from 2017 to register itself as a federation under section 147(A) of the Employment Relations (Amendment) Act and the Government is obligated under Articles 2, 3 and 4 of the Convention to allow the workers their right to affiliate with the organization of their choosing. Section 147A of the Employment Relations (Amendment) Act is a window dressing and it must be amended.

The Confederation calls upon the Government to: restore the jurisdictional power of the Public Service Commission as a central personnel authority of the public service, thus empowering the Commission to negotiate claims and terms and conditions on behalf of all the government ministries for all public servants in uniformity and in accordance with the provisions set out in the Employment Relations Promulgation 2007; immediately arrange an exploratory meeting with the Confederation of Public Sector Unions to devise a workable module for a bipartite system for mutual cooperation, respect, dialogue and collective bargaining; and finally, the acceptance and adoption of the concept suggested above will clearly indicate the endorsement of fundamental values of the relevant provisions of the 2013 Fiji Constitution which includes guarantees for the rights and benefits of the workers and trade unions in addition to the human rights and social values contained in the 2013 Constitution.

Worker member, United Kingdom – I am Shannon James, President of the Bermuda Union of Teachers, which also celebrates 100 years this year and I will be presenting some of the education unions' concerns in Fiji. I will be speaking on behalf of Education International and the Fijian Teachers Union.

The first concern relates to the Essential Service Decree which states that educators are an essential service. While we all agree that education is essential, the Committee on Freedom of Association of the Governing Body of the ILO has repeatedly stated that the education sector does not constitute an essential service. The second concern has to do with the reforms imposed without involvement of the teachers' unions. Such reforms have a direct negative impact on education workers. Teachers are also blackmailed to sign individual contracts without the collective bargaining processes. The third concern is related to the unfettered powers given to the Permanent Secretary of the Ministry of Education to impose disciplinary guidelines. The Permanent Secretary has unlimited powers to terminate or force contracts and impose transfer policy. This practice has resulted in the following: families being separated, marriages not consummated for up to one year, and teachers having to forfeit acting positions to move. The last concern deals with the denial of holding protests. The Permanent Secretary of Labour refused to supervise the conducting of a strike ballot as required by law. Applications for permits to participate in marches and rallies to protest are denied on a constant basis without a reason given. Union members are threatened against participation in legitimate union activities, even in the school holidays. I have faith that the Committee will issue supportive recommendations.

Worker member, Pakistan – Essential services, according to ILO standards, are services which deal with life, health and public safety matters. The ILO defines "essential services" as services whose interruption could endanger the life, personal safety or health of the population. Schedule 7 of the Employment Relations Act 2007 of Fiji lists some of those services that are not classified as essential services in the strictest terms as essential services. The list of (a) to (p) – 16 entities – is severely restrictive and generalized and the Fiji unions are not in agreement with it. We believe that this list is the weapon which the Government is using to stifle legitimate union activities like organizing demonstrations, holding meetings and resolving disputes, making it difficult, if not impossible. This list includes sectors or industries that are interpreted as sectors that are "essential to the economy" as decided by the Fijian Government. The amendment in 2015 of the definition of essential services states that essentials services and industry means a service that is listed in Schedule 7 of the Employment Relations Act and include those essential services designed corporations and companies which had no connection to essential services. Another amendment, section 188, stated that the trade disputes in essential industries shall be dealt with by the Arbitration Court and that the Employment Tribunal and Employment Court under Part 20 shall not have any jurisdiction with respect to trade disputes in essential services. The Minister has the right to refer any such dispute to the Court, however compulsory arbitration can only be imposed at the request of both parties. The preferences here would be for a neutral party such as the Court to decide whether the strike and the State, in case of essential services, will obviously have a conflict of interest. Therefore, we request for Part 180 to be amended in line with the Convention. However, before any such action is taken, the requirement for our mediation services should be considered as the primary remedy once the intention for a strike or lockout is given. Hence the Permanent Secretary must ensure that mediation services are provided as soon as possible to the parties for the purpose of assisting the parties to avoid the need for strike or lockout. This did not eventuate in recent cases in Fiji which led to longer delays of strike action or lockout which never is allowed in Fiji. The definition and list as per Schedule 7 come with heavy restrictions and the combined effect of sections 169, 170 and 181, Part (c), is also an attempt to make strikes difficult to hold, if not impossible, for essential services. The requirement of a secret ballot is not disputed, but 50 per cent of the vote of all members entitled to vote? This quorum or majority required makes the exercise of this right very difficult and only a simple majority of votes, of the votes cast, must be allowed in Fiji. This is where the Government adopts tactics to restrict the freedom of the assembly. The Government of Fiji also does not respond to the request for

supervising the secret ballot and hence the results are communicated to the Ministry of Employment, which refuses to accept its legitimacy and thus leading it to declare a strike as illegal.

In concluding, we, the Worker representatives propose that Schedule 7 is to be consistent with the ILO interpretation and list; that the Government make a commitment to review the list with ILO technical advice; that the restriction on Fijian unions that prohibits them from exercising their basic right to freedom of assembly be immediately amended.

Government representative – I would like to thank all persons who have spoken in this room about this matter. Most of the issues raised have been addressed in my opening statement so I will not be repeating it. With regards to other issues raised, my final comments are as follows.

With regard to the timelines for the review of the labour laws, pursuant to the JIR, I wish to draw to the Committee's attention that we have been having discussions on this issue with Mr Anthony and we have written to Mr Anthony and have proposed timelines. In an email on 31 May 2019 to the National Secretary of the FTUC, the Ministry suggested a proposed timeline. The timeline set out proposed dates from 1 April to 6 September encompassing: the continuation of tripartite dialogue on the agreed clauses of the Employment Relations Promulgation matrix; time for the Ministry to prepare submissions and submit for legal drafting to the Solicitor-General's Office; the legal drafting process; ERAB meeting on the review; and finally for the presentation to Parliament between 4 and 6 September 2019. Therefore, the Government has proposed a timeline to the FTUC and we are still waiting for a response.

In response to the long-standing Vatukoula Gold Mines strike 29 years ago, this matter was before the courts as a result of the Permanent Secretary accepting a report of a trade dispute from a group of workers of the Vatukoula Gold Mines. The High Court held that the Permanent Secretary did not have the powers to accept that report. In a separate case, the Fijian High Court held that the termination of the 364 workers was lawful. The Fijian Government is, therefore, not legally obliged to compensate the workers but is considering whether to grant compensation to the 364 workers involved in the 1991 strike.

A review of the national minimum wage, including an analysis of the economic and social impacts of the implementation of the national minimum wage, has been undertaken by my Ministry. A consultant has been currently engaged to continue and undertake a nationwide survey with a view of presenting a report to the ERAB.

In response to the arrest of union workers, I wish to reiterate that the Commissioner of Police is an independent office holder, appointed under the Constitution, who acts in accordance with the rule of law. The Commissioner of Police does not come under the control of my Ministry. The Commissioner of Police's decision to deny or allow a march is also independently made and only on the basis of threats to public order.

In response to the imposition of individual contracts, the Fijian Government had undertaken a job evaluation exercise of its employment positions in 2017. This exercise included the broad bending of positions and benchmarking to the private sector to decrease administration, streamlining salary management and providing attractive and competitive salaries across the civil service. During the job evaluation exercise, the Fijian Government consulted and discussed the proposed changes to the salary structure with public sector unions. Following the job evaluation exercise, new employment contracts were offered to all civil servants in August 2017 to reflect the new working conditions and ensure consistency across the civil service. However, some civil servants opted to remain as permanent employees and therefore did not sign the new contracts. Employment contracts were introduced into the Fijian civil service in 2009. Prior to the 2017 job evaluation exercise, about 74 per cent of civil servants held employment contracts. To date, 99 per cent of civil servants hold employment contracts.

I very much appreciated the views expressed by the Employer representative from Fiji, Mr Hazelman, that there is goodwill among the parties. We have achieved seven of the nine outcomes of the JIR and full implementation is achievable. The Government is committed to the process and the outcome and we, again, invite the FTUC to join us in this important journey.

In conclusion, we also wish to draw to the Committee's attention that the issues being raised today are a small portion of the overall reforms that the Fijian Government has adopted in order to improve the lives and welfare of all workers and their families. We have free education, bus fares for children. Persons with disabilities and the elderly are heavily subsidized. Furthermore, access to medicine and medical services is also heavily subsidized. The Government is committed to the modernization of infrastructure and has implemented many reforms that directly impact the welfare of workers. The Fijian Government has also implemented new provisions on paternity leave, family care leave for the first time and we have also provided financial assistance to mothers who have given birth. These are family-friendly provisions aimed at improving the status of workers and their families, and is also designed to guide the acceptance of the changing role of fathers and mothers in the family. These reforms affect the welfare of every worker and decrease the burden on the worker's salary and wage packages. Therefore, I would like to say that the matters raised in this hearing should be seen in the context of the enormous reforms adopted and pursued by the Fijian Government, and I ask that this be reflected in the report of the Committee.

Employer members – I would like to thank the distinguished Government delegate for his submissions to the Committee this afternoon. We welcome the Government's representations that it is committed to both the process and the outcome in respect of the JIR process. We also are encouraged by the Government's indication that it has taken measures to welcome the FTUC to re-engage and participate in the remaining elements of the JIR process. Therefore, the Employers' group believes that it is important to encourage the Government to continue to invite and engage in good faith the FTUC to re-engage with the remaining elements of the JIR process. We also encourage the Government to complete the work of the JIR process including reaching an agreement on essential services in consultation with the social partners before the November Governing Body session. In this regard, we encourage the Government to accept ILO technical assistance to complete the review of the essential services issue. We also request that the Government ensure that invitation for candidates for public office are sent widely, including to the FTUC so that the widest possible pool of suitable candidates may be identified and considered. The Employers' group also urges the Government to review its position on the Political Parties Decree to the extent that simple membership within a political party should not be grounds for punitive action or exclusion otherwise. We are encouraged by the Government's submissions today and would encourage it to engage with the social partners to continue the social dialogue which has been taking place, but to do so on a full manner and to continue to accept the ILO technical assistance in this regard.

Worker members – The discussion of the application of the Convention has exposed very serious violations against the right of workers to freedom of association in Fiji. It has

demonstrated that despite the adoption of the JIR, violations in law and in practice have relentlessly persisted. The closure of the article 26 complaint was premised on progress achieved within the framework of the JIR, including the revision of the labour laws. We once again express regret over the absence of sufficient progress in this regard. While some matters have been dealt with, progress on the most significant areas and, in particular, the reform of the legislation, remain outstanding. The restrictive provisions of the Employment Relations Promulgation remain intact. As outlined in my opening speech, these provisions include:

- the denial of the right to associate for prison workers;
- excessively wide discretionary powers afforded to the Registrar preventing workers from forming trade unions without previous authorization;
- limitations to the exercise of rights of non-citizens; and
- the criminal sanctions imposed on peaceful strike action.

We urge the Government to swiftly amend its legislation in order to bring it into line with the Convention.

The Political Parties Decree remains problematic and restricts trade unions from undertaking legitimate trade union activities. Therefore, this piece of legislation must be amended without any further delay. Moreover, we have discussed the increased use of the Public Order Amendment Decree to interfere in, prevent and frustrate trade union meetings and assembly. Section 8 of the Decree provides the authorities with the discretion to refuse and grant permits on excessively wide and unjustified grounds and therefore violates the Convention. It is very clear that Article 3 of the Convention protects the right of workers' and employers' organizations to organize their affairs, including their activities and programmes, in a manner to advance the economic and social interests of workers. The supervisory bodies have long held that this protection under Article 3 covers the right to assembly, the right to organize trade union meetings and to protest. Therefore, any attempt by the Government to restrict these rights to make their exercise meaningless evades their obligations and violates the Convention. We have called on the Government to address these concerns within the context of the JIR and must demonstrate sufficient progress to the Committee of Experts at its next sitting.

We are deeply concerned that the Fijian Government is manipulating national tripartite bodies in order to undermine the effective representation of workers' and employers' organizations contrary to the Convention. This does not only prevent trade unions from exercising their functions but also curtails the possibility of having genuine tripartite dialogue. We disagree with the position expressed by the Employers in this regard. As previously stated by the ILO supervisory bodies, it is only where workers and employers are able to freely nominate their members that we can speak of a genuine tripartite dialogue. Representatives cannot act in full independence if their nomination depends on the Government. This does, of course, not mean that there should not be any objective and transparent criteria for nominations. It is the discriminatory application of these criteria that we strongly disapprove of. It also comes as a surprise to us that the Employers defend this position in this case, when they argued the exact opposite in a case we discussed just ahead of Fiji.

We call on the Government to swiftly return to the full implementation of the JIR. The FTUC is at all times ready to participate in tripartite discussions in this regard. However, we must now see that there is time-bound action in order to give credibility to the discussions held, and we must see that unions can participate without fear of arrest. Given that the progress on the implementation of the JIR is stalled and that there are very serious new violations of the Convention, we call on the Government to accept a high-level ILO mission to the country.

Conclusions of the Committee

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

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.

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;**
- **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.**

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.

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.

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)

Written information provided by the Government

The Government of Honduras is providing its observations in accordance with the 2019 report of the Committee of Experts on the Application of Conventions and Recommendations, which in accordance with the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), notes the observations of the International Trade Union Confederation (ITUC) received by the ILO on 1 September 2018. Those observations refer to issues examined by the Committee and specifically on the *Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018).*

The Government's observations are presented in the same order followed in the report and, in order to facilitate understanding, are divided into four parts:
Part I. Trade union rights and civil liberties
Part II. Legislative issues: Reforms to the Labour Code
Part III. 2017 amendment to section 335 of the Penal Code
Part IV. Application of the Convention in practice (registration of new trade unions)

Part I. Trade union rights and civil liberties

The Government reports that, through the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT), a number of actions have been taken with officials in the judicial system, and in particular:
Supreme Court of Justice:
(a) On 28 February 2019, the Ministry of Labour and Social Security (STSS) sent an official communication to the Chief Justice of the Supreme Court requesting it to:
  – appoint a representative of the Court (Labour Chamber) as a liaison officer and point of contact for the MEPCOIT;
  – instruct those responsible to give priority to these cases, expediting the process in accordance with the law;
  – instruct those responsible to prepare a report, to be sent to the ILO, of the progress made in cases before the courts as set out in the attached table by 13 of March;
(b) On 19 March 2019, the Ministry received official communication PCSJ No. 89-2019 from the President of the Judiciary, Mr Rolando Edgardo Argueta Pérez, containing the following information:
  – Regarding point 1 of the request, I am happy to inform you that Mr Edgardo Cáceres Castellanos, a judge of the Labour Chamber of the Supreme Court, has been appointed as the point of contact for this institution.
  – Regarding point 2, communication has been established with the competent authorities in order that, within their areas of competence, they can expedite the process in accordance with the law.
  – Regarding point 3, attached are reports from the courts that are reviewing the cases

Public Prosecutor's Office:
(a) On 28 February 2019, the Ministry of Labour and Social Security sent an official communication to the Public Prosecutor, Mr Oscar Chinchilla, requesting him to:
  – appoint a representative of the Public Prosecutor's Office as a liaison officer and contact for the MEPCOIT;
  – instruct those responsible to give priority to these cases, expediting the investigation process and/or appointing a special team for that purpose;
  – instruct those responsible to prepare a report, to be sent to the ILO, of the progress made in the cases set out in the attached table by 13 March.
(b) As a result of this request, and following the appointment as liaison officer and contact of the Vice Director-General of Prosecutors, Ms Loany Patricia Alvarado Sorto, the following meetings were held:
  – On 29 March, a meeting was held with the MEPCOIT and the Director of Public Prosecutions, Mr José M. Salgado, with the aim of establishing institutional cooperation mechanisms. At the meeting, the appointment of Ms Alvarado as liaison officer for the Sectoral Committee was approved.
  – On 26 April, a second working meeting was held with tripartite representation in which it was decided that priority should be given to the investigations and, to that effect, the Public Prosecutor's Office proposed to publish a national communication with a view to updating the cases and to disaggregate the list of cases by type of crime and those for which no action could be taken as no complaint had been made by the victims.
  – On 9 May, a third meeting was held with the Public Prosecutor's Office and the Government and employer representatives. Worker representatives were not present. During the meeting, the Public Prosecutor, reviewing the 22 cases, indicated that seven cases were under investigation, five cases were before the courts, there were no records of five cases (charges had not been brought for the crimes that were the subject of the complaints), and the remaining cases had been dismissed or closed. They also committed to producing an overview of the progress made in the cases as soon as possible. In the final part of the meeting it was decided that anti-union violence could not be established as the motive for the crimes until the investigations were concluded in each case. However, the investigations would take into consideration the possible anti-union nature of the crimes.

The Government states that, in order to provide prompt and effective protection for all trade union leaders and members in a situation of risk, an Act and mechanism are in place, regarding which a tripartite workshop on the National Protection System was held within the framework of the MEPCOIT, aimed at coordinating actions and in which the following aspects of its operation were highlighted:
(1) The State recognizes the right to defend human rights.
(2) Honduras adopted the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials (Decree No. 34-2015) of 16 April 2015, published in the *Official Bulletin* on 15 May 2015.
(3) The General Regulations to the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials was adopted by Agreement No. 059-2016, published on 20 August 2016.
(4) The purpose of the protection mechanism is to recognize, promote and protect human rights and fundamental freedoms, contained in the Constitution of the Republic and international law instruments, of all natural or legal persons dedicated to the promotion and defence of human rights, freedom of expression and jurisdictional tasks, at risk because of their activity.
(5) Emphasis is placed on the duty to provide special protection for rights defenders (obligation to respect and prevent).
(6) The population benefiting from or targeted by the Act is all persons who exercise the right, individual or collective, to promote and strive for protection and realization of human rights and fundamental freedoms at the national and international levels, which includes environmental activists and those who preserve natural resources.
(7) Risk and imminent risk are defined as follows:
  – Risk: the probability of the occurrence of a threat or attack to which a person, group or community is exposed, as a direct consequence of the performance of their activities or functions.
  – Imminent risk: the existence of threats or attacks that represent the impending materialization of such threats or a new attack that may seriously affect life, physical integrity or personal freedom

(extraordinary procedure through which urgent protection measures are implemented).

(8) Types of protection measures:
- Protection measures: evacuation, temporary relocation, escorts, home security guards, panic buttons, installation of cameras, locks and lights or other security measures, bulletproof vests, metal detectors, armoured vehicles and anything else required.
- Preventive measures: defence and self-defence instructions and handbooks, self-defence classes, recognition by the departmental/municipal authorities of the work carried out by these people, support for human rights observers and journalists, opportunity to alert the authorities.

(9) Measures to respond to extensive risk:
- Preventive and protection measures for the close family of the person receiving protection shall be determined on the basis of a risk assessment conducted among the people requesting or receiving protection to establish whether the risk extends to the spouses, cohabitees, ascendants, descendants and dependants of persons requesting or receiving protection. The same criteria shall apply to persons who participate in the same activities, organization, group or social movement as the person receiving protection.

(10) 2018 statistics:

Since 2015, 427 requests for protection measures have been processed, of which, as at 28 February 2019, 210 fall under the responsibility of the Directorate-General of the Protection System, classified by target population under the Act as follows:
- 134 human rights defenders;
- 28 journalists;
- 27 social communicators;
- 21 justice officials;

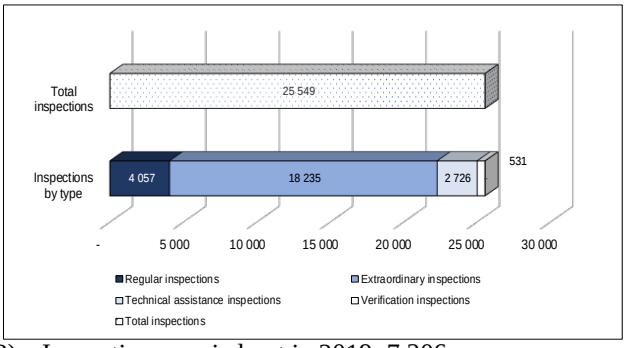
(11) Current cases involving trade unionists under the National Protection System.

There are currently four reports submitted by trade unionists under the protection of the National Protection System, containing information provided as follow-up to the inter-institutional round table held within the Public Prosecutor's Office on 26 April 2019.

The persons benefiting from these protection measures are:
- Miguel Ángel López: resident of the city of Tocoa, departament of Colon;
- Moisés Sánchez: resident of the city of Choluteca;
- Nelson Geovanny Núñez: currently outside of the country;
- Martha Patricia Riera: case closed.

The Government reports the following administrative fines imposed under Decree No. 178-2016, as well as the following judicial proceedings resulting from or related to the proceedings set out in the Decree:

(1) Fines imposed following inspections in 2018:
- For obstruction**:** 17,750,000.00;
- For freedom of association**:** 8,286,209.28;
- Others: 240,512,050.84;
- Total amount collected in favour of workers: 1,100,000,000.00 Honduran lempira (L).



(2) Inspections carried out in 2019: 7,306.
- Cases referred to the Attorney General's Office in 2018, 95 Cases; L6,964,467.03.
- 212 fines totalling L266,548,260.12 in Tegucigalpa, San Pedro Sula, Ceiba, Choluteca.
- 22 businesses fined a total of L2,549,115.00 in 2019.
- 12 complaints made to human resources inspectors so far in 2019.

The Government has taken due note of the indication by the Committee on the Application of Standards that it should use the MEPCOIT forum to establish a channel for the exchange of information between the authorities and the trade union movement with regard to anti-union violence. In this regard, the Government reports that it has taken all necessary measures to ensure that:

(a) all the competent authorities, especially the police force, the Public Prosecutor's Office and the judiciary, take coordinated and priority action to address the violence suffered by members of the trade union movement;

(b) the Public Prosecutor's Office has been requested, when planning and conducting investigations, to take full and systematic account of the possible anti-union nature of murders of members of the trade union movement and the possible links between the murders of members of the same trade union, and to ensure that the investigations target both the perpetrators and the instigators of the crimes;

(c) information exchange between the Public Prosecutor's Office and the trade union movement is being strengthened through the MEPCOIT;

(d) resources are being allocated for both investigations into acts of anti-union violence and protection schemes for members of the trade union movement.

The Government indicates that it is investigating the allegations of the ITUC regarding police violence and arrest warrants. Official communication SEDS–DDHH-911-2019 of the Human Rights Department of the Ministry of Security establishes the following:

(a) The relevant request for information was sent to the Police Investigation Department (DPI) which, in response, indicated in official communication D-DPI-N-0766-2019 of 15 May 2019 that its database only contains data related to various persons with the same first and family name as the person who is sought, which is why it suggests providing more specific data, such as an identity or passport number, to enable the search criteria to be tailored to the right person.

(b) With regard to the alleged police repression, we can report that this Department carried out a search in the Online Police System (SEPOL), a digital platform into which police information is entered daily at the national level on all operations carried out by members of the police. As of 9 March 2018, there are no updates in the SEPOL platform pertaining to the dis-

solution of demonstrations which refer to the transnational agricultural enterprise. As the information attached to your request is vague with regard to particulars such as the place of the alleged acts and the names of the persons involved in the acts, which makes it difficult to find the specific information required, we suggest that you provide specific information on the alleged acts so that we can reply in a precise manner.

(c) Nevertheless, the Ministry of Security wishes to emphasize its commitment and interest in guaranteeing the rights enshrined in the Constitution of the Republic, which establishes the basic principles that must underpin the work and functions of the Honduran National Police, namely: to safeguard the security of people and property, to maintain public order, to prevent and combat crime, to assist other justice system officials and implement the legal provisions issued by the competent authority as well as other activities likely to be required with respect to crimes committed, all in strict conformity with human rights.

The Government indicates that the Directorate-General of the Protection System, according to investigation file DGSP-2018-012/D, initiated legal proceedings in the case of the president and vice-president of the Union of Workers of Star (SintraStar). The above-mentioned document indicates that the decision was taken, in a meeting of the technical committee, to suspend the protection measures assigned to Mr Lino Rosa Hernández Garmendia as he is out of the country and his date of return is unknown.

Part II. Legislative issues : Reform of the Labour Code

Articles 2 et seq. of the Convention relating to the establishment, autonomy and activities of trade unions

Current situation

(a) The Government of Honduras reaffirms its political will to take action for the adoption of reforms to the Labour Code that is in force in order to bring it into conformity with ratified ILO Conventions. This process has been carried out gradually through social dialogue and tripartite collaboration in the Economic and Social Council (CES), as occurred with chapter III of the Labour Code in relation to the new Act on Labour Inspection, Decree No. 178-2016, of 23 January 2017, published in *La Gaceta*.

(b) With regard to the pending reforms to achieve conformity with Convention No. 87, and recalling the events of 2014, when the trade union confederations expressed their reservations, as the ILO is already aware, the Secretariat of Labour and Social Security prepared a new proposal taking up again the provisions left in suspense in 2014 to serve as a basis for the discussions.

(c) Through communication STSS-416-18, dated 9 August 2018, the Government proposal for amendments to the Labour Code was sent to the social partners for their analysis and discussion in the CES, and was communicated to the MEPCOIT, the tripartite technical body responsible for providing the necessary forum for the parties involved in labour disputes arising out of failure to comply with ILO Conventions, so that they can enter into dialogue and reach agreements to resolve their differences.

(d) The MEPCOIT began functioning in September 2018, setting as a priority the technical review of the proposed amendments to the Labour Code, and taking as a basic document for the discussions the proposal made by the Secretariat of Labour and Social Security.

(e) The proposal to bring the Labour Code into harmony with ILO Conventions Nos 87 and 98, put forward by the Government, includes amendments to 14 sections, namely sections 2, 472, 475, 495, 510, 511, 534, 536, 537, 541, 554, 555, 558 and 563.

(f) Nevertheless, the subsequent sessions of the MEPCOIT were devoted to the establishment of a framework to guide its functioning and the determination of a short- and medium-term work plan.

(g) The work plan emphasized the need to strengthen the capacities of the members of the MEPCOIT in relation to freedom of association, among other subjects, as a basis for the subsequent process of dialogue on the reforms referred to above.

(h) Accordingly, it was decided to hold the first day of training in January 2019 with a view to undertaking a comparative analysis to enable the participants to understand the lack of compliance between Convention No. 87 and the Labour Code of Honduras. The day of training was held, with the technical assistance requested by the CES from the ILO Regional Office in San José, Costa Rica.

(i) Subsequently, in a meeting held with the preparatory mission for the direct contacts mission, the MEPCOIT emphasized the need to continue receiving ILO technical support to assist in the process of dialogue on the reforms, principally because the worker representatives indicated reservations concerning the implications of the subject for the trade union movement, in anticipation of a period of in-depth reflection by workers' organizations, while evaluating the importance of holding the dialogue process in the CES.

(j) In 2019, the subject of the reform of the Labour Code was taken up again by the MEPCOIT, with the initial commitment of the social partners to provide the technical secretariat of the CES with their respective comments and proposals rapidly concerning the amendments proposed by the Government with a view to facilitating the exchange of information and the commencement of discussions.

(k) In further meetings planned to address the same subject, the workers' representatives shared their vision of undertaking a comprehensive revision of the Labour Code, and not being confined to the specific points raised in the conclusions of the Conference Committee, and noted the danger of only proposing these amendments to the National Congress in view of the difficulties experienced in the past. Similarly, the employer representatives indicated their readiness to enter into dialogue on amendments to the Labour Code, strictly confined to sections 2, 472, 475, 510 and 541, in accordance with the guidance contained in the conclusions of the report of the Committee on the Application of Standards at the 107th Session of the Conference.

(l) We trust that the social partners at the highest level will continue to give priority to dialogue and will make additional efforts to make further progress so that substantial progress can be achieved in the short term.

Part III. 2017 amendment to section 335 of the Penal Code

The Government indicates that the repeal of section 335-B of the Penal Code, known as the "Mordaza Act", was published by Decree No. 49-2018 in *La Gaceta* on 14 September 2018, further to its approval by the Executive.

Section 335-B provided that "any person who publicly, or using communication or dissemination media intended for the public, excuses, upholds or justifies the crime of

terrorism and any person who has participated in its execution, or who incites another or others to engage in terrorism or its financing, shall be liable to a penalty of between four and eight years of imprisonment".

Part IV. Application of the Convention in practice (registration of new trade unions)

Trade union registrations 2014–19

The Government of Honduras indicates that various applications have been made for the granting of legal status, with a total of 39 registered between 2014 and March 2019, as indicated below:
– in 2014, five organizations with legal status were registered, all in the private sector;
– in 2015, six organizations with legal status were registered, all in the private sector;
– in 2016, eight organizations were granted legal status, six in the private sector and two in the public sector:
– in 2017, seven organizations were granted legal status, three in the public sector and four in the private sector;
– in 2018, eight organizations were granted legal status, seven in the private sector and one in the public sector;
– between January and March 2019, five organizations were granted legal status, all in the private sector:

Discussion by the Committee

Government representative – The Government of Honduras has the honour of appearing once again before this Committee, as has been the custom in recent years, considering that this body offers a unique opportunity for the ILO to deliver results in terms of policies, laws, standards and new social dialogue bodies. In this respect, today we will provide information in relation to the observations of the Committee of Experts on the Convention and the principal areas in which progress has been made in compliance with the Convention.

The Government recalls that the conclusions of the Committee on the Application of Standards in May 2018, on the case of Honduras in relation to Convention No. 87, urged the Government, among other matters, to accept a direct contacts mission before the next session of the International Labour Conference in 2019.

The mission was carried out exactly three weeks ago, prior to the present Conference, between 20 and 24 May 2019, and was chaired by Rolando Murgas Torraza, to whom, following the completion of the mission, the Government, through the Secretary of Labour and Social Security, Carlos Madero, delivered a detailed report following the order of the report of the Committee of Experts on page 89. The report was also sent to Worker and Employer representatives and the supervisory bodies. It is currently published by this Committee on the ILO website, where it can be accessed to note the progress made up to now.

In view of the above and the fact that the case of Honduras is a case of progress, and as all the progress is set out in the report, which is now in the public domain, as the Government we will confine ourselves to emphasizing the tripartite agreement concluded at the end of the direct contacts mission in the Economic and Social Council (CES), which I will read out in full:

> *Tripartite agreement seeking mechanisms for the correct and effective application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*
>
> In the presence of the members of the direct contacts mission of the International Labour Organization, and recognizing its importance for the strengthening of effective social dialogue, respect for and the promotion of freedom of association, the Government and the representatives of employers and workers of Honduras, represented by the Secretariat of State on the premises of the Ministry of Labour and Social Security; the Honduran National Business Council (COHEP); and the trade union confederations, the General Confederation of Labour (CGT), the Workers' Confederation of Honduras (CTH) and the Single Confederation of Workers of Honduras (CUTH), respectively, conclude on the twenty-fourth day of the month of May 2019 the present agreement intended to seek mechanisms for the correct and effective application of Convention No. 87, ratified by Honduras in 1956.
>
> *Anti-union violence*
>
> Aware that the rights of workers' and employers' organizations can only be exercised in a climate free of violence, pressure and threats of any kind and that protection against anti-union violence is an integral aspect of the policy for the defence of human rights, the parties agree on:
> ■ The urgent creation of a commission on anti-union violence composed, on the one hand, of the authorities of the Secretariat for the General Coordination of the Government (SCGG), the Secretariat of State in the Human Rights Office, the Secretariat of State in the Labour and Social Security Offices; and, on the other, by workers represented by the CGT, CTH and CUTH; and employers represented by the COHEP. The Committee will invite those responsible for justice in the country to join.
> The Commission shall be established thirty days after the signature of the present agreement, and the parties shall formally accredit their representatives in the offices of Labour and Social Security.
> The Commission on Anti-Union Violence shall have the following functions:
> (a) establish a mechanism for direct communication between trade unions and the State authorities;
> (b) support flexibility in the application of protection measures for members of the trade union movement who are at risk;
> (c) ensure effective support for investigations of cases of anti-union violence for the expeditious clarification of such cases;
> (d) inform every six months the workers' confederations, COHEP, the Secretariat of Labour and Social Security (STSS) and the ILO of the results achieved and the action taken to follow up the complaints received;
> (e) raise awareness of the protection mechanisms for human rights defenders.
> ■ Ensure the participation of the representatives of the trade union movement in the national mechanisms for the protection of human rights defenders.
> ■ The State of Honduras through the STSS shall urge the Public Prosecutor's Office to take the necessary measures and action to investigate as a priority complaints of acts of anti-union violence against trade unionists which are currently presented and which may be made in future.
> ■ The Commission on Anti-Union Violence shall submit to the CES a report on the situation at the latest sixty days after the date of its constitution.
>
> *Legislative reforms*
>
> Within the framework of the CES and based on the respective comments of the ILO supervisory bodies, the STSS and representatives of employers, through the COHEP; and of workers, through the CGT, CTH and CUTH, agree to engage in a broad process of discussion and tripartite consensus which, with the existence of adequate conditions, will result in the harmonization of the labour legislation with ILO Convention No. 87.

Strengthening of the Economic and Social Council (CES), in relation to freedom of association

Recognizing the key role of the CES in the development of social dialogue and the need to continue consolidating trust between the parties for the promotion of freedom of association, the parties agree to:

- Approve the rules of procedure of the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT), with a view to supporting its effective operation as a body for the resolution of industrial relations disputes that may arise, without prejudice to the right of each organization to make any complaint to the ILO through the established machinery.
- Recognize as a good practice the experience of the Bipartite Commission for the Maquila Sector and promote insofar as possible this good practice in the various sectors of the national economy.
- Request ILO technical assistance in all relevant areas for the promotion of social dialogue.
- Validity: two months

The parties are aware that the effect given in good faith to the present tripartite agreement will be examined by the supervisory bodies of the ILO within the framework of the regular supervision of the application of Convention No. 87.

And this is followed by the signatures of the representatives of rural workers, employers and the Government and, as honorary witness, of Rolando Murgas, Chairperson of the direct contacts mission.

All the commitments made in this agreement have been assumed for their gradual and tripartite implementation in a context of social dialogue, for which as of now we request ILO support and assistance.

Finally, the Government of Honduras wishes to reaffirm its political will, respect and compliance with Conventions and the labour legislation in force, and particularly with this Convention.

Worker members – We are once again before this Committee due to the fact that the Government of Honduras has not been able to protect or respect the right to organize and freedom of association in law or in practice. Last year, the Committee of Experts singled this case out for a double footnote in view of the high level of anti-union violence, the almost total impunity of the perpetrators and the lack of effective protection for trade unionists under threat of violence. Sadly, the situation has not improved over the past year. The Government has not taken measures in practice to ensure that its labour legislation is in conformity with the Convention, nor to ensure effective compliance with the laws that are already on the statute books.

Indeed, the Government of Honduras has not complied with even one of the conclusions adopted by the Committee last year. Just a few days before the beginning of this Conference, the Government deployed armed troops armed with tear gas and live ammunition to put down protests by teachers and doctors who had taken to the streets to denounce the privatization reforms that would undermine public education and health services.

Education and medical care have been subject to severe cuts and multiple corruption scandals under the current Government, with both sectors being faced by severe shortages of personnel and basic equipment, with the result that both systems are on the verge of collapse.

It is to be expected that the final report of the ILO direct contacts mission, which visited the country at the beginning of this month, will confirm what we already know: that workers and unions throughout the country continue to be beset by insurmountable obstacles in the exercise of their fundamental right of freedom of association and organization.

The Network against Anti-Union Violence has independently confirmed 109 acts of anti-union violence in Honduras between January 2015 and February 2019. In 2018 alone, a total of 38 acts of violence against trade unionists were recorded, 11 of which were death threats and, as noted by the Committee of Experts, the Government has not provided information of any progress in the investigation of these death threats, or any previous threats.

In general terms, the Government has not made efforts to resolve anti-union crimes, thereby creating a climate of impunity. As reflected in the report of the Committee of Experts, the Government has made almost no progress in bringing to justice those responsible for the murders of trade unionists. The Committee of Experts refers in its report to a single case of a conviction, and the conviction is under appeal. We agree with the Committee of Experts when it urges the Government to "intensify its efforts" and to "investigate all acts of violence against trade union leaders and members, with the aim of identifying those responsible and punishing both the perpetrators and the instigators of these crimes". Even though the Government reports the recent establishment of the MEPCOIT, there have not yet been any results.

Moreover, the trade unions inform us that the Attorney General's Office and the Public Prosecutor's Office have done nothing to formalize mutual cooperation with a view to ensuring that these cases are dealt with, taking fully into account the possible anti-union nature of the murders of members of the trade union movement. This is an essential element for the appropriate investigation and processing of these cases. In the same way as the Committee of Experts, we therefore demand action to "provide prompt and effective protection to at-risk trade union leaders and members".

Today, we note with special concern that the trade unions of Honduras do not have confidence in the system. This is due in part to the fact that they are not represented on the National Human Rights Commission, which is the body responsible for developing national policies for prevention and the protection of the life and safety of at-risk population groups, including trade unionists. Their absence impedes the adoption of measures that meet the needs of at-risk trade union leaders and activists.

Honduran trade unions consider it necessary for the Government to establish a body specifically dedicated to the crimes committed against trade unionists, with the representation of the most representative organizations of workers.

Workers throughout the country have suffered constant violations of their right to freedom of association and to organize. In some cases, unions have already requested the intervention of the Committee on Freedom of Association, and the conclusions issued support their claims and urge the Government of Honduras to respect their right to freedom of association and to organize, Nevertheless, in case after case, the Government has not given effect to the conclusions of the Committee on Freedom of Association.

For example, in Case No. 3287, the Union of Agroindustrial and Allied Workers (STAS) lodged a complaint against its employer, a palm oil company, which had dismissed and harassed trade union leaders with the intention of undermining the local union. The employer lodged a complaint against the notification by the union, received on 9 February 2016, which required the enterprise to engage in collective bargaining with the union. On 27 September 2017, the Ministry of Labour of Honduras invalidated the local union in violation of the law and immediately recognized two employer dominated unions. Two of the leaders were also brutally attacked with machetes. Despite the clear conclusions of the Committee on Freedom of Association in relation to these violations, none of them have been resolved.

In general, the unions continue to suffer serious anti-union reprisals without any solution being found. In one case, a union had been fighting for recognition by the employer and requested the intervention of the Ministry of Labour on

various occasions. In practice, as soon as the union notified the employer of its establishment, the enterprise dismissed six different executive bodies of the union.

The Ministry has six cases that are open against the enterprise, yet, up to now, no measures have been taken for the reinstatement of any of these union leaders. The case has even been raised in an international complaint under the Central America-Dominican Republic Free Trade Agreement (CAFTA) with the United States, but there has still not been any progress.

According to the CAFTA follow-up report of January 2019, the labour inspection services carried out a total of 25,549 inspections in 2018 throughout the country through their various regional offices. In these inspections, 212 violations were identified, all focused on freedom of association and collective bargaining. In global terms, the total fines for these violations amounted to 266,548,260.12 lempiras, or around US$10,901,769. Nevertheless, according to the information provided by the Attorney General's Office, only five enterprises paid the fines in 2018, to an amount of 100,000 lempiras, or US$4,089.

In almost all cases, the employer has lodged an appeal without any grounds, which sets in motion a procedure that lasts a minimum of one year, the sole purpose of which is to avoid paying the fine.

There is no sign of any effort being made by the Government to ensure that these companies pay the fines that they owe, or to provide the necessary remedies for workers whose rights have been violated. We know for a fact that there is not a single dismissed unionized worker protected by trade union rights or under the protection of the State who has been reinstated by the employer. Worse still, labour inspectors indicate that they are afraid to propose the reinstatement of unionized workers, as employers now systematically lodge complaints against inspectors on various pretexts, including impartiality.

We have been informed that the Ministry of Labour has even actively encouraged employers to use complaint procedures against inspectors who report violations of the national legislation. The complaints procedure was established precisely to correct deficiencies by inspectors in the discharge of their duties, but now they are being used for exactly the opposite purpose. And the internal procedures are not followed, and due process is not respected, resulting in the expulsion of the best inspectors merely for trying to ensure compliance with the law.

In addition to the concerns of the Committee of Experts in relation to the ambiguity of the terminology respecting anti-terrorism contained in section 335, we note that in the publication of the Penal Code issued on 10 May 2019, the text includes for the first time the criminal responsibility of legal persons, including unions, for offences such as public disorder. If used incorrectly, which is a real possibility, unions could be liable to penalties ranging from fines to the prohibition of negotiating collective agreements with state enterprises, the closure of their headquarters and dissolution.

Finally, there are many important gaps in the national legislation which deny workers their right to freedom of association and organization. For over 30 years, the Committee of Experts has been commenting on the need to amend the Labour Code. Nevertheless, even when the Honduran unions call for the reform of the Labour Code, they see that there is currently a total lack of effective social dialogue in the country through which tripartite consensus could be reached on the recommended reforms. Accordingly, the unions are worried about commencing an amendment process of this type, as the resulting Labour Code could be even worse.

Moreover, even when it is possible to reach tripartite consensus, the unions reasonably, based on past experience, fear that the Congress will not respect the consensus and will introduce amendments that are detrimental to workers. The Government must therefore, as we urge it to do, work to recover the confidence of the unions so that they can participate in social dialogue in good faith and so that the procedure respects the priorities of workers and the principles of freedom of association and the right to organize.

Chairperson, as you will have the opportunity to hear from the Honduran workers and their colleagues in the Workers' group, the situation in Honduras is serious and is not improving. In my final remarks, I will make recommendations concerning the measures that we propose should be taken by the Government and the ILO.

Employer members – We thank the Government of the Republic of Honduras for the information provided on compliance with the Convention. For the second successive year, we are reviewing the case of Honduras in this room in relation to its compliance with the Convention, and we wish to indicate our discomfort with this decision in view of the large number of measures that have been taken since then with a view to giving effect to the observations made by the Committee last year, which I will describe in detail over the next few minutes.

It is important that the criteria for the selection of the cases of countries for examination are objective, clear and transparent so as to reinforce the confidence of all the social partners in the ILO supervisory machinery, including the Committee on the Application of Standards.

A second preliminary issue that we wish to raise relates to the persistence of the Committee of Experts in making reference to and interpretations on the right to strike in circumstances in which the Employers' group and a large number of member States of the ILO have categorically indicated that it is a right that is not contained in any ILO Convention, and that each country regulates in the manner that is most appropriate to its national context.

Accordingly, in this case, we will not make any reference to the comments that have been made by the Committee of Experts, which is not competent to do so, on the right to strike.

With regard to the country context, the Employers express concern at the insecurity and impunity that are still experienced in Honduras, and which in certain cases take the form of acts of violence against the safety of persons, including workers and employers. As indicated by the Government, violence and insecurity are very deep-rooted problems with serious consequences for Honduras. And although there has been a fall in the murder rate, it continues to be a matter of great concern for all Hondurans.

Inspired by the resolution on civil liberties and the comments of the Committee on Freedom of Association, we consider that freedom of association and the right to organize can only be exercised fully by workers and employers in a climate free of violence, pressure or threats and in which human rights are respected, and that it is the responsibility of the Government to ensure respect for these principles.

With reference to the recommendations made by the Committee at the 107th Session of the International Labour Conference, we wish to emphasize the presentation made by the COHEP in July 2018 to the Assembly of the CES, the tripartite dialogue body, in its report on the case of Honduras, in which it expressed concern at the subject of alleged anti-union violence and the reform of sections 2, 472, 475, 510 and 541 of the Labour Code, and proactively proposed the following measures:

(a) the Government of Honduras should seek the collaboration and support of the Public Prosecutor's Office and the Supreme Court of Justice so that they can give priority to cases of alleged anti-union violence that are the subject of complaints to the ILO, and provide

a detailed report solely on these cases, with a view to clarifying the situation; and

(b) the Secretariat of Labour and Social Security should request ILO technical assistance for the establishment of a tripartite technical forum within the CES for the previous examination of possible complaints to the ILO, with a view to preventing social conflict in the county, and to facilitate compliance with the provisions commented on by the Committee in its 2018 conclusions on the case of Honduras.

With regard to the recommendations made by the COHEP to the CES, it is important to place emphasis on the tripartite commitment illustrated by:

(a) the establishment of the MEPCOIT, as noted by the Committee of Experts in its 2018 observations. This forum started operating in the month of September 2018, and once it had been established invited representatives of the Public Prosecutor's Office, the Supreme Court of Justice and the Secretariat for Human Rights to be ex officio members of the Committee so that they can report on progress and submit reports on the cases covered by complaints to the ILO;

(b) among the first actions taken by the MEPCOIT, a framework of rules was proposed for its operation, which are still under discussion by the tripartite partners, and which was also communicated to the preparatory mission for the direct contacts mission, which visited Honduras from 23 to 26 October 2018. It was agreed that it was necessary to request ILO technical assistance to give effect to the harmonization of the Labour Code with the provisions of the Convention;

(c) as part of the efforts made by the MEPCOIT and the action taken as from 2019, three meetings were held with the Public Prosecutor's Office, in which information was provided on the progress achieved and reports were submitted on complaints of alleged anti-union violence which, in the view of the COHEP, represents significant progress in clarifying the cases denounced to the ILO.

The employers of Honduras have indicated on various occasions that they cannot comment individually on the cases of the 21 persons referred to in the report of the Committee of Experts, as it is the responsibility of the State of Honduras to address and resolve those cases through the public authorities and the judicial system. However, Honduran employers reiterate their firm commitment to guaranteeing full respect for freedom of association, and deplore any anti-union action that directly or indirectly jeopardizes the independence of the trade union movement, and the physical safety of trade union leaders.

It is important to indicate that Honduran employers have always been ready to participate and contribute to discussions of laws and regulations relating to economic and social subjects in the country, and particularly to contribute on labour matters. For example, between 1992 and 1995, private employers, represented by the COHEP, participated in tripartite discussions for the preparation of the Labour Code, with ILO assistance. On that occasion, the intention was to ensure the harmonization of the Labour Code with the ILO Conventions in force in the country. The employers supported those discussions and proposed reforms because they were comprehensive and, in addition to guaranteeing the security of investments, offered full guarantees of workers' rights.

In this way, I wish to emphasize that Honduran employers have always been ready to participate in reform processes that lead to the strengthening of legal security in relation to compliance with international labour standards.

COHEP has publicly expressed its firm commitment to workers' rights, in the sense of them being able to participate freely in organizations of their own choosing, with the quorum that they wish in each enterprise and institution, without any type of discrimination or restriction over and above those established voluntarily in their own statutes. For that reason, it expressed its agreement, support and readiness to give effect to the conclusions adopted by the Committee at the 107th Session of the Conference in relation to the reform of the following sections of the Labour Code:

– section 2, in relation to the exclusion of agricultural and stock-raising enterprises with ten or fewer workers from the application of the Labour Code;
– section 472, which prohibits the establishment of more than one trade union in the case of enterprise or first-level unions, in violation of the right to freedom of association and prohibiting trade union pluralism;
– section 475, which establishes the requirement of at least 30 workers to establish a trade union which, as indicated by the Committee of Experts, is too high a number and needs to be revised; and
– sections 510 and 541, which set out the requirements for being members of the executive bodies of trade unions, federations and confederations, and require Honduran nationality and being able to read and write, and to be engaged permanently in the enterprise.

This has been set out in official communications sent by COHEP this year to the Committee of Experts, as well as in the note communicated by COHEP to the direct contacts mission, in which it also asked to be provided with the conclusions and recommendations of the direct contacts mission as soon as possible, but which have not yet been provided.

Finally, following the official visit of the ILO direct contacts mission from 20 to 24 May this year, the tripartite partners concluded an agreement, entitled "Tripartite agreement seeking mechanisms for the correct and effective application of the Convention in Honduras", in which agreement was reached on the following:

(1) the urgent creation of a commission on anti-union violence composed, on the one hand, of the authorities of the Secretariat for the General Coordination of the Government (SCGG), the Secretariat of State in the Human Rights Office, the Secretariat of State in the Labour and Social Security offices; and, on the other, by workers represented by the CGT, CTH and CUTH; and employers represented by the COHEP. The Committee will invite those responsible for justice in the country, including the Supreme Court of Justice and the Public Prosecutor's Office, to join. The Commission shall be established thirty days after the signature of the agreement, which was concluded on 24 May of this year, and should therefore be established shortly to give effect to the agreement;

(2) the partners undertake to engage in a broad process of discussion and tripartite consensus with a view to the harmonization of the labour legislation with the Convention, taking as a reference the conclusions adopted by the Committee at the 107th Session of the Conference; and

(3) strengthening the CES, in recognition of its key role in developing social dialogue; strengthening the MEPCOIT and approving its rules of procedure; and requesting ILO technical assistance where necessary, within two months of the signature of the tripartite agreement.

The Employers' group considers it important to place emphasis on the case of Honduras as a case of progress, in which the various measures taken to give effect to the recommendations and conclusions of the ILO supervisory bodies demonstrate the commitment of the social partners to implementing the provisions of the Convention.

Finally, we reiterate that we do not understand, and therefore do not support, the criteria for the selection of cases that were taken into account this year by the Committee for the inclusion of Honduras in its list of cases. As we did last year, we recall that the right to strike is not regulated by the Convention, or by any other ILO Convention, and that there is therefore no legal basis for discussing the comments of the Committee of Experts on this subject, and we therefore hope that the conclusions on this case will not make reference to the right to strike.

In this regard, we recall the joint statement by the Workers' and Employers' groups, and of Governments (both dated 23 February 2015), with the latter statement indicating that "[t]he scope and conditions of this right are regulated at the national level". In this regard, any request by the Committee of Experts for governments to align their law and practice with its own rules on the right to strike is not binding.

Worker member, Honduras – Freedom of association is a fundamental human right and, together with the right to collective bargaining and the right to strike, is essential for the existence of trade unionism in the world.

In recent years, trade union organization and collective bargaining in the public and private sectors, and in decentralized and local state institutions in Honduras, have suffered from restrictions and obstacles, resulting in: (1) the elimination of trade unions; (2) attempts to undermine employment stability; (3) massive anti-union dismissals; (4) the murder and persecution of trade union leaders (anti-union violence); (5) impunity and the absence of labour justice; (6) the removal of protection for workers' organizations and the violation of their trade union autonomy; (7) the inadequacy and ineffectiveness of tripartite dialogue; (8) parallel unions and unfair control by certain organizations controlled by employers; and (9) precarious employment and subcontracting, which impede unionization (including temporary work on an hourly basis), with serious deficits in terms of labour inspection and administration in a context of growing vulnerability for fundamental rights at work.

The recently established MEPCOIT has up to now not achieved results as it is recent, and has not resolved any cases.

With reference to anti-union violence, the Public Prosecutor's Office has done nothing to: formalize the desirable mutual cooperation to ensure that, in the design and implementation of investigations, full consideration is systematically given to the possible anti-union nature of the murders of members of trade union movements, the possible links that exist between the murders of members of the same union, and investigations covering both the perpetrators and instigators of such crimes. This often results in an obstacle for denunciations by victims as they are not considered credible and are not trusted.

There has been no progress in the adoption of measures to ensure that investigations are carried out promptly into murders and to determine those responsible, and to punish those guilty of such crimes. There are many deficiencies in the provision of rapid and effective protection to trade union leaders and members who are under threat. The climate of violence is unchanged and is preventing workers from being able to exercise their right to freedom of association free from fear of violence. For example, of the 14 murders of leaders and members of the trade union movement denounced to the Committee of Experts, which occurred between 2010 and 2016, in only one case has there so far been a conviction, which is currently under appeal.

It is also important to emphasize that, while certain leaders have had recourse to the protection system of the Ministry of Human Rights, victims indicate that these measures are not effective, prompt or expeditious. Over the past four years, over 109 cases of anti-union violence have been duly reported by the trade union movement.

Political will, transparency and the institutional commitment of the Government and the National Congress, and of employers' organizations, are essential factors for the development of a legal reform which allows the true exercise of trade union freedoms and fundamental rights, which has not existed in practice.

In the current circumstances in the country, the political and institutional conditions do not exist to ensure that a draft reform of the Labour Code which enjoys tripartite consensus will be respected by the legislative authorities of the National Congress. What will certainly happen, as on other occasions which have been noted, is that the Congress will not respect tripartism and will make arbitrary changes under the influence of various biased interests to the proposals that are agreed through dialogue. The absence of effective social dialogue that achieves results means that there cannot be even a minimum of confidence in public institutions to leave such a vital reform process in their hands.

This is compounded by the fact that the new Labour Code, published on 10 May 2019, which will enter into force as of next November, provides for the first time for the establishment of criminal liability for legal entities and sets out the treatment of certain types of crimes, such as usurping office, offences such as public disorder and certain types of terrorism, among others. This rings a real alarm bell for the trade union movement as, under this law, unions with legal status will be considered criminally liable, that is liable to the imposition of penalties ranging from fines, the prohibition to negotiate collective contracts with state enterprises, the closure of their premises, and even including dissolution.

With regard to the recognition of trade unions, it is necessary to report that there are serious obstacles for trade unions when they seek their respective legal status, and we are capable of proving this, when the protection mechanisms consider this relevant.

With reference to collective bargaining, it is important to indicate that some employers take advantage of the time when lists of claims are submitted to present an employer's counter list proposing to undermine and reduce rights that have been acquired. Despite this, the Secretariat of Labour accepts them, thereby failing in its duty of vigilance and as the guarantor of compliance with collective contracts, and compounds this by delaying the process of mediation and conciliation, for which appointments by the Secretariat of Labour and Social Security may take between six months and one year, with the result that collective bargaining may last for two or three years.

A platform has recently been created, which emerged in April 2019, for the defence of public education and health as an organizational response to the imminent privatization of public education and health in the country. The platform is ready to engage in dialogue to make specific proposals to resolve the situation, for which purpose it has proposed to the Government eight preconditions for dialogue, but they have not been accepted.

Human rights organizations denounce the occurrence during the protests of at least the following violations: four deaths in the context of the protests, three acts constituting torture, 33 persons injured, 36 persons beaten, 48 illegal detentions, 32 death threats, one person criminally charged for political reasons, five human rights defenders affected, 18 journalists affected, three communities placed under military control and 143 individual victims.

It should also be noted that four organizations that are members of the platform have been placed under surveillance and their leaders have been the victims of surveillance and persecution. We also take this opportunity to report that anti-riot police ("cobras") entered the premises of

the National Autonomous University of Honduras, and specifically the Faculty of Chemistry and Pharmacy, without a warrant, to fire shots and detain students, breaking through glass doors, injuring various students and intoxicating them with tear gas grenades.

Finally, we condemn the attitude of the Ministry of Labour which, from Geneva, declared illegal the strike by health and education workers against the privatization of these fundamental services for the population as a whole.

Employer member, Honduras – The Convention was ratified by the State of Honduras in 1956. The application of this Convention has been examined on four previous occasions by this Committee, in 1987, 1991, 1992 and 2018. Since 1998, the Committee of Experts has made over 20 observations on the application of the Convention. In the report in 2017, the case of Honduras was given a double footnote in view of the concern of the Committee of Experts at the alleged anti-union violence in the country, deriving from the denunciation to this Organization of alleged anti-union crimes and death threats between 2010 and 2014.

As very well indicated by the Employer spokesperson for this case, we employers in Honduras have indicated that we are against any crime or act of violence against trade union leaders of employers in relation to the exercise of the fundamental right of association and organization, and we therefore consider it to be of great importance to give effect on an urgent basis to the establishment of the Commission on Anti-Union Violence agreed upon in the so-called "Tripartite agreement seeking mechanisms for the correct and effective application of Convention No. 87 in Honduras", which was concluded on the occasion of the direct contacts mission that visited Honduras from 20 to 24 May 2019.

Today, we are emphasizing the tripartite efforts that have been made to give effect to the conclusions adopted by this Committee in 2018. We recognize the efforts of the social partners in Honduras to take action to guarantee the fundamental principles of the Convention.

The concern at the subject of violence is generalized throughout the country and has affected all sectors, for which reason we urge the Government of Honduras, and the various institutions in the justice system, to continue working to combat criminality, but in particular to adopt effective strategies to ensure that impunity in Honduras does not continue to be one of our principal problems, and accordingly to resolve expeditiously the cases of alleged anti-union violence that are today before this Committee.

As employers of Honduras, we have been responsible for proposing measures to give effect in practice to the conclusions adopted by this Committee in 2018. We welcome the tripartite initiatives, such as the establishment of the Sectoral Committee for the Handling of Disputes referred to the ILO, with a view to allowing employer and worker representatives, through a national voluntary body, to seek solutions to the social problems that may arise in relation to the exercise of freedom of association and collective bargaining, for which we hope that the Government will receive the required ILO technical assistance.

Moreover, as the most representative employers' organization in Honduras, we have been ready to engage in tripartite discussions of proposed legislative reforms to the Labour Code, in a context of consultation and dialogue in the CES. We are certain that this will be achieved, although it is necessary to ensure a full process of discussion.

As we explained in our comments on the reports provided in previous years, we believe it is important to note that the reform of the Labour Code must emphasize the following aspects:

– employers in Honduras believe in the principles of freedom of association and respect for the independence of workers and employers;
– we note with concern that the observations of the Committee of Experts refer to a number of legislative issues relating to the right to strike and, in that regard, we reiterate what was said by our spokesperson and the position of the Employers' group, which considers that the right to strike is not regulated by the Convention and that there is therefore no basis for its discussion by this Committee; and
– the conclusions in this case should not refer to the right to strike and the Government is not required to follow the recommendations of the Committee of Experts in this matter, as it is the responsibility of each State to regulate this subject in its national legislation.

In this respect, we once again remind the Committee that the joint statement of the Employers' group, the Workers' group and the Government group of March 2015 indicates that the scope and conditions for the exercise of the right to strike are regulated at the national level.

In this regard, we consider that any request made by the Committee of Experts to the Government of Honduras and to any State relating to the right to strike is not binding and is outside the scope of the ILO supervisory bodies.

As employer representatives, we believe in the democratization of employers' and workers' organizations, in which the majority should take decisions in conditions of equality, freedom and independence, without any interference.

The Labour Code of Honduras was adopted in 1959 in a totally different context to that in which Honduran society currently lives and for this reason, since 1992, the employer representatives have taken the decision to support a general reform of the Labour Code, for which agreement is needed with the social partners. We are prepared to support not only reforms relating to freedom of association, but in general terms to promote and generate employment in Honduras, and to guarantee the economic right to the exercise of free enterprise, seeking the necessary guarantees for enterprise sustainability.

Finally, we believe that to achieve an effective reform and adaptation of Honduran labour legislation to the Conventions, the technical support of the ILO is necessary, through the Office for Central America, Haiti, Panama and the Dominican Republic, which should collaborate in strengthening dialogue through the CES, with the objective of ensuring the sound functioning of the MEPCOIT, and the Commission on Anti-Union Violence.

We trust that the report of the direct contacts mission will be issued as soon as possible and that it will be one more input to assist in giving effect to the conclusions of the Committee adopted in 2018. We consider this to be a case of progress, in view of the efforts made by the social partners in Honduras, which can undoubtedly be seen since June 2018 up to the present.

We therefore consider that the case of Honduras should not have been examined by this Committee this year. It is important and urgent for the criteria for the selection of country cases for examination to be revised as they must correspond to objective, clear and transparent criteria that reinforce the trust of all ILO constituents, based on technical aspects.

Government member, Brazil – I am making this intervention on behalf of the significant majority of the States of Latin America and the Caribbean. We warmly welcome the representatives of the Government of Honduras, who have provided updated information to the Committee, as set out in document C.App./D/Honduras-C.87, dated 29 May 2019.

In this respect, we thank the Government of Honduras for its report on the significant progress in giving effect to the conclusions of the Committee, adopted at the 107th Session of the International Labour Conference in 2018, relating to the application of the Convention. We see

as a positive development the establishment of the MEPCOIT in September 2018, which is a tripartite body within the CES for the exchange of information on cases of trade union leaders and protection in relation to freedom of association, and which also has a mandate for the revision of the labour legislation.

We also welcome the initiative of the Government of Honduras in drawing up a new draft of pending amendments to the Labour Code, in conformity with the Convention, and the expectation that, through the MEPCOIT, the results and tripartite discussion of this new proposal will be accompanied by the technical assistance that has already been requested from the ILO Office and will be agreed through social dialogue.

We emphasize the commitment shown by the Government of Honduras and its agreement to receive the ILO direct contacts mission, which visited Tegucigalpa from 20 to 24 May 2019, and which was requested by an official request from the Government of Honduras in October 2018, beginning with the preparatory mission for the direct contacts mission this year.

In the context of the ILO direct contacts mission to Honduras, we welcome the recent signature of the tripartite agreement to seek mechanisms for the correct and effective application of the Convention, which has resulted in the establishment of a Commission on Anti-Union Violence with the principal objective of the adoption of tripartite mechanisms to combat anti-union violence, reforms to the labour legislation and the strengthening of the CES.

The direct contacts mission was able to note significant progress by the Government of Honduras at the time, and we therefore trust that the tripartite agreement will provide the basis for the road map that is to follow, and we encourage the Government of Honduras to continue renewing its efforts to make progress in this case.

We wish to reiterate very categorically our concern at the criteria for the selection of cases in this Committee. We consider it inappropriate to place a country so rapidly before the expectation of immediate and total results when a government has received an ILO direct contacts mission less than a month before and has recently made progress in a process for the tripartite resolution of the case, as has happened in the present case. Based on this observation, we reiterate that this system is far from adopting the best practices of the multilateral system. It is not transparent, impartial or objective. It is not tripartite in the home of tripartism. It does not promote social dialogue in the home of social dialogue.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The European Free Trade Association (EFTA) country Norway, member of the European Economic Area, aligns itself with this statement. We attach great importance to the respect of human rights, including freedom of association of workers and employers and protection of the right to organize, and recognize the important role played by the ILO in developing, promoting and supervising international labour standards.

We wish to recall the commitment undertaken by Honduras under the "Trade and Sustainable Development" chapter of the EU Central America Association Agreement, to effectively implement in law and practice the fundamental ILO Conventions.

We note with deep regret that Honduras was already discussed last year in this Committee as a most serious case. As a result of the CAS discussion, the Government was requested to undertake a certain number of measures:

- ensure proper investigations into murders of trade unionists and prosecution of perpetrators, as well as provide adequate protection of trade union leaders and members;
- conduct investigations into acts of anti-union violence and prosecute the perpetrators;
- create an environment free of violence for workers and where they can exercise their right of freedom of association; finally
- amend certain provisions of the Labour Code which are not in conformity with the Convention in consultation with the social partners.

We note that the report welcomes the initiatives undertaken by the Government to tackle the general situation of violence and impunity. But there are still concerns over the lack of progress in investigating cases of violence and threats against trade unionists and in taking specific actions focusing on anti-union violence. Moreover, despite repeated requests from this Committee, there has not been any progress in amending the Labour Code.

We also express deep concern over recent acts of repression of strikes, as well as threats and acts of violence against trade unionists, including International Trade Union Confederation (ITUC) allegations of a violent police crackdown that ended a strike organized by workers of a transnational agriculture enterprise, leading to the torture of several trade union members and 34 arrest warrants.

We welcome the ILO direct contacts mission recently held in the country and that a tripartite agreement could be reached on this occasion. We expect that this agreement will be swiftly implemented, including the setting up of the Commission on violence against trade unions.

We would like to recall that freedom of association and collective bargaining is not only a right, but also a critical tool to ensure social stability and economic development in a country as well as to resolve economic and social disputes. We therefore reiterate our requests made to the Government last year:

First, ensure that proper investigation and prosecutions of perpetrators and instigators of crimes against trade unionists are carried out promptly. As trade union representatives constitute a group vulnerable to violence, we also request the Government to take measures so as to ensure that this group is duly protected. Fighting impunity should remain a priority of the Government. Strengthening and ensuring impartiality of national police and judicial institutions is critical to achieve this goal.

Second, amend the Labour Code in consultation with social partners and in particular the restrictions to the right to establish a trade union regarding: (i) prohibition of more than one trade union in a single enterprise; (ii) requirement of more than 30 workers to establish a trade union; (iii) nationality requirement for officers of a trade union; and (iv) exclusion of workers' organizations in agricultural and stock-raising enterprises not permanently employing more than ten workers.

Third, the Labour Code should also be amended with regard to the right to organize. We urge the Government to ensure that the right to strike is respected for all workers.

We call on the Government to submit a draft bill on these two aspects to the Congress shortly. We encourage Honduras to avail itself of ILO technical assistance in this process.

We urge the Government to ensure that the right of peaceful strike is respected for all workers in practice. In this regard, we request the Government to ensure that the application of new amendments of the Penal Code does not restrict the right of trade unions to strike and protest in a peaceful manner.

We acknowledge that Honduras is currently going through a complex and challenging social, economic and political situation. We also take note that during some strikes, serious violence erupted. Therefore, we call on all parties in the country to facilitate national dialogue in a constructive spirit. We will continue to monitor closely the situation in Honduras and to support the Government in its efforts to comply with ILO Conventions.

Employer member, Spain – In contrast with the other follow-up cases examined by this Committee, the case of Honduras that we are examining concerning compliance with the Convention demonstrates the utility of the ILO supervisory machinery.

As a result of the conclusions adopted last year by the Committee, the MEPCOIT was established in the month of August last year as a tripartite body responsible for facilitating dialogue so that the parties involved can resolve their labour differences derived from failure to comply with ILO Conventions.

This tripartite body promoted by the CES has been entrusted with the important task of commencing the work of the harmonization of the Labour Code with Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), specifically through the amendment of sections 2, 472, 475, 510 and 551, thereby giving effect to the conclusions of the Conference Committee and the Committee of Experts.

In addition, as a result of the direct contacts mission which visited the Central American country in May this year, in accordance with one of the recommendations of the Committee on the Application of Standards, an agreement was signed establishing the basis for work on the reform of the Labour Code, while at the same time a body was established with the dual objective of receiving reports on anti-union violence and following up court cases, in coordination with the Government of Honduras.

This is a case of progress to which the COHEP is contributing significantly through its full support for the process of open tripartite consultations to give effect to the conclusions of the Committee, and its full involvement in the work for the reform of the Labour Code and to shed light on acts of anti-union violence.

In light of the above, we encourage the Committee to continue the support provided to the Government of Honduras, and to employers and workers in their efforts to give effect to the conclusions of the Committee.

Worker member, Spain – I would like to begin by saying that, as a founder organization of the ILO, we are alarmed by the questioning and the constant attacks over the past few days in this room on the standards supervisory system and against the Committee of Experts.

In this regard, international society and the workers are observing with concern and anxiety the continuation of violence in Honduras, the continued police repression of trade union demonstrations, including through torture, and the threats against and murder of trade union members, in violation of public liberties in general and trade union rights in particular.

This context of institutionalized anti-union violence which is occurring throughout the country is particularly crude in the African palm oil sector, of which Honduras is the eighth biggest world producer, and which is sold to major food multinationals and European biofuel companies, and which are therefore also responsible for this situation and deserving of the most severe criticism.

Men and women workers in the African palm oil sector receive indecent wages, have to handle toxic herbicides and are exposed to serious injury. And when they join a union to fight against these precarious conditions, injustice and inequality, they are seriously repressed.

The same happens to the trade unions which represent men and women palm oil plantation workers. Their members and trade union leaders are forced into unjust and arbitrary court cases; they are placed under surveillance, threatened and persecuted; they are repeatedly harassed, illegally detained, attacked, disappeared and even murdered.

The army, the police, the security guards of property owners and paramilitary groups are responsible for this terror campaign which:

– targets men and women workers, preventing their membership of unions and dissuading them from lodging complaints; and
– prevents trade union organization in plantations, repressing the establishment and development of unions and undermining unionized labour.

The Government of Honduras, in the regions where palm oil is grown industrially, has not taken appropriate specific and effective measures to protect workers who join a union, to investigate anti-union threats and violence, or to protect the safety of trade unionists and their families. But measures have been taken to recognize unions established and controlled by enterprises.

The latest information provided by the Government of Honduras illustrates its low level of interest in complying immediately and effectively with the provisions of the Convention and addressing the serious problem of the violation of human rights through intimidation, violence and the murder of men and women trade union members throughout the country, and particularly those who defend palm oil workers. This lack of action and indifference of the Government of Honduras is deserving of the most severe criticism and the highest penalty that the Committee can apply.

Finally, I wish to reiterate our call for an end to the attacks on the standards supervisory system, which guarantees the fundamental principles of this Organization.

Employer member, Chile – This case of Honduras is of interest as it relates to a fundamental subject for this Organization, as it concerns the subject of freedom of association, set out in the Convention.

Last year, the Committee called on the Government of Honduras to make urgent efforts to investigate all acts of violence which had threatened the life and safety of many union leaders (over 60, including 13 murders without convictions since 2014), and to provide rapid and effective protection measures for all leaders who were at risk.

The existing information shows that these workers have not only suffered high levels of insecurity, inequality and poverty, but also extraordinary levels of anti-union violence.

We recall that this Committee informed the Government of the need to amend certain provisions of the law to eliminate various restrictions on freedom of association and to bring the 1959 Labour Code into conformity with the provisions of Conventions Nos 87 and 98.

It should be emphasized that Honduran employers have stated that they believe in the principle of the right to organize and the democratization of workers' organizations, and the need to reform the Labour Code, which has become outdated, with the objective of promoting and generating employment in the country.

Indeed, solid and sustainable labour relations, and social dialogue carried out in conditions of confidence and security, are one of the key factors for the sustainable development of an economy.

We note with concern that, despite the efforts of the Government to combat violence, the action taken still appears to be inadequate, and the situation continues to be very serious. Impunity is a serious problem and acts as a dangerous incentive for violence and insecurity. The Government should increase the human and material resources necessary to guarantee the life and safety of the population.

In light of the above, we respectfully request the Government of Honduras, without delay, to accelerate the processes of the investigation of acts of anti-union violence so that they can be completed and lead to those responsible being brought to justice and convicted.

We also respectfully urge the Government to proceed with the reform of the Labour Code, not only to bring it into conformity with the provisions of Conventions Nos 87

and 98, but also to include the new forms of work that are being promoted by current development trends.

Government member, India – We thank the delegation of the Government of Honduras for providing the latest comprehensive update on this issue. India appreciates the political will and commitment of the Government of Honduras to fulfil its international labour obligations, including those related to the Convention.

We take positive note of the steps being taken by the Government of Honduras, including the response to the observations of the Committee of Experts, for creating a conducive environment and establishing institutional mechanisms for social dialogue and appropriate working arrangements with the judicial authority, where necessary.

The following measures of the Government of Honduras are noteworthy: firstly, the national protection system to provide prompt and effective protection to all trade union leaders and members in a situational risk. Secondly, the efforts of the Government through social dialogue and tripartite collaboration, to stem anti-union violence, strengthen the capacity of the social partners, and undertake labour court reforms to achieve conformity, with the ratified ILO Conventions, including the Convention. Thirdly, the willingness of the Government to seek technical assistance of, and constructively work with, the ILO.

We encourage the social partners in Honduras to continue to cooperate and collaborate with the Government to carry the process forward and to ensure its success. In fulfilling its labour related obligations, we request the ILO and its constituents to fully support and assist the Government of Honduras. We take this opportunity to wish the Government of Honduras all success in its endeavours.

Employer member, El Salvador – The Convention is undoubtedly fundamental for harmonious labour relations in any country. The recognition and exercise of the right of freedom of association by workers and employers makes it possible to establish and maintain strong social organizations that are capable of engaging in dialogue and concluding sustainable agreements.

We listened carefully to the information provided by the Government of Honduras and the view of the workers and employers in this country. We support the view expressed by the Employer representative of Honduras. We are examining a case in which progress has been made, of which we wish to emphasize the following aspects. First, we welcome the establishment in 2018 of the MEPCOIT, with the objective of providing the country with a national body to avoid this type of complaint and strengthen dialogue on subjects related to freedom of association and collective bargaining. The positive experience of this type of body in other countries, such as Colombia, makes us think that Honduras has taken a good decision. Second, it is good news that the Government has submitted to Congress reforms of various legislative texts to adapt its legislation to the conclusions adopted by the Committee last year. Although it is a step in the right direction, we hope that the Government, together with the social partners, will continue to make efforts for its approval. Third, we understand that the report of the recent direct contacts mission is still not available, and we hope that its recommendations will help the Government of Honduras to take the right decisions.

In this case, reference has been made to the deaths of persons. Life is what is most valuable to all of us and therefore, irrespective of the causes of these crimes, the least that we can do is to respectfully request the Government of Honduras to investigate these deaths and punish those responsible. Impunity cannot and must not be allowed in our countries.

We trust that a fraternal country, such as Honduras, under the leadership of its Government, will have the capacity to resolve and comply in full with the provisions of the Convention and the conclusions adopted by the Committee last year, as well as those agreed upon this year, and the recommendations of the direct contacts mission.

Worker member, United States – Canadian workers join our statement. Our comments focus on the failure of Honduras to comply in practice with the Convention in spite of long documented violations by employers in the *maquila* sector.

With Honduran unions, the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) filed a complaint seeking investigation of abuses of labour rights under the Central American Free Trade Agreement in 2012.

The agreement requires Honduras to comply with its national laws and the ILO standards that this Committee supervises, specifically the agreement requires Honduras and the United States to respect "freedom of association and the effective recognition of the right to collective bargaining." Unfortunately, the US Government took nearly three years to respond, but they did agree that the overwhelming majority of allegations of violations were true. While the US and Honduran Governments produced a plan to monitor and take action regarding violations, most specific violations confirmed by the US Government response to the complaint continue in impunity. These failures are especially acute in key export sectors. In the *maquila* sector, we will focus on the auto-parts industry, a major traded global supply chain.

In this sector, workers report ongoing anti-union practices, anti-union dismissals and slow and ineffective proceedings dealing with complaints of these practices and non-compliance with court orders to reinstate trade unionists for the last ten years. As the cases in the CAFTA petition and follow-up demonstrate, the same violations and impunity continue to today with illegal repression of workers attempting to claim these rights.

An auto-parts manufacturer where approximately 4,000 workers produce for export, has steadfastly refused to recognize the union for at least eight years even though the workers legally formed their union and presented proposals in compliance with the law in 2011. Seven times, this employer has fired elected workplace leaders. Rather than respond to the duly presented union registration and bargaining proposal, the employer refused to receive notice of the union's registration and illegally fired all the original elected leaders. In the following years, workers reorganized, held elections and six more times the company has violated the law and fired each new set of leaders. The Government has consistently not enforced laws to reinstate these fired union leaders. After years of refusing entry to the workplace by inspectors, only after the US Government report confirmed workers' allegations, the company finally allowed inspectors into the workplace. Still, the employer has steadfastly refused to pay any of the fines levied or recognize the legally registered union. Meanwhile, the employer has repeatedly tried to set up company-dominated unions and threatened both workers and the Government that the company would close the plant because of the existence of the union.

The intransigence of this employer, Kyunshin–Lear, a joint venture between Korean and US companies in the sector, has been documented for over eight years but the Government has failed to enforce national laws or compliance with the ILO Conventions. Yet Honduras and the company continue to enjoy trade benefits. During the ILO mission last month that resulted from last year's case in this Committee, a tripartite committee was created to discuss the case. It may meet for the first time in July, but there is little reason to expect this latest round of promises to yield results. Meanwhile the company, its buyers in auto assembly and the Government of Honduras receive the benefits of the trade agreement. We thank the Committee of experts

for its continued focus on the case that does not represent progress but paralysis.

Government member, Nicaragua – My delegation aligns itself with the statement made by the distinguished delegation of Brazil on behalf of the vast majority of Latin America and Caribbean States. We also thank the delegation of Honduras for the presentation of its progress report.

We welcome the consultations held by the Government with the social partners and the establishment of the Sectoral Committee for the Handling of Disputes in September last year. We emphasize the efforts made by the Government and its readiness to work with the ILO. We encourage the Organization to continue working with the Government and providing all the cooperation and technical assistance necessary to achieve tangible progress in the country. We take positive note of the tripartite agreement signed in Honduras and trust that this agreement will provide the fundamental basis for a road map to be followed. We encourage the Government to continue renewing its efforts to make progress in this case. We urge the Government, our sister country Honduras, to continue making all possible efforts for the effective and comprehensive implementation of the Convention.

Employer member, Costa Rica – On behalf of the employers of Costa Rica, I wish to support the intervention made by the Employer representative of Honduras, particularly on the following points:

- The criteria that the Committee takes into account for the selection of the cases to be discussed at the International Labour Conference must be objective, clear and transparent. This will give security to the process and ensure that the social partners trust the supervisory bodies of the Organization. We believe that this case should not have been examined by this Committee, as it is a case of progress, in which there is evidence of progress in relation to the 2018 conclusions.
- While freedom of association is essential because it allows groups to be established to pursue a common purpose, it is important to emphasize that no right is higher than any other. All rights are subject to restrictions and must be exercised in an environment of mutual respect. We therefore agree with the position of the employers of Honduras and support their proactive action to ensure compliance with the Convention.
- We would like the Committee to take into account the efforts made by the parties in Honduras to give effect to the recommendations of the Committee of Experts.
- The employers of Honduras have shown an attitude of collaboration and have proposed solutions in favour of workers' rights and legal security with a view to complying with international labour standards. There is a commitment to defend freedom of association and strengthen the key mechanisms for the development of social dialogue.
- Lastly, I would like to emphasize, in the same way as the Employer representative of Honduras, that the Committee of Experts continues to refer to and to make interpretations of the right to strike despite the fact that it is not explicitly set out in any ILO Conventions. Every country is sovereign in regulating this right, which we do not dismiss, but which we believe must be regulated in the most appropriate manner in accordance with the national context. As a result, we call for the conclusions not to include any reference to the right to strike.

Worker member, Guatemala – The workers of Nicaragua align themselves with our statement. We are concerned that, despite the fact that the Committee has for many years been asking the Government to take measures to amend the Labour Code, and despite the many requests and observations made by the Committee of Experts, these amendments have not been made.

The prohibition on more than one trade union in a single enterprise is not in accordance with freedom of association. It is different when the legislation recognizes a trade union as the most representative, as this has been declared legitimate by the Committee on Freedom of Association. However, the prohibition referred to above is incompatible with the Convention and undermines the right to organize.

The ILO supervisory bodies have commented repeatedly on the requirement for more than 30 workers to establish a trade union. Paragraph 285 of the *Digest of Decisions* of 2006 provides that: "Even though the minimum number of 30 workers would be acceptable in the case of sectoral trade unions, this minimum number should be reduced in the case of works councils so as not to hinder the establishment of such bodies, particularly when it is taken into account that the country has a very large proportion of small enterprises and that the trade union structure is based on enterprise unions."

Another factor is the requirement to be of Honduran nationality to hold trade union office, which amounts to blatant discrimination on grounds of nationality. Not only is it in violation of the Convention, but also of other international instruments ratified by Honduras. The requirement to belong to the corresponding occupation has been found to be discriminatory by the supervisory bodies, and is in any case a matter to be regulated by trade union statutes, not the law. Similarly, the requirement to be able to read and write constitutes discrimination on grounds of illiteracy, which is not only in violation of the Convention, but also of rules on discrimination and equal treatment.

These observations have been made repeatedly for many years, yet the Government has failed to bring the Labour Code into conformity with the observations of this Committee. No progress at all has been made in taking measures to guarantee that reforms are adopted promptly. We strongly believe that the Government is permanently putting off the amendments as a means of reaffirming its clear anti-trade union policy.

We must recall that, as in the case of Guatemala, this Committee asked the Government of Honduras in 2018 to investigate the murders of trade union leaders, punish those responsible, provide protection to trade union leaders and members, and investigate acts of anti-trade union violence.

As a result, we call on the government authorities to ensure that these conclusions and recommendations are given effect in an expeditious, serious and responsible manner in order to safeguard the right to life, and thereby guarantee that freedom of association and collective bargaining can be exercised freely in full and effective compliance with the Convention.

Government member, Panama – Panama aligns itself with the statement made by GRULAC on behalf of a significant majority of Latin American and Caribbean countries.

We thank the distinguished delegate of the Government of Honduras, Mario Villanueva, for the valuable information provided. I would like to highlight some fundamental points in relation to this case which, in the view of Panama, is a case that is in the interests not only of the Government, but also of the Employers' and Workers' groups, through the adoption of specific measures that, most importantly, progressively give effect to the recommendations of the Committee of Experts, as well as the observations of the most representative organizations of the social partners, for the proper implementation of the Convention.

I raise the following question. Already last week, many of those here who made interventions in the Committee expressed doubt and a reflection. Was it not important for this Committee, on the occasion of the ILO's Centenary, to be open and innovative, thereby sending a clear message to

the world of work and showing through our efforts, only of Governments, but also as a result of tripartism, the important role played by the supervisory bodies and the valuable assistance provided to countries by the Office, as well as by presenting specific cases of positive progress in the application of international labour standards?

Honduras is a case with very positive aspects, but in which action is still required. We are certain that appropriate follow-up measures are being taken. Let us remember one thing: the longest journeys begin with a single step.

Indeed, there is proof of many steps being taken: the establishment of the MEPCOIT, the draft labour reforms to ensure compliance with the Convention and the recent direct contacts mission which, proudly for my country, included the participation of Dr Rolando Murgas Torraza, chair of the tripartite round tables in our country. These steps show that national bodies are becoming increasingly more useful and valuable in resolving conflicts and addressing labour matters, so that they do not have to be examined by this Committee.

There are many cases of progress in Latin America of more effective application and the harmonization of labour systems with the standards set out in international labour instruments.

Employer member, Guatemala – This case was discussed extensively at our meeting last year. The conclusions referred to two fundamental subjects: acts of violence that could be of an anti-trade union nature, and the failure to bring the national legislation into conformity with the Convention.

With regard to the first subject, we know that countries in our region are facing a common climate of violence which, unfortunately, affects the whole population, including workers and employers. We therefore support the calls for the Government to thoroughly investigate each and every one of the cases of violence affecting workers.

In this regard, we congratulate the social partners and the Government for the establishment of the Commission on Anti-Union Violence. We hope that the Public Prosecutor's Office and the courts will give their full support to this Commission and trust that the results of these efforts will soon be visible.

We believe that the establishment of the MEPCOIT within the CES is also a very important step in the right direction for the management of labour disputes in Honduras. We welcome this tripartite effort. We are convinced that these types of solutions generate trust between the parties and strengthen social dialogue. All of the above lays the groundwork for good governance.

With regard to the requested legislative reforms, we look favourably upon tripartite consultations as a means of making progress with the proposed amendments on the issues identified by the Committee of Experts in its report. We call on the social partners of Honduras to enter into dialogue without preconceived ideas or conditioning, and with the intention of reaching consensus. We are certain that our colleagues from COHEP will adopt this approach, as they have done so far. In any case, if consensus is not possible, and good faith consultations cannot make progress, the Government will have to take the necessary decisions and send draft legislation to the legislature.

The specific action taken by the Government to resolve the problems highlighted by the Committee of Experts on the basis of social dialogue are an indication that progress has been made. This should be highlighted in the conclusions of this case.

Worker member, Argentina – On behalf of the Confederation of Workers of Argentina (CTA Autonomous), we wish to say that the right to strike is a dynamic aspect of freedom of association and, together with collective bargaining, is a fundamental right set out in the 1998 Declaration. Second- and third-level trade unions cannot be deprived of this right because, not only is that in violation of the Convention, but it also prevents workers from formulating their programmes and organizing their activities as they deem appropriate.

For example, the Committee on Freedom of Association, in Cases Nos 2528, 2562 and 2566, recognized the right to strike as a legitimate right to which workers and their organizations may have recourse to defend their economic and social rights.

The prohibition on strikes called by federations and confederations is not compatible with the Convention. With regard to the requirement for a two-thirds majority of the votes of the total membership of the trade union to call a strike (sections 495 and 562 of the Labour Code), it should be recalled that the imposition of special majorities or any type of requirement imposed by law to limit or interfere in the ability of trade unions to freely determine and exercise this fundamental right must be understood as a violation of the Convention, as it restricts their right to organize their programmes, as set out in Cases Nos 2698 and 2988 of the Committee on Freedom of Association.

In relation to the majority required by law to call a strike, namely two-thirds of the total membership, the Conference Committee recalled the comments of the Committee of Experts that this legal provision is a form of intervention by the public authorities in trade union activities which restricts the rights of these organizations.

Another issue is the requirement for government authorization or a six-month period of notice for any suspension of work in public services that do not depend directly or indirectly on the State (section 558). The imposition of excessive time limits on the requirement to give notice to the authorities is in violation of the Convention, as it prevents the free exercise of a fundamental right.

With regard to referral to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years) in relation to collective disputes in public services that are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826), the Committee on Freedom of Association has repeatedly stated that compulsory arbitration undermines the right to strike in the sense that it impedes the free exercise of that right. It also undermines the right to organize by preventing unions from organizing their activities in full freedom and can only be justified in the public service in essential services.

The Committee recalled in its previous comments that it regretted the fact that the country had not consolidated the progress made in 2014 with regard to the discussion and adoption of draft legislation to bring the Labour Code into conformity with the Convention.

Lastly, we therefore call for a commission of inquiry to prepare a report on violations of human rights, the right to life, the right to safety and freedom of association in their various forms.

Government member, Canada – Canada thanks the Government of Honduras for the information provided today, as well as the detailed information provided in writing to the Committee before the start of today's discussion. Canada has expressed its deep concerns about ongoing violations of the Convention in Honduras during several previous sittings of this Committee. We regret that we are doing so again this year.

We recognize that the Government of Honduras has made efforts over the past year to address the issues of concern previously discussed in this Committee. In particular, we welcome the efforts to strengthen institutional capacity to deal with violent crime, including increased investments in the criminal investigation police, the Public Prosecutor's Office and the judiciary. Canada also welcomes the recent

resumption of tripartite consultations on labour law reforms, and is pleased that an ILO direct contacts mission was successfully completed in recent weeks.

While acknowledging that some progress has been made, it is evident that much more remains to be done. Serious problems still exist in Honduras, including pervasive violence against trade unionists and minimal progress on investigating anti-union crimes and bringing perpetrators to justice. Freedom of association can only be exercised in a climate that is free from violence, pressure or threats of any kind, and it is for governments to ensure that these principles are respected.

Canada therefore urges the Government of Honduras to further intensify efforts to: investigate all acts of violence against trade unionists, identify those responsible, and ensure perpetrators and instigators are brought to justice in accordance with the rule of law and due process; ensure prompt and coordinated protection to at-risk trade union leaders and members; and protect the right of persons to engage in peaceful protest. We also urge the Government to move forward, without delay, with necessary labour law reforms identified by the Committee of Experts, ensuring that all reforms are consistent with international labour standards and the result of genuine and effective tripartite dialogue. Finally, we encourage the Government to continue to avail itself of ILO technical assistance.

Canada sincerely hopes that the Government's next report to the Committee of Experts will highlight positive developments in all these aspects, and we wish the Government success as it moves forward.

Employer member, Panama – The case of Honduras in relation to this Convention is a case that is progressing.

At the 107th Session of the International Labour Conference, the Committee on the Application of Standards examined the same case and there was a broad discussion concerning violations of the Convention, which focused on two subjects: anti-union violence, in which emphasis was placed on 22 cases of alleged anti-union violence; and the need to reform the labour legislation to bring it into conformity with the Convention.

In the conclusions of the Committee on the Application of Standards, a direct contacts mission was proposed, which visited Honduras prior to the 108th Session of the Conference, that is this Conference.

Before, during and since the direct contacts mission, private enterprise in Honduras has affirmed its recognition that social peace is the greatest guarantee for development and investment, for which reason it refutes violence in any form. It is totally in agreement with the reform of the labour legislation, and particularly sections 2, 472, 475, 510 and 541, based on an exercise of concerted tripartite dialogue and, if necessary, a reform of the Labour Code to make the country more competitive and productive.

In September 2018, the MEPCOIT was established as a tripartite dialogue mechanism, and in the MEPCOIT information was provided on the cases of alleged anti-union violence, clarifying those which were already in the judicial system, those on which there had been no action of any type by the workers, and those that are pending (there were 14 awaiting judicial action).

As a result of the mission, an agreement was signed which was read out by the Government and by the representative of the Employers.

However, it is totally clear that this is a case of progress in which the necessary measures have been taken, and that incentives are still required to promote dialogue. In this sense, it must therefore be considered a case of progress.

Observer, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) – As some of you may recall, in 2015, the CAS received a report entitled, *Giving a voice to rural workers* which documented "dismal living and working conditions in the rural sector". The report identified obstacles to the establishment, growth and functioning of rural workers' organizations, including the severe imbalance of power between workers and employers, which renders many workers vulnerable and marginalized, the particular disadvantage experienced by women, and insanitary, unstable and isolated living conditions. These are precisely the conditions faced by our affiliate STAS in Honduras which, for several years, has been struggling to win the right to represent women, men and workers so that they can organize and bargain to improve their living and working conditions. Deficiencies in Honduran labour law which does not conform to Conventions Nos 87 and 98 have posed systematic obstacles to the establishment and functioning of STAS whose situation is emblematic of the difficulties facing rural workers in Honduras generally.

Additionally, workers struggled to exercise their right against a background of violence, impunity which has been well documented. STAS has also experienced similar problems in the palm oil sector where violations of fundamental rights are routine.

We call on the Government of Honduras to lift any obstacles to functioning of the trade union STAS and registration of its subsections.

Worker member, Colombia – On behalf of the workers of Colombia, we wish to intervene in this Committee with reference to the new call made to Honduras concerning its systematic failure to comply with the Convention, on the basis of the facts examined by the Committee of Experts and this Committee in recent years, which are indicators of the persistence in Honduras of a grave social crisis that is directly affecting the trade union movement, which is the victim of all types of threats, abductions and even murders, with the health and education sectors being especially affected.

The ILO supervisory bodies have repeatedly drawn the Government's attention to the continued attacks, the lack of effective protection for trade unionists and the minimum level of action by the judicial system. Shamefully, this situation still persists in my country.

As freedom of association is the primary international labour principle set out in the treaty that established the ILO, it is devastating that, as we celebrate its 100 years of existence, there are countries such as Honduras in which, since 2011, several trade unionists have lost their lives through violence, hundreds have been threatened for being trade unionists or have been detained, as also happens in our country. In addition to the gravity of the violations of the right to life and to safety suffered by trade union and women leaders, what is remarkable in Honduras is that in a certain manner this situation persists with the connivance of the Government due to the failure to investigate the related crimes, the refusal to recognize their anti-union nature and the failure to impose exemplary sentences. All of these passive attitudes have their roots in State complicity to allow the space for the continuation of crimes against trade union leaders. We are in an authoritative position to speak of this, as it continues to be very common in our country.

The Government of Honduras is showing a mask of false respect for the ILO, but has been ignoring for years the recommendations of its supervisory bodies which are united in setting out an agenda of legislative reforms that would in practice involve a substantial change in the situation of non-compliance with the Convention. The views expressed by the supervisory bodies, which are the expression of the authority vested in them by the constituents, must be accorded the greatest respect by governments and national public authorities, which represent the member States in this Organization, and on this we are in agreement with the Employers.

Worker member, Uruguay – I am speaking on behalf of the Workers' National Convention of Uruguay (PIT-CNT). We will be referring to the point entitled legislative issues in the report of the Committee of Experts relating to the Convention and the legislation of Honduras.

The issue here is the non-conformity of the domestic legislation with the Convention. A prerequisite in this regard is that, in accordance with article 19, paragraph 8, of the Constitution of the ILO, in no case shall the adoption of any Convention by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention.

On the contrary, this must be interpreted as meaning that no domestic provision, irrespective of its rank or hierarchy, may affect a more favourable international labour Convention, especially when the Convention is included in the list of fundamental Conventions.

Based on this specification, it is necessary to pass on to what we and the Honduran trade unions consider to be a violation of the Convention, which is related to: the legislative provisions that exclude certain workers from trade union rights and guarantees, point (a); the restriction of freedom of association, points (b), (c), (d), (e) and (f); compulsory arbitration, point (e); the power of the competent ministry to end disputes in oil industry services, point (g); and the requirement of government authorization or a six-month period of notice for any suspension of work in public services, point (h), as indicated in the report of the Committee of Experts, page 91. These legal provisions are in violation of the principles of trade union autonomy and activities set out in the Convention, and particularly in Articles 2, 3 and 6. Article 2 provides that workers shall have the right to establish organizations without previous authorization.

In short, the Government of Honduras is requested to set in motion immediately and without further ado the operation of the Sectoral Committee for the Handling of Disputes referred to the ILO, a tripartite body, with a view to the adoption of the necessary measures to bring the national legislation into conformity with the Convention. And, in particular, it is requested to take the necessary action to guarantee the full exercise of the rights inherent in freedom of association, and to provide effective protection for the life and safety of trade unionists.

Finally, this is not a question of competitivity or productivity. It is a matter of dignity. Trade union rights are inherent in human rights, and it is therefore a question of human dignity, without which it is not possible to speak of either democracy or freedom of association.

Government representative – The Government of Honduras has taken due note of each and every comment made in our Organization today. In particular, we refer to the indication by the Committee that the MEPCOIT is used to establish an information channel between the authorities and the trade union movement in relation to anti-union violence. In this respect, it should be noted that all the necessary measures have been taken so that:

(a) All the competent authorities, and particularly the police force, the Public Prosecutor's Office and the judicial authorities address in a coordinated manner and as a matter of priority the violence affecting members of the trade union movement.
(b) The Public Prosecutor's Office has been requested, in the design and development of investigations, to take fully and systematically into consideration the possible anti-union nature of the murders of members of the trade union movement, the possible links existing between murders of members of the same trade union, and to investigate both the perpetrators and instigators of such acts.
(c) Through the MEPCOIT, the exchange of information is being strengthened between the Public Prosecutor's Office and the trade union movement.
(d) By tripartite agreement, a Commission on Anti-Union Violence is being established as a channel for direct communication between workers and the state authorities, and we hope for the determined participation of workers in this body.
(e) Budgetary resources are being allocated for both investigations into acts of anti-union violence and protection schemes for members of the trade union movement.

Chairperson, with reference to the pending reforms of the Labour Code, within the framework of the Economic and Social Council (CES) and on the basis of the relevant comments of the ILO supervisory bodies, the Secretariat of Labour and Social Security (STSS), the representatives of employers through the COHEP, and workers' representatives, through the CGT, CTH and CUTH, have agreed to engage in a broad process of discussion and tripartite consensus which, with the existence of appropriate conditions, will allow the harmonization of the labour legislation with the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Government encourages employers and workers to accredit their representatives as rapidly as possible to the Commission on Anti-Union Violence established through the tripartite agreement. The Government awaits with optimism the conclusions and recommendations of the direct contacts mission so as to give effect to them within the framework of social dialogue and tripartism.

Finally, Honduras continues to be a State that respects human rights. In this respect, we reaffirm that respect for and the protection and promotion of human rights are central to all State action. We are participants in common causes with the ILO, as we share values and interests with a view to making a significant contribution to the achievement of the international objectives of social justice with equity and a better working environment.

Employer members – We wish to thank the representatives of the Government of the Republic of Honduras for the information provided, and the information provided by the Workers' group, which we have listened to with great attention and noted.

Clearly, as a group, we also empathize with the difficulties experienced in Honduras in relation to insecurity and violence, which in practice affect us all as workers, employers and the whole population of Honduras. This would appear to be a subject that is important for everyone and we hope that greater efforts will be made to ensure greater security, more tranquillity and more social peace.

With regard to trade union rights and public liberties, the Government's efforts are welcome to reinforce the institutions of public security so that they can combat criminality in Honduras.

We recognize that substantial efforts have been made, but it is necessary to go further by seeking the help of those operating in the judicial system to resolve the cases that have been denounced to the ILO, to facilitate investigations and bring those responsible to justice, with the imposition of the respective penalties.

With reference to Article 2 et seq. of the Convention respecting the establishment, independence and activities of trade unions, it is fundamental to reform the Labour Code, not only to bring it into conformity with the Convention, but also to new forms of work.

The pluralistic efforts to conclude agreements that have been made by all the social partners in Honduras through social dialogue need to be recognized by the Committee, and will certainly be noted and explained in the report of the direct contacts mission that recently visited Honduras.

We urge the Government of Honduras without delay to proceed with the establishment of the Commission on Anti-Union Violence so that information can be sought through it on the cases that are currently being investigated, so as to determine and clarify the causes and motives of the cases denounced here, with the workers and employers of Honduras being kept duly informed.

We also urge the Government of Honduras without delay to request ILO technical assistance with a view to the approval of the rules of procedure of the MEPCOIT and, through this body, to engage in the necessary consultations for the adoption of the pending modifications to the Labour Code so as to bring it into conformity with the provisions of the ILO Convention.

We recognize that tripartite dialogue must be carried out in good faith and with a view to reaching agreement, although without necessarily achieving consensus. We therefore urge both the representatives of workers and those of the Government to honour public tripartite pronouncements and, through social dialogue, to give effect to the recommendations of the Committee, particularly in relation to the adoption of modifications to the Labour Code so that its provisions are brought into conformity with the Convention.

At the same time, we call on the Committee to consider the present case as a case of progress in light of the existence of significant progress giving effect to the conclusions adopted by this Committee in 2018, taking into consideration the fact that we still do not have the report of the direct contacts mission which recently visited Honduras.

With regard to the possible doubts that may be entertained by Honduran trade unions concerning potential legislative reforms, these can only be overcome though dialogue with trade union leaders. Such dialogue can continue to be strengthened with the technical collaboration of the ILO and the observations of the ILO supervisory bodies.

We reiterate, as Employer representatives, that sincere and transparent dialogue is the tool for the achievement of social peace, when the parties think of the common good and act in good faith.

Finally, in the ILO's Centenary year, we have the opportunity to do things differently to achieve better results. Over and above any mistrust that may be felt concerning the outcome of legislative debates, it is fundamental to work on agreements with the social partners in an attempt to address the interests that we validly represent.

Worker members – With reference to the comments made by various Employer members concerning the inclusion of Honduras on the list of individual cases, it is necessary to recall that the list was decided upon by agreement. The Employers agreed that this discussion should be held on Honduras, and we therefore consider that such comments are, to say the least, inappropriate. We repeat that the list is agreed upon by the Workers and Employers.

Moreover, secondly, although we did not refer to the right to strike in our initial remarks, it would appear that it is necessary for the Employers' group to raise the issue and comment on it. We are therefore bound, as the Workers' group, to indicate and confirm once again that our position on the right to strike remains firm. The right to strike is fully contained in the Convention and the comments of the Committee of Experts on strikes are therefore absolutely appropriate. The Committee of Experts must therefore continue to examine all matters relating to freedom of association and the right to strike.

For many years, we have witnessed constant and severe violations of trade union rights in Honduras. Serious situations exist, and we call on the Government to resolve them. The scourge of corruption in the public administration, endemic violence and impunity, including against trade unionists and the leaders of civil society, and the general absence of the rule of law mean that Honduran workers and its people cannot hold out hope for the future.

Honduras must take immediate and serious measures to address these systematic failings. Otherwise, it is to be feared, which we do not want, that social order will continue to worsen, as we have seen this very month, and as has been recognized at this meeting. Sadly, it can be seen that Hondurans may be forced to take the decision to leave their homes and emigrate elsewhere in search of a better life for them and their families.

The Workers urge the Government of Honduras to take immediate and effective measures to protect the existence and physical safety of all trade union leaders and activists, and to accelerate investigations into anti-union crimes and punish those responsible for such crimes. We also hope that the Government of Honduras will protect and respect the exercise of the right to freedom of association and organization, and will work to gain the confidence of the unions in social dialogue, which is required to bring the Labour Code into conformity with the Convention. It is to be hoped that such social dialogue with workers and employers will be successful in achieving a Labour Code that is effective in practice and in accordance with our Convention.

As we said before, once again the Government of Honduras has not succeeded in protecting or respecting the right to freedom of association and organization, and we therefore reiterate the conclusions of this Committee in 2018 and we urge the Government of Honduras to take immediate measures to give effect to these conclusions, as well as the recommendations of the recent ILO direct contacts mission. We emphasize that it is the responsibility of the Government itself to bring an immediate end to all acts of violence against trade unionists, which are undermining any effort to engage in social dialogue.

It is time for the Government to adopt immediately the necessary legislative amendments and to take appropriate measures to provide a global response to all the problems and failures of compliance that are raised year after year in this Committee and which are today denying freedom of association and organization. We have heard the explanations of the Government of Honduras, but we need urgent, rapid and effective measures, because murders are continuing.

With everything that has been heard during this session, it is impossible to consider this to be a case of progress. We take note of the signature of the tripartite agreement as a result of the direct contacts mission that visited the country, and we hope that this agreement will finally result in real measures being taken to address the urgency of the situation. We repeat that we hope that definitive and urgent responses will be adopted in practice. We request the Government to report to the Committee of Experts at its next meeting on the measures that have been taken to give effect to the Convention, and that the Committee of Experts will ensure the focused and specific follow-up of this case. We also consider and urge the Government of Honduras to accept ILO technical assistance with a view to complying with the commitments made in the tripartite agreement.

Conclusions of the Committee

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

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.

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

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;**
- **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.**

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.

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)

Written information provided by the Government

At the outset, we would like to mention that India is committed to promote and achieve sustained, inclusive and sustainable economic growth, employment opportunities, equity and decent working conditions for all. Fair, randomized, effective, unbiased inspection systems coupled with tripartite consultation with our social partners are important tools for achieving our specific objective of labour welfare. Specific reply to the points raised in the report is as follows.

I. Violation of Articles 2, 4, and 23 of the Convention: Labour inspection in SEZs

The special economic zones (SEZ) in India is a geographical region which aims at export promotion and has a broad range of more specific zones like export processing zones, free trade zones, free ports etc. The SEZs have economic laws that are more liberal than a country's domestic economic laws. However, as per SEZ Act and Rules, framed thereunder, the central Government shall have no authority to relax any law relating to the welfare of the labour in the SEZs. As all labour laws are applicable in SEZs, the provisions of inspection system as provided in 20 central labour acts is applicable in letter and spirit on SEZs.

Article 2 of Convention No. 81 stresses on presence of labour inspection system in all industrial workplaces which aims at enforcing the legal provisions provided under various labour acts through labour inspectors. In India, there are seven SEZs, the details of each SEZ in terms of number of workers and enterprise is provided in Annexure I. Out of the seven SEZs, the power of labour inspection has been delegated in Noida SEZ, which covers ten states. In Mumbai SEZ, state government has not delegated powers under the Factories Act (which governs OSH regulations). In addition, no such powers are delegated (in any SEZ) in respect of laws that are administered centrally i.e. in social security legislations such as the EPF Act and the ESI Act. It is also informed that the powers have been delegated due to administrative difficulty as some SEZs have jurisdiction of more than one state, for example, the SEZ at Noida.

With respect to implementation of safety provisions related to Factory, the powers are still with the specialized labour inspectors. Further, even in the SEZs, where the power has been delegated to development commissioners, the labour inspectors from state government have been deputed under him to carry out the functions of labour inspections. These inspectors are still drawing the salary from their respective state governments and function independently to effectively enforce the labour laws.

This indicates that SEZs have a fully operational inspection system in place, which aims at enforcement of various labour laws. For effective implementation, legally, the powers of carrying out an inspection could be delegated to any government official for any particular jurisdiction and for that jurisdiction; such government officials would be "the labour inspectors". Appropriate government delegates the power of inspection to the government official as per legal provisions provided in the statutes. It is the sovereign right of the appropriate government to decide who would be given the powers of labour inspection in a particular geographical region.

It is clear that the system of labour inspection is present in SEZs and is enforced by the "labour inspectors" as notified by the appropriate government in that region keeping in view all the factors and the officer designated for inspection acts in an independent manner. Therefore the inspection system in SEZs is not in contradiction to Article 2 of the Convention No. 81.

The details on the number of labour inspections conducted in seven SEZs in India during the last three years is provided in Annexure II. It may be seen that the number of inspections conducted have increased in 2018–19 as compared to 2017–18 in all SEZs. In this regard, an Advisory dated 20 May 2019 has also been issued by the central Government to SEZs and state governments to carry out unannounced inspections. It may be emphasized that in Falta and Mumbai SEZs, only unannounced inspections are being carried out, and in other SEZs both unannounced and announced inspections are being carried out. The latest data on inspection also indicates that the number of unannounced inspection has increased in Falta SEZ, Kolkata, Vishakapatnam SEZ, Mumbai SEZ, Cochin SEZ, Noida SEZ and Kandla SEZ, in last two years.

The statistics indicating status of implementation of labour laws in seven SEZs in India is in Annexure III. It is seen that though inspections are being carried out in reasonable numbers, however, the violations detected and prosecutions launched are very few in SEZs. A detailed report in this regard was sought from SEZ and after examination it was ascertained that the labour laws relating to minimum wages, payment of bonus, timely payment of wages, equal remuneration, child labour, working hours and social security are being implemented effectively and even more stringently as compared to non-SEZ areas. There is a special grievance redressal mechanism in these SEZs which try to sort out any complaint received from workers in order to maintain harmonious relationship in the SEZ. In fact, being an export promotion zone which houses prominent and big units, SEZs ensure better and safe working conditions for the workers by use of latest technology.

II. Violation of Articles 10 and 11 – Material means and human resources at the central and state level

The appropriate government takes necessary measures from time to time to ensure that sufficient numbers of officials are available for undertaking labour inspection and they are facilitated by the government machinery to fulfil their duties and responsibilities. The details of human resources available for enforcement of labour laws and various facilities provided to them by state and central Government may be perused at Annexure IV and V. It may be observed that new recruitment of about 560 inspectors have been done in 2018 and 2019. It may be seen that vehicles for inspection are provided by ten states and in central sphere. Further, states that do not provide vehicles for inspection have provision of reimbursement of travelling allowance for the inspectors. It may also be seen from the data received from various state government that facilities like mobiles, laptops, etc. are also being provided by the respective governments to facilitate inspection process.

III. Violation of Articles 12 and 17 – Free initiative of labour inspectors to enter workplaces without prior notice and discretion to initiate legal proceedings without previous warning

The process of codification of all central labour acts into four Labour Codes in India has been initiated with the intent of simplifying, rationalizing, and amalgamating various provisions to enhance the compliance of the legislation. This would lead to universalization of minimum wages, social security, decent working conditions, etc. to all labour workforce in India. With these objectives, the four Labour Codes have been drafted after exhaustive consultative process involving state government, social partners, experts and the general public. A series of tripartite meetings were held at the time of drafting the Labour Codes. It is emphasized here that the Labour Codes have not yet been finalized and are being modified on the basis of inputs of various forums including Honourable Members of Parliament though Parliamentary Standing Committee. The Wage Code which was introduced in the Parliament has also lapsed and is being modified on the basis of comments received from various stakeholders. It is clear that the Labour Codes have not yet been enacted and are in dynamic state; hence, quoting any provision from such draft documents and inferring it to be violation of Convention No. 81 would not be very appropriate.

The draft provisions relating to inspections in the Codes have been drafted with the objective of providing such mechanism, which ultimately reduces arbitrariness, corruption, vested interests and promotes a transparent mechanism which leads to effective enforcement and compliance of labour laws. No provision of previous information before inspection has been made in the Labour Codes. The inspector is permitted to enter any place as per section 35(i) of the modified OSH Code. Further, the name of the inspector in Labour Codes has been modified from "facilitator" to "inspector cum facilitator" on the basis of input from the social partners. The term is further subject to modification on the basis of further deliberations. It is reiterated that the provisions of the Wage Code and the OSH Code are being modified from time to time on the basis of inputs received at various levels. Therefore, any conclusion derived on the basis of draft provisions would be premature. It is assured that the provisions of the Labour Codes would be in sync with the Convention No. 81 or any other ILO Convention ratified by India.

The inspections in the central sphere are also being assigned on a random basis through ShramSuvidha Portal and the inspector does not inform prior to the inspection. To promote transparency the inspection reports have to be uploaded on the websites within 48 hours of conducting inspections. The details of the inspections conducted in central sphere and state governments for the last three years are in Annexure VI and Annexure VIIa, VIIb and VIIc. The details regarding violations detected, prosecutions launched and penalties imposed at state and central sphere is in Annexure VIII and Annexure IX.

IV. Violation against Articles 4, 20 and 21: Availability of statistical information on the activities of the labour inspection services at central and state level

Labour is in the concurrent list and the enforcement of labour laws in the central sphere is with the central Government and in the state sphere is with respective state governments. The inspections conducted in the central sphere by various central government agencies like Central Labour Commissioner (for most of the labour legislation in central sphere), Director-General, Mines Safety (for inspection in mines), Director-General of Factory Advice Service and Labour Institute (for inspection at ports) is consolidated and published in the general annual report of the Ministry of Labour and Employment. The last annual report was published in 2017–18. The annual report of the Ministry is available online on the website of the Ministry of Labour and Employment, Government of India. Besides, the Employees Provident Fund Organization (EPFO) and the Employees State Insurance Corporation (ESIC) also maintains labour statistics relating to inspections conducted. The inspection data is incorporated in the annual reports of the two organizations and the annual report is available on the website of the EPFO and ESIC. With respect to state governments, it is informed that the data regarding inspections conducted under various labour legislations is sent by state government to the Labour Bureau and the same is compiled and published in the *Indian Labour Journal*.

Discussion by the Committee

Government representative – I would like to thank the Committee for this opportunity to present the Indian Government's response regarding observations of the Committee of Experts on the implementation of the Convention in India.

At the outset, I would like to assure the Committee of India's commitment to fulfil all the obligations it has undertaken under the various Conventions of the ILO, to which India is a party. Being a founding member of the ILO, even before we became independent, India has a deep respect for international labour standards by the ILO, and is guided by the principles of decent work, social justice and labour welfare in all its endeavours.

The importance we attach to this issue can be gauged by the fact that the Government has directed me to be present here in person and brief this Committee on the various efforts being undertaken by the Government of India for the welfare of the workers. As the Committee may be aware, the general elections in India, which is the largest such exercise in the world, has just been concluded, and the Government, under Honourable Prime Minister Modi, has been re-elected with an overwhelming support from the people. Yesterday was the first day of the new Parliament, and labour welfare is one of the main issues which would be under its consideration. Before my delegation responds to the specific observations of the Committee, I would like to briefly highlight the transformative initiatives taken by the Government of India over the last five years to further its goal of achieving an inclusive, just, equitable, fair and economically sustainable society in India.

The motto of our Government, under Honourable Prime Minister Modi, has been "Sabka Saath, Sabka Vikas" that is "inclusive growth through collective efforts". Under his

guidance, the Government has undertaken a path-breaking initiative towards simplification, amalgamation and rationalization of the existing 45 central labour legislations, into four Labour Codes, which intends to provide wage security, social security and decent working conditions to our workers. We are in the process of providing every worker the right of sustenance, by universalization of the right to get wages not less than the minimum wages to our entire 500 million workforce. This would increase the coverage by 60 per cent and would benefit more than 300 million additional workers. I would like to highlight that this would amount to 100 per cent coverage of the workers for the minimum wages. This reform process also intends to provide a dynamic legislation in sync with the changing business structure, demographic change and technological advancement.

The Government of India is committed to provide a comprehensive social security cover to all its workers, particularly those in the informal sector. Social security coverage in the organized sector is being extended through an IT-enabled platform to have a portable mechanism, which supports the transfer of a provident fund on change of job. We have recently introduced the biggest pension scheme for unorganized workers to ensure old-age protection for about 400 million unorganized workers. It is a voluntary and contributory pension scheme with defined benefits, where the Government contributes the equal matching amount to the subscriber's pension fund. Under this new scheme, the subscriber would receive an assured pension after attaining the age of 60 years. Further, a new scheme has been launched that offers pension coverage to the trading community. Under this new scheme, all shopkeepers, retail traders and self-employed persons are also assured a minimum monthly pension after attaining the age of 60 years. The scheme is likely to benefit more than 30 million small shopkeepers and traders. To facilitate work and family life balance, India is among the few countries that have increased the paid maternity benefit from 12 to 26 weeks. The other major policy decisions taken for the benefit of workers include enhancing the gratuity amount from 1 million Indian Rupees (INR) to INR2 million, increasing the minimum wages by 42 per cent in all sectors, and also changing the eligibility criteria for grant of bonus.

In order to promote the transition from the informal to the formal sector and also to generate new employment, the Government has launched a scheme where the Government of India pays the full employer's contribution towards the Employees' Provident Fund and Employees' Pension Scheme. We are also implementing the National Rural Employment Guarantee Act, which provides at least 100 days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work.

As the Committee may be aware, India has a federal polity, where the central Government and the state governments have been conferred power under the Constitution, to enact the laws and to enforce them in their respective spheres. India has an elaborate system of labour legislations with 45 central labour acts and the various state labour laws. These labour legislations operate to safeguard the rights of workers, ensuring minimum wage, gratuity and social security. Further, specific central laws have been enacted aimed at securing the welfare of workers engaged in factories, mines, plantation, construction work and contractual employment. The enforcement of the relevant provisions of the various labour acts is secured through a system of labour inspectorates, both at the central and the state level. Further, the cases of labour law violations are taken to their logical conclusion by a system of penalties and criminal prosecutions in the court of law.

The case related to the violation of the Convention was also discussed in the Committee in 2017, and the Committee of Experts, in its 2019 report, had sought information about the inspection system in special economic zones and about the availability of human resources and other material means for conducting the inspections in the central and state spheres.

I would like to inform the Committee that more than 574 inspectors have been recruited by various state governments in the last two years, taking the total to 3,721. The total number of inspectors, as of date, has increased by 18.2 per cent when compared to the figures in 2017. In the central sphere, as on date, the number of inspectors are 4,702. I would also like to submit that in the central sphere, 100 per cent of inspections are unannounced. The inspections in the central sphere are being done by allotting the establishments on a random basis through the centralized computer system, for which we have an e-portal that is known by the name of "Shram Suvidha Portal". Further, to promote transparency, the inspection reports have to be uploaded by the inspectors, on the websites, within 48 hours of conducting inspections.

Once again, it is reiterated that in the central sphere 100 per cent of inspections are unannounced. The number of unannounced inspections in the various states has been steadily increasing. During the year 2016–17, these unannounced inspections were over 189,000, and in the year 2017–18, these inspections grew to 203,000 and further to 239,000 in 2018–19. Year on year, the increase in the unannounced inspections is roughly about 18 per cent. It will not be out of place to mention that the proportion of unannounced to announced inspections has increased considerably over the year. Announced inspections constitute only about 8.3 per cent of the total inspections. The remaining 91.7 per cent are unannounced.

The Committee has specifically raised the issue of inspection in SEZs in India. I would like to inform that with a view to attracting larger foreign investments and boosting employment opportunities for the youth, SEZs have been set up across the country. Presently, there are seven SEZs operational in India. It is emphasized that all labour legislations are equally applicable to the SEZs as elsewhere in the country. There has been no dilution as far as the implementation of labour laws is concerned in the SEZs, in particular the system of labour inspections.

The statistical data on inspections in SEZs clearly indicate that the number of inspections conducted in SEZs have increased from 667 in 2016–17 to 1,648 in 2017–18, and further to 3,278 in 2018–19. The number of inspections conducted in SEZs in 2018–19 have increased five times since 2016–17. In this regard, a directive has also been issued by the union Government to the state governments and SEZs to carry out unannounced inspections only. During the last three years, prosecutions have been launched and penalties have been imposed in all seven SEZs, the details of which have already been shared with the Office.

I would like to inform the Committee that India is a very vast and diverse country with approximately a 500 million workforce, and the workers engaged in SEZs is merely 0.2 per cent of the total workforce. The inspection rate in SEZs amounts to 6 per cent of the total inspections conducted nationwide.

I would like to put on record that the establishments in SEZs follow state of the art technology and the employees are given the facilities of international standards and there is no compromise on the minimum wages, working conditions, health, safety, welfare and social security of the employees. Therefore, the possibility of violations of the various labour laws in the SEZs at the inception itself is negligible. Further, the workers are more informed about their rights in these establishments and these areas are also under continuous vigil of the appropriate authorities.

The SEZs also have a robust grievance redressal mechanism where the issues of workers are resolved. The systems are user-friendly and time-efficient. In addition, the mechanism of conciliation between employer and employee in case of a dispute in all the SEZs acts as a preventive mechanism or as an early warning system which responds in time. I am sure the Committee would agree that the best way of ensuring quick relief to the issues of workers would be when the worker himself or herself brings the problem to the attention of the inspection authority. These mechanisms ensure that all the labour laws are better enforced in SEZs, which simultaneously promotes export and overall growth besides the reasonable employment generation.

I would like to inform that the powers of inspectors have not been compromised in the proposed Labour Codes. On the contrary, it is proposed in the new legislations to introduce jurisdiction-free inspection which is a step in furtherance of unannounced inspections. At present, an inspector is assigned a territory or a jurisdiction which may lead to connivance between the inspector and the employer of the establishment under his jurisdiction. However, with the concept of jurisdiction-free inspection, the establishments will have no prior information either about the timing of the inspection or about the identity of the inspector.

With regards to the IT–ITES sector, we wish to inform that the working conditions in the IT and ITES sector are regulated by the provisions of the Shop and Commercial Establishment Act of state governments and the central labour acts like the Employees Provident Fund Act, Employees State Insurance Act, Industrial Dispute Act, Payment of Gratuity Act, Payment of Compensation Act are applicable to all the IT–ITES sector. These establishments are inspected by the regular state government labour enforcement machinery and central Government machinery like any other establishments. The overall inspection data provided to the Office includes the data of inspection in these establishments also.

I would like to draw the attention of the Committee to the point that the present age is the age of technological revolution where technology can be harnessed to provide new job opportunities, enhance efficiency, save time and resources and also develop mechanisms which are transparent, time bound and unbiased. This technology can be used with changing times to make our inspection system more responsive, transparent and effective. With this intent, the Government is trying to evolve the existing inspection system in India without compromising on its strengths and restricting the probability of formation of any corrupt nexus between its constituents, ultimately leading to labour law compliance.

In India, the robust grievance redressal system for everyone, including workers, is in place. For example, if a worker is aggrieved by a non-enforcement of any of the provisions of any labour act, then he or she can take judicial recourse also. The independence of judiciary in India is a basic and foundational value of the Constitution. India is known for fiercely independent judiciary. Further, the administrative grievance redressal is in place where an individual in case of any grievance can approach the offices of the Honourable President, Honourable Prime Minister and Minister concerned besides the various other authorities. The central Government also has a centralized e-portal for lodging, tracking and resolving the grievance redressal. These grievances have to be disposed in a time-bound manner. Earlier the timeline to dispose of the grievance was 30 days; however on average, grievances are being disposed of within 13 days. I am personally monitoring the disposal of the grievances on the portal. In fact, at present, to resolve the grievances, feedback is also taken telephonically from the complainant as to how effectively his grievance has been addressed. A survey conducted has indicated that 70 per cent of the workers are satisfied with the quality of disposal of their grievances through the e-portal. Similar systems exist at the state level and the district level also. Such a time-bound responsive grievance mechanism preempts the violation or rising of dispute and promotes industrial harmony. All these systems are web-based, user-friendly and time-efficient. Further, the Minister of Labour and Employment also interacts with representatives of trade unions on a regular basis to understand the problems of workers. The Government of India is committed for the welfare of its workers and is complying with the provisions of the Convention through a more efficient, effective and transparent inspection system.

Employer members – We thank the Government for the rather full remarks that we have just received. Just by way of background, Convention No. 81 on labour inspection is a governance or a priority Convention ratified by India in 1949. This particular case has been discussed already twice in the Committee in 2015 and 2017 and has been the subject of 11 separate observations by the Committee of Experts since 2000, so it is not new.

Technically it is a case about the adequacy of labour inspection in SEZs rather than more generally. The main issues relate to things like:

- the adequacy of resources available to labour inspectors for SEZs inspections;
- the ability of labour inspectors to enter SEZ premises on their own initiative and freely; and also
- the numbers of inspections carried out particularly those without prior warning.

However, this could also be called a case of inadequate consideration of the facts. The complaint on which this case is based was not made by the peak union body of India or even the national employers; it was in fact made by a relatively minor union with, as I understand it, a very low presence in SEZs themselves. So having received the complaint it would be expected that the Committee of Experts would have conducted some sort of corroborative investigation to ascertain the status of the complainants and the extent of the issue, and to garner the views of the social partners before proceeding the case to this Committee but this did not happen. If it had, we might not have been considering this case, as the state of play in SEZs has undergone significant change since this matter was first raised in 2015. This seems to have escaped the attention of the union that brought the case and it certainly has escaped the net as it has got to here. However, it is a case, we have it here today so let us look at some of the facts.

By way of background, SEZs are geographical regions created to incentivize business investment, export promotion and the like. Within the generic description of SEZs is a broad range of more specific zones like export processing, free trade, free ports and so on. The SEZs have economic laws that are more liberal than the country's domestic economic laws but vitally important. However, the labour laws are the same as those that apply to the rest of the country, and that is an important fact.

One of the concerns expressed by the minor union making the complaint related to the adequacy of resources available to labour inspectors. In its latest report, the Committee of Experts recalled the 2017 conclusions of the Committee concerning the need to increase the resources at the disposal of the central and state government inspectorates. Since then and as we have heard, over 570 more inspectors have been appointed across the various states. Inspectors are routinely provided with vehicles, phones, laptops and so on, although in some cases it is reported that, in lieu of a vehicle, inspectors are reimbursed for the costs of travel to and from inspection sites. In this last respect, the employers would note that this is not ideal, even if not widespread, as the requirement for an inspector to meet the immediate costs of travel may prove an inhibiting factor in enabling them to undertake inspections in a free and timely

manner. So the employers would echo the call from the Committee of Experts that the Government ensure that the material resources at the disposal of the central and state government inspectorates are and remain adequate and do not inhibit the freedom and timeliness of their actions; and, that the Government continue to provide information on the number of labour inspectors at the central level and in all states

Another facet of this case is a claimed lack of ability of labour inspectors to undertake labour inspections freely and on their own initiative. As is apparent from the last two reports submitted to the Committee of Experts in 2015 and 2016 and the report submitted to this Committee by the Government, we have heard that there are no constraints placed on inspectors in relation to exercising their duties. They are free to enter any premises. They are empowered to examine any and all aspects of a business and its operations, as well as to seize any documents or other evidence they see fit.

Furthermore, technology-driven governance reforms have been introduced to strengthen the system, provide for transparency and accountability in the enforcement of labour laws and reduce the complexity of compliance. This web-enabled setup has improved the prioritization of inspections in workplaces based on risk assessments. This new setup has not curtailed the powers of labour inspectors to undertake workplace inspections; rather it has now a new and powerful tool to help them in managing their work.

Except for some routine inspections, and we have heard from the Government that this is less than 10 per cent, all inspections are unannounced. In the case of routine inspections, prior notice may be given at the discretion of the inspector to enable the employer to produce records for verification. Where there is a complaint or information with regard to any labour law violation, the system allows for an inspector's full discretion to undertake an inspection at the time as well as to initiate any actions prescribed in the corresponding laws.

We heard in 2017 that, due to the federal structure of the country and the sovereignty of the states, there is no statutory mechanism for the states to furnish data to the central Government, and that relevant information is provided by the states on a mainly voluntary basis. This year the Government has provided a wide range of data covering inspections. This is a significant improvement over the lack of information on previous occasions. That said, we would observe that the voluntary nature of some of the data collection creates risks to the ultimate comprehensiveness and credibility of the collated data. This is an area that needs more work. However, the fact that this data is being provided does in fact challenge the union claim that no inspections have occurred because the data cannot have come from nowhere. It is clear that there are inspections occurring.

In its response to the Committee of Experts' observations, the Government has taken a number of steps over time to improve data on enforcement of labour legislation and labour inspection services. The Government has also been obtaining technical assistance from the ILO to evaluate the data collection systems with a view to suggesting appropriate measures for improving their coverage and reliability. The Labour Bureau receives statutory statistics relating to the central and state levels in the form of annual returns under various labour acts. In addition to these annual returns, monthly returns are being received on a voluntary basis. The Labour Bureau has undertaken a project concerning the strengthening and modernization of the system for the collection of statistics from the states and establishments through the introduction of the technology I referred to before, which is in development but already in use. Upon implementation, the system for collection and compilation of statistics will be made available online to the extent feasible and this will further enable the Bureau to collect and compile timely statistics at all levels of government.

With these points in mind, and I have to say, as has been requested before, we urge the Government to:

- take national level measures to ensure that all levels of India's labour jurisdiction publish and submit annual reports on labour inspection activities in full compliance with the information required by Article 21 of the Convention;
- pursue its efforts towards the establishment of registers of workplaces at the central and state levels and the computerization and modernization of the data collection system, and to provide detailed information on any progress made in this respect; and
- 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, all states and at the national level.

Concerns have also been expressed about self-certification and inspections undertaken by certified private agencies. The Government has provided assurances that the self-certification scheme has been launched only in some states, and that in no case does it substitute the labour inspection system, rather it is a scheme to encourage voluntary and simpler compliance, without compromising the rights of workers. It permits business to effectively monitor themselves on an ongoing basis to ensure they are compliant with all legal requirements. This protects them against adverse finding if and when an inspection does take place. In the Employers' view this development is separate from and in addition to the role played by inspectors. Self-certification does not protect a business against inspection but it may assist a business in avoiding adverse consequences from an inspection. Thus, in the Employers' view, it is to be encouraged.

In relation to delegation of powers to inspectors in SEZs and statistical information on labour inspections, as we have heard from the Government, there are seven SEZs zones in the country. In four, as I understand it, no powers have been delegated to the development commissioners who head up these SEZs, whereas in another case, which covers ten states, powers have been delegated by one of the states and that is an SEZ. So there is a very limited application or a very limited delegation of powers away from labour inspectors and only in the one small area of one SEZ.

The Government has provided detailed statistics to the last Committee and to the Committee of Experts in 2016 on inspections under various labour laws in individual states and SEZs, including on the number of inspectors, the number of units, the workers employed. This information remains valid today.

With respect to the number of inspections carried out there seems to be some confusion. In its previous comments, the Committee noted the Government's indication that very few inspections were carried out. The union that is the source of this case, in 2017 and again now, claimed that there is virtually no inspection system in SEZs. They claimed or added that, despite the absence of violations reported, there are violations, in fact, of all basic labour laws in SEZs and that there has been no improvement in the situation since the discussion of this case in June 2017. This is not the experience of the Employers and, as we have heard, not the experience of the Government. Rather than no inspections being carried out, the situations seems to be more that no violations or few violations have been reported as a result of inspections. This is a very different thing. No violations reported does not mean that no inspections were carried out. The claims therefore need to be examined critically as it appears the union making the claim

does not have a major presence and therefore may not be in possession of all of the facts.

With respect to the delegation of powers to development commissioners, this is limited to situations where the footprint of the SEZ crosses the boundary of more than one state. The commissioner has the responsibility of ensuring that inspections are carried consistent across the full reach of the SEZ and this occurs, as we understand, it in two of the seven states.

The Committee previously noted that the Code on Wages, 2017 Bill, does not explicitly refer to the principles contained in Article 12(1)(a) and (b), but provides that the governments at the state level may lay down separate inspection schemes, including the generation of a website-based scheme as we now understand that this is occurring.

Since then, the Government has indicated that several tripartite meetings have been held in the drafting process of the Code. This work continues. The Government indicates that the Code on Wages Bill is currently before the Parliamentary Standing Committee. It is emphasized that the Code is yet to pass but it does not in any way inhibit inspectors in carrying out their duties, as their powers already exist and will not be extinguished in the future.

Finally, we note that facilitators have the power to prosecute, conduct or defend before a court, any complaint or other proceeding arising under the OSH and Working Conditions Rule, or the rules and regulations made thereunder, and to exercise such powers as may be prescribed. However, the Bill is silent as we understand it with regard to the powers of labour inspectors to initiate legal proceedings against persons who violate or neglect to observe the legal provisions enforceable by labour inspectors with respect to health and safety. This does need to be dealt with.

With all these points in mind, the Employers call upon the Government to take measures:

- to ensure that any legislation developed is in full conformity with the Convention;
- to ensure that the Code on Wages and the OSH and Working Conditions Act explicitly allow labour inspectors on their own initiative to enter workplaces without prior notice, not limited to situations where complaints have been made or indicators exist for labour law violations; and
- to ensure that the Code on Wages and the OSH and Working Conditions Act guarantees the discretion of labour inspectors to initiate prompt legal or administrative proceedings without previous warning, and to be able to order remedial measures and give warnings in line with the Convention.

Worker members – We have discussed the application of Convention No. 81 in India in the years 2015 and 2017 and on each occasion, we raised concern over the large-scale exclusion of workplaces and workers from the coverage of labour inspections, the needs for an effective functioning labour inspectorate and the absence of an adequately resourced, coherent and centralized labour inspection system. Regrettably, these concerns continue to remain valid today. We continue to be deeply concerned about the poor enforcement of labour laws in SEZs, due to the deficiency of inspections in such areas.

The Government seems to justify its off-handed approach by arguing that because the zones spread across several states, they should be governed by policies at the state level. However, this has resulted in the fact that, in some states, inspection powers are now in the hands of development commissioners. These commissioners also have the responsibility to promote investment. The problem with that is that the zones compete with each other for economic investment and the lax enforcement of labour laws through weak inspection is seen as a means to promote investment. This has led to a situation where inspections in these zones have been becoming completely inadequate. We note the Committee of Experts' indication that while the Government has now provided some scanty statistics, it was still not possible to make an informed assessment of the protection of workers in these zones due to the absence of information.

The Government has also submitted statistical information to the Committee. However, the information submitted is unclear and incomplete and is therefore inadequate in demonstrating that the Government has, as it claims, put the necessary measures in place. It does not provide the minimum basic information required for an evaluation of the operation of the labour inspectorate and for an assessment at the international level by the ILO supervisory bodies. While the number of workplaces liable to inspection are indicated, the number of workers employed is missing. This is critical for the evaluation of the adequacy of the number of labour inspectors. The results of proceedings and penalties are also not indicated. It is unclear why the Government has pursued penalties in some instances of violations detected but not in others. It is also unclear what the penalties that have been imposed were constituted of.

In this regard, we also highlight our great concern about the Government's continued failure to provide its annual report on the work of the labour inspection services to the ILO as required under Article 21 of the Convention. But let us look at the information that we do have. The Government indicates for example that in the Vishakapatnam SEZ, which includes 652 enterprises, only 74 inspections have been undertaken over the past three years with not a single offence recorded or pursued. According to the Government report, the same is true for Mumbai after 105 inspections. Our concerns about the absence of information submitted by the Government on labour inspections in SEZs and the quality and number of inspections remain.

In this regard, we also emphasize that Article 4 of the Convention affirms the principle of having a coherent and coordinated inspectorate system under a single central authority and this to facilitate policy coherence and eliminate duplication of effort. Decentralizing labour inspection into SEZs is not in line with the Convention.

Regrettably, the Government has failed to ensure that there are adequate resources, both material and human, for labour inspections as provided under Articles 10 and 11 of Convention No. 81. Instead of employing more staff relative to the scale of the challenge of labour inspections, some states use civil servants and government officials on a temporary basis while others use development commissioners as labour inspectors. This violates the letter and spirit of the Convention.

We note, in line with Articles 6 and 10 of the Convention, that labour inspection depends on the attraction and retention of qualified and motivated staff collaborating with workers' and employers' organizations. Temporarily recruited officers or development commissioners are conflicted by the very nature of their functions and mode of employment. We stress that the Convention is concerned with measures that ensure that the number of labour inspectors is sufficient to secure the functioning of inspectorates, taking into account a number of factors:

- workplaces liable to inspection;
- the number and the range of categories of workers employed in such workplaces; and also
- the number and nature of the conditions to be enforced.

We call on the Government to prioritize labour inspections, especially in the SEZs. The Government must increase the number of professional inspectors and the commensurate material resources to match the rate of inspections in compliance with the Convention. The Government must ensure that workers in the SEZs do not suffer less favourable treatment from that required under the labour inspection standards.

Another area that deserves the close attention of the Committee concerns the impact of legislative changes on labour inspection. Many of the proposed reforms have the effect of rolling back protections for workers, including scaling down the work of labour inspectors. The Committee of Experts highlights the Wages Bill and the Occupational Safety and Health and Working Conditions Bill. Tripartite consultations on the Bills have been inconsistent, with no genuine consultations. The Government argues that the rollback of regulations for labour inspection is to provide technology-driven reforms to reduce the complexity of compliance. A web-based self-inspectorate system for businesses has been introduced based on self-assessment and reporting.

This means that labour inspectors will only be invited to the enterprise where the self-assessment report of the company reveals a violation or where a complaint has arisen. We note that the Committee of Experts have previously inquired from the Government how it expects to verify the self-assessed reports from businesses without answer.

Moreover, after the self-assessment has been conducted by workplaces, it is proposed that a so-called necessity test is applied in order to trigger inspections. This would clearly further limit the powers and independence of inspectors, preventing them from initiating inspections without notice, among other challenges. These changes constitute a violation of the provisions of Article 6 of the Convention, which requires that inspectors perform their duties with full independence.

Furthermore, section 32 of the Occupational Safety and Health and Working Conditions Bill empowers states to prescribe their own conditions for conducting inspections including web-based inspections. Section 34(1) renames inspectors as "inspectors-cum-facilitators". This is raising doubts about the role of labour inspectors. This is a departure from the terms, function and powers as envisaged by Convention No. 81. Section 2G of the Code on OSH and Working Conditions excludes buildings, construction sites, mines and factories with less than nine workers of its scope.

Under section 44 of the special provisions for contract labour and inter-state migrant workers, establishments with 19 or less workers are excluded from the scope of the legislation. The Factories Bill also raises the threshold of coverage from ten workers to 20 workers for establishments where power is used, and for those not using power, the threshold was raised from 20 to 40 workers.

We are concerned that the workplaces not meeting the thresholds will no longer be liable to inspections. With an immense informal economy, in fact only 6.5 per cent of workers are formally employed and there are millions of microenterprises. These changes are bound to have a devastating impact on the enforcement of labour protection.

In this regard, we recall that the Committee of Experts have clearly indicated that the Government must ensure that all workers benefit from labour inspections in respect of all legally protected conditions of service. We therefore reiterate that the so-called reforms have serious negative consequences for the protection of workers under the Convention and will ultimately erode the labour inspection system.

The working people of India need a strong labour inspectorate. There is a growing threat to occupational health and safety in the country, especially in the vast informal economy. The strengthening of the labour inspectorate is critical for the effective enforcement of the labour laws and the protection of workers.

India has just undergone an election period and we regret that various election campaigns used the derogatory term "inspector rush", in order to justify policy promises that will eventually undermine the labour inspection system regrettably. We call on the Government to refrain from stigmatizing its inspectors in the future. It is our hope the Government will in the future refrain from such language and work towards a strong labour inspection system that is badly needed.

Employer member, India – I am presenting the views of the Council of Indian Employers on the complaint filed against India for violation of the Convention. We have taken note of the intervention made by the Government of India to the observations by the Committee of Experts. We also recall the interventions made on the case in the 106th International Labour Conference.

India is one of the fastest growing economies in the world. We are one of the youngest nations in the world as well. It is extremely important to create a conducive ecosystem which allows us to take advantage of this unique opportunity for creating a sustainably developed society. We Employers stand committed to the cause of fundamental principles and rights at work. A committed workforce is our asset and we recognize that the same is possible only when the interests of the workers are appropriately taken care of.

India is a country with a plethora of labour legislations protecting every worker's right and each legislation has a very stringent inspection system to carry out the mandate of the legislation. The punishment provided is very severe, even imprisonment for some violations.

SEZs are set up to promote exports but without diluting any labour rights. The development commissioner has been given the authority and responsibility of labour inspectors to enforce due compliance of labour laws. They have power to visit industrial units, inspect all the relevant records and take all necessary actions in case of violation. It is also seen that under development commissioner, inspectors from state labour departments inspect the units in the SEZ. It is incorrect to presume that SEZs are exempted from inspection and there is violation of the Convention.

I appreciate the efforts of the Government of India for providing such wide range of statistics indicating the presence of effective inspection system in India. I accept the fact that a biased and corrupt inspection system does more harm to the welfare of workers than the employers. SEZs are important export-oriented zones which promote employment and provide impetus to the growth of the country. They are usually comprised of big and reputed export units of national and even international origin which follow advanced technology and provide decent working conditions to the workers. It is sometimes also observed that the working conditions and facilities provided in the establishment of SEZs are far better than other enterprises. I also appreciate the use of ICT in inspection which will ensure transparency and reduce biases and vested interest. Exhaustive information has already been provided by the Government of India on the inspection system in the SEZ and in the other parts of the country. We submit that the Committee may like to consider favourably and there may not be any further reporting to the Committee of Experts.

Another Employer member, India – Thank you for giving me an opportunity to speak on behalf of Laghu Udyog Bharati, India, which is the largest Pan India Organization of Employers exclusively serving micro and medium enterprises in India, constituting more than 98 per cent of total enterprises and employing more than 40 per cent of the total workforce, next only to agriculture.

Laghu Udyog Bharati would like to submit that inclusion of India in the final list of countries for violation of the Convention is not fair and has been done in a non-transparent manner. As the Committee is aware, tripartite consultations with all stakeholders is the norm before any decision is taken. However, in this case I would like to inform the Committee that the Employer representatives from India were not consulted before placing the case against India

in the final list. While detailed information on the specific points has been provided by the delegation of the Government of India, I would like to cover in brief some of the issues raised by the Committee from the Employers' perspective.

As has been mentioned earlier, there are seven SEZs out of which in six the power of inspection is with the concerned state government labour inspectors as per the law and practice prevalent earlier. Only in one SEZ, due to its peculiar geographical situation of being surrounded by multiple states, the powers have been delegated to development commissioners. However, in this case also the actual inspection is done by the inspectors of the Labour Department and they draw their salary independent of development commissioners. The development commissioners are highly trained and professional persons. Therefore, the apprehension of development commissioners being biased as they are responsible for attracting foreign investment is not well founded. The development commissioners take action as per the law. Therefore, the points raised in the complaint are misleading and do not reflect the understanding as per law.

As far as delegation of powers to development commissioners in SEZ is concerned, I would like to draw your attention to the fact that the Convention calls for periodic inspections by the inspectors. However, the sovereign Government should have the right to give any officer the duty and powers of inspectors to such designated and trained authority which would be the inspectors for that particular region.

The fact that the total inspections carried out in such SEZs and the penalties imposed are higher than what they were during previous years proves that there is no deficiency anywhere.

India has a daunting task to provide employment opportunities to the burgeoning youth population so that it could benefit from the demographic dividend. Therefore, it is imperative that we take steps to promote growth, economic development and promote setting up of new enterprises. However, a comprehensive legislative framework supplemented by an equally active enforcement mechanism and ensuring the interest of the workers is not compromised is very important to achieve this. The SEZs must necessarily comply with all labour laws, including providing social security. It is pertinent to mention here that that the Committee of Experts has not tried to verify the allegations made in the complaint by having dialogue with either the largest trade union of India in that area or with the largest association of employers.

I would like to point out three things which the Government of India has done to enhance the benefits of workers:

(i) paid maternity leave has been increased from 12 to 26 weeks;

(ii) it has been planned to provide health insurance under Ayushman Bharat health scheme to 100 million families;

(iii) it has started Shram Suvidha Portal on which names of units to be inspected will be generated by a computer in total transparent manner. This is to reduce corruption without affecting any rights of workers.

For this, the Government of India should have been complimented but it is ironic that its name has been included in the final list of countries whose cases are to be debated for violations. In this particular matter, there is no fresh set of queries and the present is only a repetition of request to further provide the data. We submit that the Committee may like to consider favourably and hence may not be any further reporting to the Committee of Experts.

Worker member, India – I stand here for the protection of rights of the workers, which depends not only on a strong legislative structure, but also on its effective enforcement mechanism. The Indian Parliament has long back ratified Convention No. 81. Hence, any government in power has the bounden duty to follow the Convention in letter and in spirit, giving it the status of the law of the land. India had been facing tough times in the labour sector since the liberalization, privatization and globalization reforms were implemented from 1991.

Already the inspection system, which is functioning for long, is inefficient in implementation. We also concur with the view that corrupt and ineffective inspection system is not in the benefit of anyone, and, in fact, it hurts the welfare of the workers the most.

Multiplicity and a plethora of labour laws, both at the central and state level, many of which are more than half a century old, had been a headache for the workers as well as the trade unions. So, change of law according to passage of time is a national necessity. We have welcomed the amalgamation of existing central labour laws into four Codes, since the codification and simplification of labour laws had been a long pending demand raised by the trade unions. A series of tripartite meetings have been held where we have raised our concerns and priorities. Subsequently, many modifications have been done by the Government, and the process is still continuing.

Any labour law will achieve its objectives only when its enforcement is assured, and an effective inspection system is the tool which ensures the implementation of the legislation. In view of this, we in India have been advocating for a strong, transparent, and effective inspection system, and therefore, during the consultation process of the Labour Codes, we insisted that the term "facilitator" used in the Labour Codes in place of "inspector", should be reversed. We are not against the use of technology in the inspection system in order to bring transparency and break the corrupt nexus between employer and inspector, but that should be well in tune with the spirit of the Convention. We add that the technology should be used for "ease of living" and for an effective administrative mechanism.

The Government has come forward to change the term to "inspector-cum-facilitator" and is now being assigned added responsibility of prevention of violations. The Government has assured that all the changes, whether governance or legislative, would not in any way dilute labour rights. During consultation with the Government, we stressed the importance of the surprise element of inspection. Now, as informed by the Government, all inspections conducted in the central sphere are unannounced and surprise inspections. Specialized inspections are being done by expert inspectors in the SEZs. The data submitted by the Government is indicative of the fact that labour inspection in India is becoming more transparent, effective and focused. We have deliberated at length with Government and have asked them that the inspection system be strengthened further. We have been getting assurance from the side of the Government regarding its effective implementation and continuation. We appreciate the constructive approach of the Government of India to correct the deviations made in the inspection systems. Here also, we hope the Government will take a positive approach considering the peculiar situation in the country.

It is true that, at the national Government's sphere, the inspection system is working somewhat well, but, it is tragic to note that at the state government level, the system is functioning poorly for a long period. Being a federal structure in implementation, state governments should also be directed to hold unannounced inspections only. Hence, we have both the problem of continuation of the system, as well as effective implementation of inspection throughout the country.

Hence, we would demand the Government to stop any attempt at diluting the inspection systems, to increase the effectiveness of inspection systems, and to call tripartite

meeting on how inspection system can be effectively carried forward, reflecting the true spirit of the Convention. We strongly urge the Government that all regular inspections should not be conducted by the development commissioners in SEZs and should instead be done by a separate labour department itself.

Another Worker member, India – Thank you for providing me with this opportunity to speak on behalf of my union Hind Mazdoor Sabha, as well as on behalf of many other central trade unions in India grouped under the Joint Trade Union Platform. Let me reiterate; we met and discussed these matters in 2015 and then in 2017, and once again, we are discussing the same measures. Labour inspection systems remain weakened and inspectors are not empowered to perform their functions in India.

The changes to the law that relate to labour inspection are part of the overall law reform that the Government has embarked on since 2014. This has included the consolidation of 44 central employment laws into four Codes: the Code on Wages; Code on Industrial Relations; Code on Social Security and Welfare; and the Code on Occupational Safety and Health and Working Conditions. The union movement has grave concerns in this regard because the law reform is aimed at weakening the rights of workers and unions in order to boost investments and economic growth.

For example, the Factories Act will be applicable to factories employing up to 40 and more workers. This will allow such factories to be exempted from 14 major labour laws. Previously the limit was ten; that was increased to 20 where power is used and from 20 to 40 where power is not used. As India is a country made up of many small enterprises, this will include over 70 per cent of the workers. The law reforms also include allowing employers to have a fixed-term contract for workers. This will destroy permanent employment and encourage casualization and insecurity of jobs. There will be no labour inspection in these areas.

Also in this regard, we have serious concerns that, as unions, we have not been involved in any way in the reform process. The central Government and a number of state governments are going ahead with the reforms despite our opposition to various aspects of the proposed amendments. A number of state governments including Maharashtra, Haryana and Gujrat and others have gone ahead with this amendment.

Through the labour law changes, the Government has introduced many changes that directly affect labour inspection:

- it has allowed the self-inspection of the employer;
- a web-based inspections system with no power of inspectors to undertake inspections without notice;
- the labour inspectors will no longer be called inspectors but will be called facilitators, and this has obviously a different meaning from inspection.

In the meantime, we have records showing that approximately 48,000 accidents occur annually; mostly in the agriculture, construction and manufacturing sectors. These are only recorded accidents and does not include those that were not recorded.

Since 2014, we have opposed the labour law amendments. The joint trade union platform have organized many national successful strikes in order to bring the attention of the Government to our opposition to the law reforms. We have registered our displeasure with the fact that they have not engaged us in meaningful consultations and have ignored the joint proposals given by the central trade union platform. In our latest action on this matter, over 200 million workers went on national strike in this regard on 8–9 January 2019.

In 2015, the ILO Country Office in India organized three national conferences involving all stakeholders on the law reforms and produced a technical report to advise the Government on the way forward. The Government ignored the report of the ILO. The Government of India must engage in meaningful consultations with the social partners on measures to comply with the obligations under the Convention, instead of engaging in formalities.

Government member, Sri Lanka – As per the information provided, India has taken several methods to strengthen its labour inspectorate system. Among them, new recruitment of labour inspectors, use of ICT and providing infrastructure facilities are commendable.

The delegation of inspection has been made for carrying out effective labour inspection. India is a very large country hence implementing labour laws across states need some type of special entity to maintain uniformity. We are of the opinion that the power of labour inspection has been delegated to development commissioners in SEZs to strengthen labour inspection system. The increased number of inspections in the recent past has proved this. Moreover, development commissioners are required to report to the central authority on labour inspections carried out in SEZs.

Further, the Government of India ensures that the labour laws are implemented uniformly around the country. So that there is no exception in SEZs. The process of codification of all central labour acts in to four Labour Codes in India has been initiated with the objectives of simplifying and rationalizing complexity. A consultative process has been followed in this regard. Relevant provisions would be included in the new legislations to implement the provisions of the Convention in law and in practice. Therefore, any conclusion derived based on draft provisions would be premature. As the Government of India has taken several initiatives in order to carry out effective labour inspection, including in SEZs, we think it does not amount to the serious violation of the Convention in law and in practice.

Employer member, Sri Lanka – The Employers from Sri Lanka speak as part of the Employers' group and in solidarity with the representations made by the Employers' spokesperson as well as our colleagues from India. India's commitment to protect labour rights over the years is commendable. We are mindful that India has an extensive framework of labour laws at the federal level, as well as at the level of states, respectively. In addition, a mature judicial system – operating at the federal and state levels, and renowned for its interest in matters that affect the public – ensures that necessary checks and balances are in place.

India applies labour laws universally, to all regions of the country without exception. Similarly, as assured by the Government of India, inspections are also carried out on the same principle and this includes the SEZs. We understand that many of these inspections are carried out unannounced. India is the largest democracy in the world, and we cannot forget that it took one month for them to complete the general elections successfully. Such is the scale of reaching out to the population in certain parts of the country. In context, the recent efforts to enhance the regime of inspections by introducing technology is extremely progressive, as it will not only make the process related to inspection and follow-up more efficient, but also transparent. There is also no doubt that this development will contribute towards achieving the ultimate objective of impartial and expedient conclusion of issues. The provision of necessary equipment as well as facilities for transport will assist inspectors to better carry out their work on the ground. However, we also share the Employer spokesperson's view that there remains a few areas such as the voluntary collection of data that will need further working on to ensure that the credibility of the system remains. Overall, we laud the efforts taken by the Government of India to improve inspection and bring it in line with its obligations of the provisions under the Convention. We also urge the Government

to consider incorporating suggestions made by the Employers as part of its action plan to improve the efficiency and effectiveness of labour inspections.

Observer, IndustriALL Global Union – I am speaking in name of IndustriALL Global Union, representing over 50 million workers worldwide. The Committee in its report in 2017 called upon the Government of India to, inter alia, ensure that effective labour inspections are conducted in all SEZs, and provide detailed information about the number of routine and unannounced visits as well as the dissuasive fines imposed against infractions.

From the data provided by the Government of India in its response, it appears that the number of inspections has increased in the last year. Nevertheless, it is still woefully inadequate. For example, there are 652 units in Vishakapatnam SEZ and only 74 inspections, including 28 with prior intimation, were carried out in the last three years. In the Noida SEZs spread across ten states and with 258 units, there were only 77 inspections and out of that, only 20 were unannounced. As in reality trade unions do not have access to the SEZs, these numbers cannot be independently corroborated, unfortunately.

Looking at the Government's response, it appears that the violations are largely under-reported. One of the reasons is the very low number of inspections. From the data, no violations have been reported from the Vishakapatnam SEZ and the Mumbai SEZ. It does not seem to be correct information, as it belies belief that out of 343,572 workers employed in 652 units in Vishakapatnam SEZ, no law was violated. Similarly with the Mumbai SEZ, out of 91,470 workers employed in 323 units, there were no violations at all. The actions taken, or rather the lack of action, following the violations reported are also a matter for concern.

The fact remains that the primary function of development commissioners, which is to ensure speedy development of the SEZ and promotion of exports, clashes with the rights of workers, particularly with regard to safety and health. Given that those rights can be in contradiction to production targets, especially in export-oriented industries, the delegation of powers of the labour inspectors to the development commissioners creates a conflict of interest. A development commissioner may not always be able to be impartial when faced with safety and health issues arising from production pressures. This undermines the very reason for inspections.

In some states such as Jharkhand, Karnataka, West Bengal and Uttar Pradesh, as per the SEZ policies of such states, there is a provision for placement of an officer from the Labour Department under the supervision of the development commissioner. Therefore, even if there is no delegation of the power, the labour officer is not independent but works under the office of the development commissioner and that again undermines the inspections conducted. There are many studies that show that labour laws are violated with total impunity in SEZs. IndustriALL considers that an impartial, independent inspection system is absolutely necessary to even begin to address such violations.

Government member, China – The Chinese delegation has listened attentively to the remarks of the Indian Government. We have noted that the Indian Government has established a labour inspectorate system and has empowered the labour inspectors who is a necessary authority to fulfil its function. The labour inspectors in India are growing in numbers and are equipped with special technologies. India is carrying out the necessary labour legislation reform so as to better implement the functions and the obligations as indicated by Convention No. 81 under its new legal framework. India has already published the progress on this front on the website of the India Ministry of Labour and Employment. The Chinese delegation supports the Indian Government to continue its efforts to promote the reform of the labour legislation, support the efforts of the Indian Government to perfect the labour inspectorate system, and we hope the ILO will provide the necessary support.

Worker member, Malaysia – The Inspector Raj is now self-regulation. "Inspector Raj" is the demonized name for labour inspection for the private sector in India. "Inspector Raj" is used by employers and governments to vilify, ridicule and stigmatize labour inspection and the inspectorate system. It is also used as a symbol of the overregulated state that hinders the free market, productivity and investments to thrive in India. The Government's response to the overregulation is deregulation. They have introduced a self-certification labour inspection system. Employers send in reports certifying their compliance with inspection regulations, which is taken to be true with no built-in verification opportunity. Start-up companies are exempted from labour inspections for three to five years. They can also self-certify through mobile apps. Inspections by inspectors will only occur after a credible complaint, filed in writing and approved by at least one senior labour inspector.

The self-certification system is contrary to the Convention. It prevents inspections without notice. It allows inspections only where there is a valid complaint. It prevents the free access of inspectors without prior authorization and shifts the focus of the Government from resourcing the labour inspectorate. The Government of India has failed to provide credible data on the frequency and thoroughness of inspections, results of labour inspections and verification of information supplied by the employers under the self-certification system.

The Government is proposing to change the name of inspectors to facilitators, which is to shift the attention from prosecution and sanction after inspections to business promotions.

Let me remind the Government of the Bhopal gas tragedy and the steps taken thereafter to strengthen labour inspections to prevent such disasters. The Government must not take India backwards. The Government must reverse course. The Government must stop stigmatizing labour inspections. The Government must stop blaming labour inspections for its inability to address the challenges of the economy. We call on the Government of India to prioritize labour inspections in compliance with its obligations under the Convention.

The Indian Government is desperately attempting to mislead this esteemed house of its compliance of the Convention. The Government is breaking up the inspectorate systems. It is therefore necessary for this house to intervene urgently to protect the lives of millions of workers in India.

Government member, Belarus – The delegation of the Republic of Belarus welcomes the detailed information of the Government of India on the report of the Committee of Experts regarding Convention No. 81, as well as efforts of India to ensure the effective implementation of the Convention.

We take a positive view of the system of web inspections, both at the central and the state level which does not conflict with international labour legislation. In our view, this system ensures application of the relevant labour laws. We welcome efficient dispute resolution mechanisms implemented by the labour inspection personnel in SEZs. Note that such zones have a conciliation officer in charge of amicable resolution of disputes that arise between workers and employers.

We welcome the openness and high level of cooperation of India with the ILO on the application of Convention No. 81. The Government of India continued to demonstrate its openness to dialogue and reconfirmed its strong commitment to the ILO and implementation of its relevant international obligations. The numerous actions taken by the

Government of India must be recognized. We extend our strong support to the Government of India on the application of the Convention.

Worker member, Sweden – I take the floor on this very important issue on behalf of the Nordic workers. As we all know, 2.78 million people die every year as a result of occupational accidents and work-related issues. Labour inspections is an important way to tackle this and to ensure a safe working environment for all workers. For those inspections to be effective, the inspectors need to be provided with sufficient resources and the mandate to freely visit any workplace, both for scheduled and unannounced inspections.

As the Convention, which India ratified already in 1949, clearly states, all workers should be covered by labour inspections. We are therefore troubled by the information provided by the Centre of Indian Trade Unions that workers in the SEZs do not benefit from this right to have their conditions at work inspected, especially because of the reports that violations of all basic labour laws are regularly present in those zones. The pursuit of growth and to attract foreign capital to the special economic zones cannot be paid by excluding those companies from their obligations to follow labour law and to accept to be inspected by the authorities.

As various human rights organizations have raised, there is a huge number of workers in forced and child labour in India. The Global Slavery Index estimates that on any given day in 2016 there were nearly 8 million people living in modern slavery in India. This is one of the things that could be identified and dealt with through systematic and thorough labour inspections.

We therefore urge the Government of India to follow the conclusions from the Committee in 2017 and ensure that all workers, also those working in the SEZs, will be covered by labour inspections, as clearly stated in the Convention.

Government member, Myanmar – We welcome the delegation of India and thank them for their comprehensive information. Myanmar recognizes India's commitment to promote and achieve sustained inclusive and sustainable economic growth and decent working conditions for all. Myanmar welcomes the efforts made by India for improving its current inspection systems. We note with appreciation that India provides data and statistics regarding its implementations of Convention No. 81 to the ILO.

We believe that fresh recruitment of more than 560 inspectors and provisions of relevant facilities in various states in India contribute further for affirmative and responsible inspections. Moreover, Myanmar recognizes that effective dispute resolution mechanisms are diligently implemented by labour inspectors, and the spirit of tripartism has increased in SEZs, by promotions of collaborations between employers and workers, to ensure better working conditions at workplaces.

As a result of these initiatives and appropriate labour inspection systems, the relatively lower violation numbers represented in the last three years statistical data on labour inspections in SEZs, Myanmar believes that India is on the right track, and with further cooperation with the ILO and increased tripartism, it will successfully implement the Convention.

Worker member, Zimbabwe – In 2017, I was here and the case of India concerning this Convention was discussed and recommendations were made. Today India is here again with the same issues. It is now two years, there is no compliance. Now India is in its third year of defiance. This is a very unfortunate situation.

The Committee of Experts found that the Government of India continued to submit general information that do not enable the Committee to make an informed assessment of the protection of workers in SEZs. India is in breach of Articles 2 to 4 of the Convention. Furthermore, a failure to provide adequate inspectors with powers to conduct their work and power to prosecute offenders is a serious neglect of responsibility by the Government of India.

Labour inspection is an essential part of the labour administration system, with a fundamental function of enforcement of labour legislation to foster compliance. It also provides technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions. This dual nature means that labour inspection plays a key role to ensure fairness and respect for rights in the workplace. It ensures good governance of the labour market and an opportunity to timeous response to changes in the labour market.

Some speakers here come to praise what is wrong; this is a worrying development in this discussion. If they cannot separate progress and promise, they become an accomplice to the injustice perpetrated to the working people of India. Promising is not progress but we expect action.

Once more, we call upon the Government of India to act in compliance, when they ratified the Convention they accepted the obligation attached to it. They therefore should comply with the Conventions with sincerity.

Government member, Iraq – The Government of Iraq would like to support the statement made by the representative of India. We appreciate all of the initiatives and measures adopted by the Indian Government to ensure the implementation of Convention No. 81. We note that today, India has reformed its Labour Code and has made it more modern and more in line with Convention No. 81 and other international standards.

We note that India sees to the respect of the Labour Code and is cooperating with both workers' and employers' organizations. We would like to point out that India is one of the largest countries in the world, is the greatest democracy and is the second country that joined the ILO, and India has ratified the ILO Constitution as soon as it was created. We believe that the wish of India to cooperate with the ILO deserves encouragement from our side. Therefore, we would encourage India to continue its efforts.

Government member, Kazakhstan – Kazakhstan notes India's commitments to fully implement its obligations under the ILO, including Convention No. 81. We also note that the detailed and thorough report of the Government representative today, as well as the remarks by the Employer spokesperson. We take into account commitments by the Government to strengthen this inspection system, ensure inclusiveness and transparency and work with social partners and the ILO. We believe that the Government of India takes all relevant measures to address the issue of the Convention.

Government member, Russian Federation – First of all, we would like to thank the distinguished representative of the Government of India for a constructive approach to the matter at hand, the fulfilment of the provisions in Convention No. 81 which regulates the creation of a framework system for labour inspection, allowing the country itself to choose its own approach within that framework. India is seeking to improve the application of said Convention, and we are confident that, in the near future, India will take exhaustive measures to provide further information requested by the Committee of Experts.

With regard to the observations relating to a number of different cases in these SEZs, we would like to note that the preferential application of the particular provisions in this area has been covered by the information, and we are sure that the measures taken by the Government are well founded.

We believe that the provisions of the Convention are exclusively technical in nature and that the technical com-

ments that have been made will be dealt with by the Government. And we are sure that it is necessary to take into account not just the application in practice, but also the context a State is dealing with. What is important is for a State to show a constructive approach and cooperation with the ILO. We believe that that is something that should be encouraged. We very much hope that the Committee will note with satisfaction the information provided by India, and will close the consideration of this case, noting a satisfaction.

Government member, Philippines – The Philippines notes with compliment the submissions of India with respect to the numerous reforms put in place to give full effect to the Convention at hand. Based on the detailed information provided by India as already published in the Committee website, India has a comprehensive system of labour legislation and an elaborate system of labour inspectorates, both at the central and the state level. In law and practice, all of its labour laws are applicable and enforceable in all geographical regions including the SEZs. Labour inspections are also conducted in all SEZs.

The information also indicates the details of the inspections conducted from 2016 up to the present, including the number of announced and unannounced inspections; status of enforcement in the three years; number of enterprises inspected; workers covered; offences reported; violations detected; criminal prosecutions launched; penalties imposed and fines collected.

In its submission, India further accounts for the total number of labour inspectors, number of vehicles provided and other human and material resources in connection with its inspection function. Other significant reforms are also instituted to ensure its compliance with its obligation under the Convention. The Philippines thus trusts that India will remain committed to its obligations under Convention No. 81, and to continue its constructive engagement with all its social partners.

Finally, the Philippines requests the ILO, including its supervisory bodies, to continue providing its member States the needed technical assistance and guidance to ensure full compliance with Conventions with the end in view of a work for a brighter future.

Government member, Plurinational State of Bolivia – The Plurinational State of Bolivia thanks the Government of India for the information presented in relation to the Convention. We welcome the detailed statistics provided by India, which show an increase in the number of inspections carried out in special economic zones in 2018 compared to the previous biennium. We also highlight the commitment shown by the Government of India to promoting inclusive and sustainable economic development based on equity and decent work conditions for all. In this way, we note with interest the measures currently in place to address complaints and improve working conditions. Consequently, we encourage the Government of India to continue taking measures to ensure compliance with the Convention.

Government member, Bangladesh – We welcome the efforts of India for the application of the ILO Convention No. 81 concerning labour inspection in the country, particularly in improving its labour inspection system in the SEZs. It is encouraging that more than 550 new inspectors have been recruited in various states of India to strengthen labour inspection in the country. For a smooth and efficient delivery of duties of the labour inspectors, they have been provided logistics support. We appreciate that India has initiated a recodification of all central labour laws, to simplify, rationalize, and amalgamate various provisions to enhance the compliance of the legislation. Considering the progress made, we call on the Committee to take into account the significant efforts and progress made by the Government of India to address the issues raised in the complaint.

Government member, Brazil – Brazil thanks the Government of India for the presentation of detailed information to the consideration of this Committee. Brazil shares India's unease with a wide range of aspects of the supervisory system and in particular the drafting of the lists of cases for examination at the Conference. This Committee is far from conforming to best practices in the multilateral system. A strong, effective and legitimate ILO, adapted to the contemporary challenges is of interest to all, governments, workers and employers. Looking forward to a future with prosperity, decent work and more jobs, the ILO should increase cooperation and partnerships, while reviewing its standards supervisory system towards transparency, objectivity, impartiality and true tripartism.

The information from the Government shows that it is committed to promoting and achieving sustained, inclusive and sustainable economic growth, employment opportunities, equity and decent working conditions for all. We reiterate that in Brazil's view, national circumstances, capabilities and legal frameworks ought to be fully taken into account in the examination of all cases before this Committee. India's is a case in point, in as much as the enforcement of the relevant provisions of various labour acts is secured through a system of labour inspectorates, both at the central and the state level. A separate labour inspection machinery works at the state level to ensure enforcement of the legal provisions relating to the service conditions of workers.

Moreover, SEZs are an important policy initiative for India within the remit of its national sovereignty. I recall that according to the relevant legal provisions the central Government shall have no authority to relax any law relating to the welfare of the labour in the special economic zones. All labour laws are applicable in SEZs and the rights of the workers therein are protected by a strong legal framework. Special arrangements are in place for SEZs whose territories extend beyond one single state in order to secure efficiency and avoid conflicts of interest.

Government representative – I thank you for this opportunity to respond to some of the observations made by the distinguished speakers and reiterate the Government of India's views on the issue of effective enforcement of labour laws in the country and compliance with Convention No. 81. I also thank the distinguished delegates who participated in the deliberations. We have taken note of all the comments and suggestions provided by the representatives of Employers, Workers and Government.

I would like to inform the Committee that a wide spectrum of data with respect to SEZs regarding number of employees, number of enterprises, number of inspections carried out in SEZs, both announced and unannounced, number of violations, prosecutions and convictions have been provided by the Government. Besides the elaborate data on SEZs, statistics on inspection machinery has also been provided with respect to central and state spheres. As far as enforcement of labour laws is concerned, we wish to submit that India has a very elaborate system of labour legislations and we agree that the intent on the legislation may only be achieved through effective enforcement. The enforcement of the various labour laws has been prescribed under the relevant provisions of the Act and is secured to a system of labour inspectorates, both at the state as well as the central level. The system of inspection and follow-up action exists in the formal prosecution launch and convictions done in courts of law.

The data speaks for itself. The date of inspection in the central sphere indicates that 6,000 violations were detected during the last three years and 55,000 criminal prosecutions were launched against the offenders, amongst which 38,000 cases penalties were imposed. An amount of

INR307 million Indian rupees was collected as fines. At the state level, during the last three years 395,000 offences were reported and 642,000 violations were detected. In 71,000 cases, criminal prosecutions were launched and an amount of INR236 million was collected as fines.

I would like to highlight that during the last three years, 620 cases were reporting in seven SEZs in which 18 violations were detected. In 166 cases, criminal prosecutions were launched and in 58 cases, penalties convictions were ordered. Enforcement mechanism in India is multi-layered and involves physical inspection system, claim authorities, appeal authorities, tribunal at central and state government levels, supported by on-line portals at central and state level.

I would like to inform the esteemed Committee regarding the issue of delegation of powers to development commissioners in SEZ. The delegation of power to the development commissioners of SEZ in no way implies dilution of power of enforcement by a labour inspector. The SEZ Acts clearly states that the role of development commissioner shall be to supervise and monitor inspection systems in the SEZ. All state labour inspectors are drawing the salary from the respective consolidated funds of the state government and function independently to enforce labour laws. The provisions of the Employees' Provident Fund Act and Employees State Insurance Act, which are central legislations are applicable on all SEZ also. It is emphasized that the Employees' Provident Fund Act provides social security benefit to about 60 million workers and ESIC Act provides the health insurance benefit to 36 million workers. The enforcement of both the Acts is being done stringently by an independent inspectorate system of central Government in all establishments of the country, including the SEZ. The inspections which are being conducted are 100 per cent unannounced. The above arguments strengthen that SEZs have a fully operational inspection system in place which aims at enforcement of various labour laws.

I would like to clarify to the esteemed Committee regarding the less number of violations in the SEZs in spite of increasing the number of inspections in SEZ by five times, specifically in Mumbai and Vishakhapatnam. As highlighted in the opening remarks of India, a robust agreement addressing mechanism through e-portal is present at various levels of governance which provides every worker, including of an SEZ, with the opportunity to raise their problems directly to the Government instead of it being escalated into a violation and then getting it detected by the inspectorate. It is an example of use of technology to bring governance at the doorstep of the citizen and take preventive measures for their welfare. The efficacy of the existing system may be highlighted by the fact that in the last three years, about 80,000 complaints have been registered at the central government's e-portal with the disposal percentage of 95 per cent. Further, for the effective implementation of the Employees' Provident Fund, about 1 million grievances have been received during the last four years with the average disposal rate of 98 per cent. This is an illustration of a preventive, responsive and efficient enforcement mechanism.

We believe that use of technology in administration will promote minimum government with maximum governance. It will promote transparency, reduce corruption, enhance time-bound response and make the overall system more efficient. In conformity with this vision, the concept of self-certification schemes is being implemented wherein the employer provides complete information about the enforcement of the labour laws. I would like to reiterate that self-certification is not undermining the inspection system however, it complements the inspection system as it facilitates the examination of the records beforehand and understand the issues in advance before making physical inspection.

I would like to inform the Committee that India supports collective bargaining and social dialogue as we firmly believe that it works as a safety valve that prevents escalation of industrial disputes and promotes industrial peace and harmony. Accordingly, as per the legal provisions of the Trade Union Act, the formation of trade unions is permitted in every establishment, including those located in the SEZs. There is no restriction on trade union activity in the SEZs and about ten trade unions have presence in the SEZs. In fact, the Government engages with the trade unions frequently before making any policy decision related to labour issues. Most of the boards and committees constituted by the Government, like advisory board on minimum wages, social security, provident fund, committee on welfare of unorganized workers, etc. are mandatorily of tripartite nature and indicate involvement of all social partners in policy decisions.

On the issue raised on proposed labour reforms, we would like to clarify that the intention of labour reforms being carried out in India is to enhance compliance of labour laws, simplify procedures, reduce multiplicity of authorities, have uniform definitions and provide legislation which is in sync with changing times and caters to all categories of workers with the emergence of new forms of employment. I would like to inform the esteemed Committee that the Government, while framing the Labour Codes, had exhaustive consultation with all social partners, state governments, technical and legal experts. Consultations have also been held with the experts from the ILO during the process. The comments of the general public who are the ultimate beneficiaries of the reforms is also sought by placing the draft legislation on the website of the Government and sufficient time is given for their comments. The suggestions received are compiled, examined, considered and incorporated in the proposed legislation.

I wish to inform the Committee that, during the process of drafting of Labour Codes, about nine tripartite meetings were held. The proposed Labour Codes in no way intend to or propose to weaken the inspection system in the country. In fact, it enhances the role of the inspector by adding the preventive duties and responsibilities to his usual duties of inspection. Further, the inspections as proposed in the Labour Code would be unannounced and prior notice is not required to be given before inspection. The provision of appellate authority is provided at various levels to ensure that the principle of natural justice is followed. Though the discussion of elaborate provisions of Labour Code is not related with Convention No. 81, however, I would like to clarify that the applicability threshold for a factory has not been enhanced from the existing ten to 40. In fact, the threshold of other establishments is not proposed to be changed.

I would put on record that the Codes are still at pre-legislative state and are subject to modification. The Government is conscious of its commitment made to labour standards through the ratification of Conventions and will give due regard to the same while framing legislations. I would now request our Secretary to give concluding comments.

Another Government representative – We are committed to the labour reforms through the appropriate tripartite consultation. We are a nation of 500 million workers, including 0.2 per cent workers employed in SEZs and are committed to the welfare of all workers through innovative and technology-based mechanisms.

We have provided substantial evidence to indicate that the provisions of the Convention are being implemented under the enforcement mechanism prevalent in India, including SEZ, which is not in violation of the provisions of the Articles of the Convention. Article 2 that provides for

a system of labour inspection which is applicable to all workplaces, is complied with by the applicability of the inspection system through all instruments, including that of the SEZs. The labour inspection system in India, which is under the supervision of the Central Government for the establishments of the central sphere and under State Labour Department for the state sphere is as per Article 4 of the Convention.

In the case of SEZs, the delegation of powers to relevant development commissioners who, ultimately report about the inspections to the State Labour Department, is not in violation of Article 4 of the Convention. Similarly, Article 23, which states that the labour inspection in commercial workplaces will be applicable, which is enforceable by the labour inspectorate, is also being complied with. The relevant labour laws applicable to commercial places are being enforced by the inspection system through the officers who are given the powers of labour inspector by the appropriate government. As regards to the compliance with Articles 10 and 11, the statistical data provided indicates that there is an increase in the number of inspectors who are provided with all facilities to undertake the inspection.

Lastly, a labour inspector does not provide any notice to the employer before undertaking any inspection in the establishment, as 100 per cent inspections in the central sphere are unannounced. Even in the state sphere also, 91.7 per cent inspections are unannounced. The inspection system does comply with Article 23 of the Convention. The proposed provisions in the Labour Code also do not place restrictions on the inspector to enter the premises or to give prior information to the employers. However, to break the nexus between the employer and the employee, the randomized computerized system is being promoted. In view of these facts, it is submitted that India believes and implements the labour standards completely, as enforcement is crucial to achieve the intent of the labour legislation.

India feels that the substantive issues raised in the case have been adequately responded to by us in a series of communications since the year 2015. The Committee has also noted our response sent in May 2019. In view of the detailed statistics provided and our oral reply, we request that this case may be closed. Lastly, we would like to request the Chair of the Committee to submit the draft conclusions on our case well in advance for the consideration by the membership of this Committee to ensure that it is reflective of the discussions held and for the sake of consensual adoption on 20 June.

Chairperson – Thank you to the delegation of India for their participation in the Committee's work this afternoon, for those concluding remarks and for the information you have provided. In relation to your last comment, the process for the drafting and delivery of the conclusions is outlined in document D.1, so I would refer you to that document.

Worker members – First of all, we noted the comments of the Employers' group with regard to the submission made by a trade union organization, and the suggestion that such submissions should be subjected to the approval of the Government and other social partners is highly problematic and inappropriate. Representative organizations have the right to submit observations under the Constitution, and such a prior approval that the Employers are seeking in this case would severely limit the freedom of opinion of the social partners. And we trust that the Employers would not like to see such an evolution of the reporting system.

Other social partners and the Government are indeed invited to respond to the comments sent by the trade unions. But, as we have seen in the comments of the Committee of Experts, the Government of India has failed in fully responding to the persistent allegations that have been brought repeatedly to their attention.

Regarding the Government's compliance with Convention No. 81, there can be no effective compliance with any system of inspections, including labour inspections, without the inspectorates enjoying legislative and policy priority and adequate resources. We call on the Government to ensure that effective labour inspections are conducted in all SEZs. In this regard, the Government should send a complete and detailed report to the Committee of Experts that includes the number of routine and unannounced visits as well as the dissuasive fines imposed against infractions.

The Government must put an end to the operation of the self-certification scheme, which allows employers to self-certify without any credible verification by government officials. The self-certification of workplaces as well as the necessity test that is proposed raise very serious concerns. The Government failed to demonstrate how the self-certificates are verified and has not pointed at any other safeguards put into place to live up to its obligation to ensure effective labour inspections in all workplaces. We call for an immediate review, and indeed reversal, of the self-certification system. It is our expectation that the Government undertakes all necessary measures to ensure that all workplaces, including in the informal economy, are liable to inspection; and that labour inspectors have full powers to undertake routine and unannounced visits as well as to initiate legal proceedings.

We remind the Government that under Articles 20 and 21 of Convention No. 81, the central inspection authority is obliged to publish an annual report on the work of the inspection services under its control and supervision. This is the obligation of the federal Government in respect of both federal and centrally coordinated State's activities.

When it comes to the ongoing labour law reforms, we urge the Government to enter into full and frank negotiations with the social partners in order to ensure that the amendments introduced are compliant with International Labour Standards, and specifically Convention No. 81. Specific attention should be paid on the impact of the limitations put on labour inspections in the informal economy. This is where the vast majority of the workers are and this regrettably also where the effective labour protections are the weakest. This is particularly a concern when it comes to occupational health and safety.

We have now discussed these issues on numerous occasions and the Government has still not provided the adequate level of information that would allow the Committee of Experts to make a full assessment accompanied by concrete recommendations. Therefore, we believe it is appropriate that the Government accepts an ILO high-level mission in order to evaluate progress and to develop a pathway to reform in the form of a tripartite action plan.

Employer members – To begin, I think I may have perhaps phrased things a little unclearly in the sense that the Employers are in no way suggesting that unions should seek approval of anybody to make their complaint. That is absolutely their right. I think the observation I was making was that the complaint as it is, it is self-contained and sufficient information, and it would be good if the process of investigating and lodging the complaint in the report and bringing it forward to this Committee was better understood. I think we have heard throughout this discussion, especially from the Government, that there is a lot more going on than would be evident from the original complaint. It would have been possibly more upfront if that process had been better investigated. That is my point. It is certainly not about a union not having the right to complain. That is absolutely their right.

I think too, the comment is that, as we have heard from the Government and as I said, there has been a lot going on that we had not heard about before and, in that sense, that is good. But, sorry India, that doesn't let you off the hook completely because I think that there are a number of issues

that do need to be dealt with, not necessarily an issue of things being bad, but things could be better and I think that is probably the kind of tone that our comments are directed at. For instance, on the issue of the adequacy of resources for labour inspectors, we have heard and we accept that labour inspectors in general are provided with everything they need to do their jobs – cars, laptops, phones, and so on. But that there seem to be some instances where there are some less ideal circumstances, such as labour inspectors being required to use things like taxis and the like. Our observation is that that can be an inhibiting factor in the carrying out of their work and so one recommendation is that we urge the Government to ensure that all labour inspectors have the equipment and facilities necessary for them to carry out their duties in a completely unfettered way.

The second recommendation in that regard is that the Government continue to provide information on the number of labour inspectors, both at the central and state levels, but also in relation to the ratio of labour inspectors to people because, as we heard in parts of the discussion, the number of labour inspectors has increased very significantly but when you compare that to the working populations and the areas that they serve, it may still be an issue of adequacy that needs to be addressed.

Turning now to the issue of data and data provision. The comment I made earlier and make it again that some aspects of data collection even with the advent of web-based systems is still conducted on a voluntary basis, and that has several issues attached to it, one of which is being voluntary, it means that some of it may not come in on time, or even at all, and it may not necessarily come in standard formats, all of which can diminish the comprehensiveness and usefulness of information at the national and state levels. So we would urge the Government to take steps to ensure that the data collection process is as standardized and comprehensive as it needs to be to operate and inform the processes of labour inspection and regulatory processes as they need to be.

Just turning now to the issue of self-certification. Unlike the Workers, we do not believe that self-certification of itself is a bad thing, the issue for us is whether or not it is a substitute for labour inspection work. Our belief is that self-certification can be a powerful tool in assisting employers to understand what issues are deficient in terms of their compliance and to then take self-regulated steps to achieve those things. That does not absolve them from inspection, or independent audit, but, if it is working properly, it does give them the chance that when an inspector does call unannounced, that their systems are working and that there are not violations. So it is a self-promoting, self-regulating process, but our belief and our view is that it should not be a substitute for a labour inspection. Given that we do not have enough information, we would call upon the Government to provide in future reports an assurance that self-certification does not diminish the capacity of the State to independently regulate an audit through the means of labour inspection.

With respect to the free access of labour inspectors to workplaces, we note that the work going on in the regulatory reform and legislative reform, does not appear to pick up specifically the rights of labour inspectors to access workplaces and we would urge that those sorts of issues are in fact included. We note that this work is ongoing and that modifications are still possible. This would be one modification that we would absolutely suggest that is made.

With respect to access of unions to workplaces, we note that the Government is working on reducing the thresholds required to establish unions, and we note also their assurance that there is no restriction whatsoever on unions forming at anywhere in their economy, including in SEZs. We would look forward to seeing evidence that that is in fact true in the future.

We would call upon the Government, as have the Workers, to complete the work on the OSH Bill and the Wages Bill and the various other pieces of legislation that have been referred to. They seem to have been in the system for a rather long time, and it seems well due time that these are completed to the level that we have been talking about.

So with all of these points in mind, we call upon the Government to take measures: to ensure that all of the legislation that has been worked upon is in conformity with the Convention; to ensure that the Code of Wages and the OSH and Working Conditions Act explicitly allow labour inspectors on their own initiative to enter workplaces without prior notice, not limited to situations where complaints have been made or indictors exist for labour law violations; to ensure that the Code of Wages and the OSH Working Conditions Act guarantee the discretion of labour inspectors anywhere in the country, including SEZs, to initiate prompt legal and administrative proceedings without prior warning; and, lastly, to ensure that the acts that are worked on contain thresholds that are appropriate and realistic for the establishment of both workers' and employers' organizations to allow them to flourish and of freedom of association conditions anywhere in the country.

Conclusions of the Committee

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

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;**
- **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.**

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.

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.

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. 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. 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.

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 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 are 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.

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.

The Committee on the Application of Standards, which stands for tripartism, has not taken into account the views of the Government, which is the ultimate policymaking 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 the conclusions in advance to India in the statement made on 18 June 2019 at CAS.

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)

Discussion by the Committee

Government representative – Ladies and gentlemen in the audience, I would like to congratulate you and ourselves on the Centenary anniversary of the founding of our dear Organization, to which my country has acceded in 1932 and has ratified more than 60 Conventions, including the eight fundamental Conventions, the latest of which, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Today we are discussing Convention No. 182, which was ratified by Iraq in 2001. That is more than two years after the year it was adopted. Following 2005 and the changes that took place, legislation was adopted, in particular the Constitution of the Republic of Iraq in 2005 and the Labour Code, which was legislated in cooperation with the ILO, which bears the number 37 of 2015.These legal texts have taken into consideration all the international labour standards as well as other models of Labour Codes and, in this regard, an important legislation was adopted to combat human trafficking (Law No. 28 of 2012).

The content of the Report, relies on reports, the majority of which were issued in 2015 and 2016. That is at the peak of the ISIS occupation of three governorates of my country which represent almost the third of the surface area of Iraq. Thanks to God, the security forces benefited from an international support and were able to defeat Daesh and to liberate those governorates and return them to Iraq, but frankly the remnants of war are very well known to all. Their negative effects are very well known to all and I hope that the Committee and all the members States will never witness what Iraq has witnessed over three and more years, starting in 2014 until 2017. All these negative effects have led to negative socio-economic impacts on the inhabitants of these governorates and this has led the Government to work in many ways in conjunction with the international organizations and civil society organizations. It has adopted all the means necessary and we can here mention the most important of these organizations starting with the World Bank.

We were able to secure a loan for the Republic of Iraq which was included in the 2019 budget of US$200 million for the purpose of granting soft loans to the youth in these three governorates so they can rehabilitate them. These soft loans will be borne mostly by the State. Furthermore, we have coordinated with the donors in order to rebuild to achieve reconstruction of Iraq after the Conference that took place in Kuwait in 2017.

Third, we have worked very diligently with the ILO and exchanged many visits with the delegation from the Regional Office in Beirut which visited Iraq at the beginning of this year in January. Their stay in Iraq lasted over more than seven days where joint activities and many visits to officials took place. This was followed by the visit of the Iraqi delegation to Amman (Jordan) so that a draft working paper could be discussed and adopted to allow for the cooperation between our Government and the ILO and this

certainly has taken place in cooperation with the social partners.

Fourth, concerning the International Organization for Migration (IOM), we coordinated with IOM on the one hand and the number of countries representations in Iraq whose citizens were among them so that the women and children of ISIS can return to their countries. So here the question is raised if the Government of Iraq was keen for the safety and well-being of children from other nationalities but what about the children of its' own nationality and citizenship? The report is referring to facts that only pertain to the period of occupation. We do not deny that there are some people of weak spirit who seek to mobilize children in their evil campaign. But especially given the nature of the security conditions, who among you has not heard about the Green Zone in Baghdad and other areas around Iraq today, the security situation is re-established and the Government is firmly dealing with any armed groups that are monopolizing the use of weapons again. Therefore this report should have been deferred to March 2020 in our opinion. We were honoured last year when we met with the representative of the ILO, Corinne Vargha, and discussed a fact-finding commission that would work on establishing this report and not rely on facts that are three years old.

Unfortunately, there is another aspect, the aspect of women who are violated, who were raped by the terrorist gangs. Myself as the head of the Special Needs and Disability Commission and with other colleagues are in charge of a number of shelters and our Government has set up special shelters to take care of these victims but the social situation in Iraq and our specificity as an oriental society has led to the protection of these women against rape and here I would like to pay tribute to the Alzidi Iraq citizen who won the Nobel Peace Prize despite the fact that victims do not come forward but we are trying to help them as much as we can. By the way, today is 12 June 2019, the international day to fight child labour.

I am in Geneva and my Government in Baghdad and all the civil society organizations in Baghdad are working diligently in order to spread a culture of the fight against child labour under the slogan "Children are the men of the future and with them countries can be built". I am all ears to hear your comments and greetings of God be upon you.

Employer members – At the outset, this is a double-footnoted case dealing with Convention No. 182. It is the first time this Convention has been addressed with respect to Iraq in the Committee. Iraq ratified this Convention in 2001, and has been bound by its provisions since 2002. The Committee of Experts have made two prior observations of Iraq's compliance with the Convention, one in 2015 and one in 2018. In these observations, the Committee of Experts identified very serious concerns under several general headings. First, the use of children in armed conflict; second, the low numbers of children attending school and being deprived of education; third, the lack of support for the rehabilitation and reintegration of children that have become associated with anti-government, armed forces or groups; and finally fourth, the sexual exploitation and abuse of children, particularly the sexual enslavement of children by groups such as ISIS. The core element of Iraq's obligations with respect to the Convention is its obligation under Article 3 of the Convention, which is to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Employers' group notes with regret that this has not happened, despite the promulgation of the Coalition Provisional Authority Order No. 82 of 2004 known as CPA 89, which, among other things, laid down penalties for offences related to the forced or compulsory recruitment of children for armed conflict. Turning to the first issue in this observation and in this case the issue of the use of children in armed conflict. In 2015, the Committee of Experts noted that the penalties prescribed by CPA 89 were very low. It also noted UN observations in 2012 that armed groups such as Al-Qaeda and ISIS continued to recruit young boys and girls to take part in hostilities and that many had been killed or wounded as a result. It further noted that CPA 89 was repealed by the Labour Code of 2015, which did not contain comparable provisions, but noted that the Government intended to introduce laws that would enable the prosecution of any person who recruited children for the purpose of using them in conflict. In 2018, the Committee of Experts noted that the Government had yet to provide any information on progress. And further noted the UNB report of 2018, that the practice of recruiting children for conflict, primarily by ISIS, continued, as well as that by the Popular Mobilization Forces, the PMF, in organizing military training for boys aged 15 and over. Clearly, this is a complex situation. Cleary, only some of which the Government of Iraq has the means to control directly. For instance, in 2015, the UN verified the recruitment of children for purposes of conflict by both the anti-Government ISIS forces, and the pro-Government, PMF. Reports of children being used by ISIS as human shields, as spies, as suicide bombers, sit alongside reports of PMF forces recruiting boys as young as 10 for combat roles. Hundreds of children on both sides of the conflict have been killed and wounded. The 2015 UN Report noted that a lack of clear rules for recruitment, including specification of minimum age, and procedures for disciplining those who violated them were significant factors in the deplorable situation noted by the Committee of Experts in its Report. A lack of more recent information means that it is difficult to evaluate whether any progress has been made since 2015. This lack of information is concerning and, coupled with a lack of information on related topics, leads to the possibility that little has been done in the interim by the Government. Therefore, the Employers' group urges the Government to take urgent and transparent steps to expedite its efforts to meet its obligations under the Convention and particularly its obligations under Article 3.

The situation relating to education is no less complex. Widespread conflict, the risk of attacks on schools as well as the recruitment or abduction of children for combat purposes while at school all play a significant part in separating children from their right to a basic education free from interference or harm. It appears that some progress in this respect has been made. The Government has advised of its commitment to the UNESCO Teach a Child Project which aims to improve informal education opportunities and to provide alternative education to more than 180,000 out-of-school children in rural areas with the aim of integrating them into formal education. By 2015 an unspecified number of children had been registered under this Scheme. The Government reported that the Ministry of Education had implemented several awareness-raising measures targeted at children in primary schools in the most deprived regions and those with the highest drop-out rates in the governorate of Baghdad. However, in its 2015 Report, the UN Committee on the Rights of the Child expressed concern that only half of secondary school-age children were attending school primarily because of the risks discussed. The Committee of Experts' 2018 Report repeats the concerns of 2015 in this regard and notes a continuing absence of information from the Government on this matter. It also notes that the UN Report of 2018 in which it identifies attacks on schools and a continuance of alarming levels of absence from education of a large proportion of school-age children continues to exist. For instance, approximately 355,000 internally displaced children have no access to basic education and in conflict affected areas as many as 90 per cent of school-age children are left out of the education system altogether. According to UNICEF, in Iraq only about 5 per cent of Government spending is directed to education. In

its 2018 Report, the Committee of Experts urged the Government to increase this amount and to take the necessary measures to improve access to, and enrolment in, and the completion rates for basic free education for all children and, in particular, paying special attention to girls, children in rural areas and those affected by conflict. The Employers' group echoes the Committee of Experts' call in this regard. It is imperative that all children receive basic education so that they can work towards realizing their full potential in years to come for the good of themselves, their families, their communities and their country. The Committee of Experts, in its 2015 observations, noted that the Government had not updated earlier information concerning measures it had taken to remove children from armed groups and ensure their rehabilitation and reintegration. In this regard, the Committee of Experts expressed concern that to date several hundred children had been indicted or convicted of terrorism-related charges for their alleged association with armed groups. In its 2012 General Survey, Giving globalization a human face, the Committee of Experts commented on the challenge of rehabilitating former child soldiers, saying, among other things, "despite the positive achievements obtained in most countries, particularly in removing children associated with armed forces, the effective re-integration of former child soldiers into civil society remains a major challenge".

Indeed, observing that these children commonly face major obstacles to their social integration and are therefore at high risk of being re-recruited by armed forces, the Committee of Experts stressed the importance of ensuring that child victims of this worst form of child labour receive appropriate assistance for their rehabilitation and social integration.

The Committee of Experts expressed its concern over such practices and recalled that these children must be treated as victims, rather than as offenders. The Employers' group is of the same view and calls upon the Government of Iraq to ensure the children who have become associated with armed groups are treated fairly in light of their particular circumstances and not in a generic context as offenders.

Turning to the issue of sexual exploitation and abuse, the UN in its 2015 report, deplored the ISIS practice of sexual slavery, including the operation of slave markets and the sexual abuse of children in ISIS prisons. Information on hand at the time suggested that over 1,200 children have been abused through these means.

In both 2015 and 2018, the Committee of Experts expressed their concern at these practices and urged the Government to take effective and time-bound measures to remove children under the age of 18 from sexual slavery and ensure their rehabilitation and reintegration into society.

In 2018, the Committee of Experts once again noted a continuing lack of information forthcoming from the Government on this matter. The Employers' group also echoes the Committee of Experts' call for action, and in fact would go one step further and take this opportunity to add that the requested measures should not be limited to those under 18 years of age, as sexual exploitation and abuse is not only a breach of Convention No. 182, but also of other fundamental labour and human rights standards, including the Forced Labour Convention, 1930 (No. 29).

Therefore, while we thank the Government for its submissions this evening, clearly more, and we would suggest much more, needs to be done and in a time-bound manner.

Worker members – Combating the economic exploitation of children is at the heart of the ILO's mandate, and while the Minimum Age Convention, 1973 (No. 138), stemmed from a rich history dating back to the founding of our Organization, the Worst Forms of Child Labour Convention, 1999 (No. 182), which we will be referring to in the case of Iraq, is much more recent. Convention No. 182 was, in fact, adopted in 1999.

The ILO constituents thus sought to respond to the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour as a major priority of national and international action. One of the main objectives of this Convention was to supplement Convention No. 138 and its corresponding Recommendation.

As the Preamble to Convention No. 182 clearly states, the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families.

The Preamble identifies poverty as a major cause of child labour. In Iraq, this poverty has been generated by years of conflict in the region. The Iraqi population, and particularly children, have paid the price and continue to pay it to this day.

The Committee of Experts notes that a first serious failure with regard to the Convention in Iraq is the compulsory recruitment of children under the age of 18 for use in armed conflict. Such recruitment is formally prohibited by Articles 1 and 3 of the Convention. Iraq must therefore take immediate and effective measures to ensure the prohibition and elimination of this form of child labour as a matter of urgency.

We are well aware that a proportion of the children under the age of 18 recruited for use in the conflict is not attributable to the Government of Iraq that is before our Committee. However, it is this Government that must exercise its sovereignty and the related obligations on Iraqi territory. Doing everything possible to ensure the application in law and in practice of the Convention is part of these responsibilities.

The recent report of the United Nations Secretary-General on children and armed conflict indicated that child recruitment had also been identified among pro-Government forces in areas of armed conflict.

We deplore, as bitterly as the Committee of Experts, that the recruitment of children for engagement in conflict is continuing in practice. The report of the United Nations Secretary-General sets out the reasons for the recruitment of certain children: suicide bombers, production of explosives and sexual exploitation. This is quite simply intolerable. The eradication of these forms of child labour must be the highest of priorities for the Government of Iraq.

It would also appear that military training is organized for boys aged 15 and over by pro-Government forces. We hope that Iraq will respond to the call made by the United Nations Secretary-General, which we endorse, for an action plan to bring an end to the training, recruitment and use of children by pro-Government forces.

To combat these practices, it is essential for the legislation in Iraq to establish this prohibition explicitly together with effective and dissuasive penalties against those responsible for such recruitment. The Government of Iraq indicated that it is working on the adoption of such legislation. We hope that the results will be seen very rapidly.

As we know, the most effective means of removing children from work, and particularly from the worst forms of child labour, is to guarantee their access to education. Article 7(2) of the Convention requires Iraq to take effective and time-bound measures to prevent the engagement of children in the worst forms of child labour and to ensure their access to free basic education.

The information available to us indicates that the obligation to attend school is only applicable up to the age of 12 years. The minimum age for admission to work is set at 15 years. There is therefore a gap of three years during which there is a major risk of children falling into the worst

forms of child labour. It is necessary to resolve this legal gap through legislation reforms. Sadly, we have not received written information from the Government on this subject and we hope that it will be able to tell us more in this regard.

Compliance with these obligations is not ensured. Far from it. Various reports describe a worrying situation, with schools being attacked and schoolchildren abducted on their way to school. Statistics on school attendance are also a cause for concern, particularly for girls, children in rural areas and in war-affected areas.

It is difficult under these circumstances for the programme established in collaboration with UNESCO to have a good chance of prospering. And yet, this programme offers an opportunity that the Government must seize and which should be given every chance of succeeding. However, UNESCO reports that the credits allocated by the Government of Iraq for investment in education are too low and are not sufficient to guarantee access to education for all Iraqi children. We are bound to endorse the profound concern expressed by the Committee of Experts at the large number of children denied education in Iraq.

The 2012 General Survey on the fundamental Conventions identified the rehabilitation of former child soldiers into civil society as a challenge. In practice, these children have often suffered profound traumas which make their social rehabilitation difficult. They therefore need very specific and appropriate assistance. Article 7(2) establishes in this respect that Iraq is required to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. And to do this, Iraq will have to treat these children as victims, not offenders.

The concerns of the Committee of Experts on this subject go back to 2010, when a direct request to the Government of Iraq referred to some 800 children in detention. It is therefore a long-standing problem to which we call on the Government of Iraq to find an effective solution rapidly. The same applies to the social rehabilitation of child victims of conflict in Iraq, which has deprived them of their innocence and the basic education necessary for the development of each child.

The Committee of Experts finally raises the issue of the cases of sexual slavery by the Islamic State. These facts are reported by the Committee on the Rights of the Child and in the report of the United Nations Secretary-General. It is to be regretted that the Government of Iraq has not provided any information in its report on these terrible sufferings.

The situation in Iraq is particularly difficult. No one can deny that. The Government must nevertheless exercise its sovereignty in full over the territory of Iraq with its related responsibilities. Taking every measure to ensure as rapidly as possible the application in law and practice of the Convention is part of its responsibilities.

Employer member, Iraq – I would like to point out that many children have been enrolled by Daesh and have been under terrific exploitation. A huge number of children need to be rehabilitated and need assistance. We need support so that we can address this particularly serious situation, on the one hand, and on the other, we have to take into account the fact that our country was destroyed. The infrastructure was damaged and that hinders the work of enterprises and of employers. That is why once again we have to redouble our efforts in a professional way to train employees and managers and all those in our country who are concerned by this.

There is also the problem of the exodus of so many in our ranks. We have suffered a brain drain and the loss of so many skilled people. That is why we need authorization for these people to move around and this calls on the Government and on the employers in particular. We need to come to a solution to these administrative and logistic problems. Administration is an obstacle to our work today. That is why, we need your support. We need the help of this Committee. And, bear in mind that this difficult and sensitive situation also has its effects on neighbouring countries.

Another Employer member, Iraq – The situation of children has been worsened by the issue of unemployment. Over 85 per cent of factories and centres of production in Iraq are no longer operational and that is why the number of unemployed among young people has risen exponentially. Male heads of poor families are often unemployed and, as a result, they cannot put food on their families' table. Furthermore, following the events in 2014 and the invasion of the country by Daesh, the situation has only got worse. Because it has got worse, these unemployed people need to be given help to get back into the labour market. That is why Iraqi factories and businesses need to be helped to reopen their doors and start working again so that they could get the unemployed back their jobs. The job creation issue is one of the problems the Government is trying to tackle, but because it is so difficult it needs help in that respect.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries the Republic of North Macedonia, Montenegro and Albania, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, the EFTA country Norway, member of the European Economic Area, as well as the Republic of Moldova and Georgia align themselves with this statement.

Eradication of child labour constitutes a priority of EU human rights action. We support the ratification and implementation of the UN Convention on the Rights of the Child, as well as ILO Conventions Nos 138 on minimum age and 182 on the worst forms of child labour. We are committed to the achievement of the UN Sustainable Development Goals, which include two relevant targets for eliminating child labour by 2025 and to mainstream this objective in our development policy. We have also welcomed the Declaration on the Sustained Eradication of Child Labour adopted at the fourth global conference on the subject in Buenos Aires in 2017.

The recruitment and use of children in armed conflicts constitutes one of the worst forms of child labour. The EU adopted in 2008 an updated version of its Guidelines on children and armed conflict with the objective of addressing the short-, medium- and long-term impact of armed conflicts on children, and in particular to end the use of children in armed forces and groups.

The EU and its Member States are long-term partners of Iraq. In response to the many challenges Iraq is facing after years of conflict, the EU has adopted in 2018 a new strategy for Iraq to support the Government's efforts both in the short term, in the field of humanitarian aid and stabilization, as well as on long-term processes related to reconstruction, reconciliation and development. In the trade area, the EU and Iraq have signed a cooperation and partnership agreement.

Despite an end to the conflict, 1.67 million people, including 800,000 children, remain displaced and humanitarian assistance is still needed to deliver basic services in many parts of the country. Displaced populations add to the 4.27 million people, including over 2 million children, who have recently returned to their places of origin. Children in Iraq have been severely affected and even traumatized. A certain number of them have been enrolled for use in conflict, killed, maimed, raped and enslaved.

We express deep concern over the last UN Secretary-General's report about the recruitment of children for their use in armed conflicts. The report also mentions the organization of military training by pro-Government popular

mobilization forces. We therefore urgently request the Iraqi Government to ensure that children under 18 are not recruited into armed groups and armed forces anymore and ensure demobilization and long-term reintegration of children who have already been recruited. The national legislation should be amended to adopt a law prohibiting recruitment of children under 18 years old. Finally, immediate and effective measures should also be undertaken to ensure thorough investigation and prosecution of all persons, including members of the regular armed forces who recruited children under 18 years for their use in armed conflict. Sufficiently effective and dissuasive penalties should be imposed for those convicted persons.

We welcome the Government of Iraq's recent reopening of schools in Mosul with assistance by UNICEF. However, we express deep concern over the high number of children who still remain out of school, close to 2.6 million according to UNICEF. The situation is of particular concern in conflict-affected governorates, where more than 90 per cent of school-age children are left out of the education system. Almost half of all school-age displaced children – approximately 355,000 children – are not in school. The situation is much worse for girls, who are under-represented in both primary and secondary schools. Iraq's infrastructure is in ruins in many parts of the country; one in every two schools is damaged and needs rehabilitation. A number of schools operate in multiple shifts in an attempt to accommodate as many students as possible.

Out-of-school children are more vulnerable to exploitation and abuse, including child labour, recruitment and use by armed actors and early marriage. We therefore urge the Government to improve access to free, quality, basic education of all children, particularly girls, children in rural areas and in areas affected by war. Measures should also be undertaken to increase the enrolment, attendance and completion rates at the primary and secondary levels and to reduce school drop-out. Since the Government of Iraq has given priority to the decentralization of service delivery, including education, the capacity of education departments at the governorate level need to be boosted in order for them to oversee the implementation of education policies and plans, the recruitment and management of human resources, the supervision of schools, and the management of educational infrastructure.

Investing in education is investing in the future of the country. Decades of under-investment have also contributed to the collapse of an education system which use to be the best in the region. Restoring quality education services to all should be a priority area of the Government and sufficient financial resources should be allocated to that aim.

We also express concern over the children who are still arrested, detained or convicted for their alleged cooperation with terrorist groups. We are cognizant of the fact that these are very sensitive cases. However, we would like to recall that enrolment of children by armed groups is an infringement of international law and those children who are in this situation should be recognized primarily as victims. Moreover, rehabilitation and reintegration programmes for children formally associated with terrorist groups through education programmes, psychological support, vocational training and initiatives for social reintegration into society should be prioritized.

Finally, the Government should pay special attention to the children who have been abducted and used as sexual slaves by Daesh. Such inhumane and degrading treatment causes severe physical and psychological trauma that changes lives forever. It is therefore crucial that the Government takes all measures to remove children from sexual slavery and provides them with psychological and care services, and facilitates their reintegration into society, so that they are able to go back to normal life.

Children are the future of the country and their situation with regard to education, rights and well-being should not be neglected. They will play an essential role in the country's reconstruction, including on the issue of reconciliation. They should be a priority target for the Government. The EU and its Member States will continue to support the Government of Iraq in this endeavour.

Observer, International Trade Union Confederation (ITUC) – Iraq's circumstances over the past decades, namely three wars and ISIS terrorist attacks, led to an environment unfit for the implementation of ILO standards especially Convention No. 182, in particular the provisions which require the rapid promulgation of legislation to ban, penalize any recruitment of children, especially those under the age of 18, in armed conflict.

Such activities in practice, according to Iraqi law, are indeed banned. We, in the General Federation of Iraqi Trade Unions, value the content of the Committee of Experts' report, namely that the most effective means to remove children from the worst forms of child labour is to provide them with free basic education and to implement Iraqi legislation through the prevention of school dropouts and the improvement of education processes. This especially applies to war-torn areas which were under ISIS control. This would be a first step in the right direction.

We wish to also reaffirm the need for the Government to take on board the Report's contents regarding sexual slavery practices by ISIS. These are heinous acts calling for specific measures as well as the rehabilitation of the victims.

We further reaffirm the need for the Government to request technical assistance from the ILO and other international organizations to overcome the obstacles faced by the country which were inflicted on it and on its children, and through them we could reconstruct our country and rebuild a peace-loving society and a democratic one.

Worker member, Spain – As you all know, yesterday, 12 June, was World Day against Child Labour. The ILO launched that day in 2002 to raise awareness about the magnitude of this problem and unite efforts to eradicate this practice. On 12 June, we have the opportunity to encourage and coordinate the initiatives of governments, employers and trade unions, civil society, the communication media and many other local stakeholders, including schools and local authorities, in the fight against child labour.

It should be recalled before this Committee that Convention No. 182, which we are discussing in the case of Iraq, is now celebrating its 20th anniversary and is close to universal ratification. We are calling for its full ratification together with that of Convention No. 138 and the Protocol of 2014 to the Forced Labour Convention, 1930.

We are still far away from meeting the expectations of target 8.7 of the 2030 Agenda to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including the recruitment and use of child soldiers, and by 2025 to end child labour in all its forms. Without a doubt, we are even further away in the case of Iraq.

The United Nations Children's Fund (UNICEF) reminds us that there are 4 million children in Iraq in a very vulnerable situation, as they are the group that is hardest hit by the violence: more than 1,000 children have been killed, 1,300 have been abducted, one in every five suffers stunted growth, 1.2 million are outside the education system, 800,000 have been orphaned, some 4,700 have been separated from their families, 500,000 are involved in child labour, and 600,000 are still displaced.

Moreover, since declaring "victory" over Islamic State at the end of 2017, the authorities have been pursuing those children accused of belonging to Jihadist groups – children that have been used by ISIL as war slaves.

Regrettably, the Iraqi authorities are imprisoning them again, sometimes in adult prisons, are torturing them and, at best, placing them in isolated camps and excluding them from rehabilitation programmes.

Although the armed conflict has reduced in intensity since the end of 2017, there is still a need to step up humanitarian assistance because the children of Iraq are facing numerous challenges. Given the gravity of the situation, we ask the Committee to make an urgent appeal for the complete eradication of forced and child labour in Iraq, with investigations, justice and compensation. Without help, these children will most probably take up arms again. Iraq is investing a lot in the detention of these minors, money that would be better spent on compensation for the harm caused to the victims of this conflict.

Government member, Canada – We recognize that the situation in Iraq remains challenging, with the continuing presence of armed groups, incidences of armed conflict and terrorist activity. Canada supports a united, stable, diverse and democratic Iraq, and is fully committed to supporting the Iraqi Government and its people on the road to stability, security and good governance.

As a key player in the Middle East region, now is the time for Iraq to strive to overcome challenges that threaten its most precious asset – its youth. As the Committee of Experts and several United Nations reports make clear, Iraq suffers from some of the worst forms of child labour, including the recruitment of children for use in armed conflict and commercial sexual exploitation, particularly of girls. Many children in Iraq have suffered greatly and continue to suffer, especially boys and girls from diverse ethnic and religious groups and those displaced from their communities. The Government of Iraq must act without delay to protect its children and rehabilitate its youth.

Canada therefore urges the Government of Iraq to take immediate and effective action to: adopt a law that clearly prohibits the recruitment of children under 18 years of age for use in armed conflict and put a stop to such recruitment in practice; to take all necessary measures to remove children from situations of sexual slavery and exploitation; and to introduce and strictly enforce effectively dissuasive penalties against all perpetrators to prevent other children from being forced into armed conflict or situations of commercial or sexual exploitation. Furthermore, we urge the Government to recognize that minors have often been victimized and should not be treated as offenders and accomplices. Rather, their rehabilitation and social integration should be prioritized.

Finally, we encourage the Government to take all necessary measures to ensure the safety of school children and improve access to free, basic, quality education, as such access would help prevent the engagement of children in the worst forms of child labour. Canada would be pleased to discuss with the Government of Iraq how we might provide any support or assistance in these endeavours.

Worker member, Norway – I will speak on behalf of the trade unions in the Nordic countries. Children in Iraq continue to be victims of grave child rights' violations. This is confirmed by a report of the UN Secretary-General on children and armed conflicts and several other reports from UN bodies. Boys as young as 12 years are recruited and used in military operations by the Islamic State in Iraq and Levant (ISIS), by the Government Popular Mobilization Forces (PMF) and by self-defence groups supporting Iraqi security forces. The Iraqi Government has not shown any political will to curb these groups' use of child combatants.

Children in Iraq are vulnerable to recruitment in the ongoing conflicts. They are used as suicide bombers and combatants, for logistics and manufacturing explosive devices. In addition, they are sexually exploited and used as wives of fighters and as sex slaves.

During the war, a large number of children were detained and convicted of terrorism for their association with armed groups. Only in 2017 at least 1,036 children remained in detention on national security-related charges, mostly for their alleged association with ISIS. The Nordic trade unions express its deep concern of this practice. We do emphasize that children under the age of 18 should be treated as victims and not offenders.

Refugees and internally displaced children in camps remain vulnerable to sale and trafficking for sexual purposes. NGO reports contain evidence of local government authorities and security personnel working in collaboration with human trafficking networks in the Kurdish region, particularly in the Domiz refugee camp.

Iraq has made a minimum of efforts to eliminate the worst forms of child labour although a new policy has been adopted. However, children continue to engage in child labour, including forced begging and commercial sexual exploitation. The Nordic trade unions are deeply concerned about the violations of children's rights in Iraq. We urge the Government to take immediate measures to put an end to recruitment of children for use in armed conflicts. It is also necessary for the Government of Iraq to improve access to free basic education for all children, also in areas affected by war, particularly girls. Penalties for offences related to the use of children in armed conflict, hazardous work and prostitution should be introduced and enforced. Persons who forcibly recruit children under 18 years should be prosecuted and punished.

Government member, Switzerland – Switzerland supports the statement made by the European Union and would like to add a few points. Child labour and, more particularly, the involvement of children in armed conflict, are extremely worrying problems. Switzerland is concerned to see the practice of recruiting children being continued by the pro-Government Popular Mobilization Forces (PMF) in conflict zones as well as by Islamic State in Iraq and the Levant (ISIL).

Switzerland would like to emphasize that recruiting children for armed conflict is not only in violation of this Convention, but also of Articles 32 and 38 of the United Nations Convention on the Rights of the Child, which Iraq ratified in 1994.

Clear and specific sanctions should be imposed to punish acts of involving children in conflict and their use for sexual slavery.

Depriving children of their education because of the climate of insecurity is not acceptable. Switzerland encourages the Government to continue its efforts for the criminal prosecution of persons implicated in serious violations against children and to take all the necessary measures to guarantee the demobilization of children, bring an end to all child recruitment and facilitate the rehabilitation and social integration of children. Even in the present circumstances, we must try to ensure that these children are not deprived of a better future!

While acknowledging the difficult situation in Iraq, Switzerland shares the serious concerns of the Committee of Experts and fully supports its conclusions and recommendations.

Government member, Egypt – We have listened most carefully to the statement made by the representative of the Government of Iraq, as well as the references to the situation prevailing in the country, and those measures that were taken, especially legislative ones. Those were aimed at improving the working situations and especially the adoption of a new labour law in 2015 and a new legislation regarding human trafficking.

The Government's adoption of such measures in the light of the circumstances it has faced, such as war against terrorism, is evidence of Iraq's care to implement international standards, especially this Convention.

We wish to reaffirm the importance of the implementation of the Convention in law and practice. However, we wish to commend those initiatives taken by the Government of Iraq to in fact inform social partners regarding child labour. We therefore call on this Committee, when drawing up its conclusions, to take into account the circumstances prevailing in Iraq and those measures taken to implement the provisions of the Convention. We call on the Organization to provide the necessary support to the State of Iraq so that it may pursue those efforts undertaken to abide by international labour standards and especially Convention No. 182.

Government member, Islamic Republic of Iran – I would like to welcome the delegation of Iraq for their presence in this Committee and the extensive report they provided for the consideration of this august body. We appreciate the efforts of the Government in fulfilling its obligations under the Convention and urge it to continue to do so more rigorously. The ILO Convention on the worst forms of child labour is the fundamental instrument for the protection of the rights of children to which we all attach grave significance.

The very fact that the Government of Iraq joined this Convention right after the entry into force is a manifestation of Iraq's determination and strong will to follow its obligations under the instrument, which has been broadly acknowledged by the social partners. However, in examining the implementation of the Conventions in Iraq we need to take into account the dire security conditions in this country following the occupation of large parts of its territory by the terrorists groups – particularly Daesh – who are accountable for the serious violation of the Convention in Iraq. Likewise, the responsibility of the foreign powers who made it possible for terrorists to occupy and control the Iraqi territory and thereby caused severe violation, violence of the Convention cannot be overlooked. We invite the Committee and the ILO to further provide assistance to the Government involved in fulfilling its obligations under the Convention and urge Iraq to engage in a more meaningful manner with all relevant parties for the implementation of its commitments and wish them the best of luck in doing so.

Worker member, Egypt – We have listened with great attention to the statement of the Government of Iraq, and we have noted that it has adopted all the necessary measures to prevent the trafficking for labour of children. And hence, we can say of this neighbouring country that the Government has not proceeded to employ children; that the Government respects the Convention and that the recruitment of children was conducted by terrorist groups. The Government and the legislation in Iraq prohibit this practice and we emphasize that work has been done to address this, and we hope that the international community will lend help to this country, which has suffered from many wars, above all through Daesh. We hope that this Committee, when it will adopt its conclusions, will bear in mind what has happened recently in Iraq and that the ILO will proceed to adopt all measures to help this country. We support everything that appears in the statement of the Government representative on this.

Government representative – There are 38 million inhabitants and in 2020 the Planning Ministry and the Central Census Organization is preparing precise figures on the population of our country. The most recent census of our country was conducted in 1997 and the absence of verified data is a major problem and regrettably the preparation of some reports from some media sources often failed to draw on reliable sources. For example, our colleague when he referred to the situation in our country, indicated that there are 38 million inhabitants and 4 million of them are public officials. This does not happen in any other country in the world; meaning that the number of public officials is more than 11 per cent of the population. That is a very important fact within the ILO. The Government should provide employment opportunities after the events of 2007.

We think about the great number of retired in our country and more than 3 million are protected. I am thinking in particular of victims of terrorism and members of the families of martyrs or of prisoners. The Employment and Social Affairs Ministry, for example, allows them protection; 1.27 million grants are provided every month to families. But this aid has strings attached according to the law. The conditions we apply to recipients is that their children must go to school. So, in summary, that is what happens with our budget.

As to the culture of unemployment, that is very dangerous. If I do not receive any form of income or aid I am considered unemployed in my country. That is one side of the issue, on the other hand, I would like to thank the European Union for its support and for our joint efforts to help rebuild, reconstruct my country. As to legislation, I can tell you there is strict legislation. We have a new law which has been discussed in the legislative council and that is legislation to protect children.

Now, let us return to the report. A report on the situation of children and armed conflict and forced recruitment and their being hindered to go to school. Let us see how in a neutral way we can address this situation. The use of children in armed conflicts has two aspects: one is the authorization now used by Daesh and this can be seen within the efforts by the Government and international efforts. The international support which should be ongoing so that these children can be integrated into society once they are released from the clutches of Daesh. That is very important. As to those children who are recruited as part of the popular mobilization, there we must differentiate between popular mobilization which is part of the armed forces in our country, and those individuals who claim to belong to this mobilization.

These groups appeared after the chaos produced by Daesh. They are the ones they refer to in the report by the Secretary-General. That means that the stabilization of our country and the liberation of regions were a priority for these peoples.

As to their forced use into sexual exploitation, I can say that the report did not refer to the Iraqi legislation I referred to earlier – article 37 of 2017, or the law on the prohibition of human trafficking and other related measures. We emphasized the financial support received from the World Bank. The ILO has also been carrying out programmes: one for decent work, another, a loan from the World Bank to support young people and women in the concerned governorates. As to education in Iraq, since the 1970s, education has been free of charge – both primary and middle education and university education. And we are now beginning to see the advent of private and civilian universities. Now much of this is often due to the economic situation and we are addressing this through our various reform policies which are our priorities. There is also the aspect that the exodus has led us to, into particular treatment for so-called itinerant schools for those who cannot go to school. I am referring to the figures or the lack of them. The report in front of me is an international report which refers to various ministries. But here we are before the ILO and I think that we should turn to the Education Ministry where we have precise figures on the children who do not go to school. I am not saying that the figures are imprecise but normally I think we should be much more objective.

Finally, Iraq insists on the application of international labour standards and on the need to pay attention to all countries that are jeopardized. Regarding the recruitment for the armed forces, it has been said that there has been no further child recruitment in recent years. We do not have a compulsory military service at the moment. It is a voluntary military service. There may be isolated cases but we do not

think they warrant the current statements that we have heard.

Worker members – We have heard the representative of the Government of Iraq and the contributions of the various speakers. This is a serious case, which was selected as a double-footnoted case by the experts. Future consideration by our Committee of the case of Iraq with regard to this Convention will depend on the development of the situation in the country. I therefore cannot say that this will be the last time that this case will be discussed, but at least that is my hope.

As we have heard, the Government of Iraq must accept that a definitive solution to the conflict will require massive reinvestment in the education of its young people, even those who have been worst affected by the years of conflict. It is through its young people that Iraq will be able to rebuild a peaceful and democratic society. To achieve this, the Government must take urgent action to fully and immediately demobilize all children and end the forced recruitment of children under the age of 18 years to the armed forces and armed groups.

The enactment of a law prohibiting the recruitment of children under the age of 18 years for use in armed conflict is an essential first step. We are convinced that such a law could be adopted quickly, given the commitment already expressed by the Government of Iraq to take this action. This legislation must also provide for immediate and effective measures to ensure that all persons, including members of the regular armed forces who recruit children under the age of 18 for use in armed conflict are thoroughly investigated and vigorously prosecuted and that sanctions that are sufficiently effective and dissuasive are imposed in practice. This will require providing the inspection services with the necessary human and material resources to ensure compliance with this legislation. It would also be useful for the Government to provide information on any progress made in this regard.

Given the indications that military training is being organized for boys aged 15 years and over, we believe it is appropriate to develop an action plan to halt the training, recruitment and use of children by pro-Government forces for military purposes.

As we have seen, access to free basic education is the best guarantee to keep children out of work, and particularly the worst forms of child labour. Although the situation in the country makes this task extremely complicated, it is essential for the Government to take the necessary measures to improve access to free basic education for all children, especially girls, children in rural areas and children in war-affected areas.

The programmes of the United Nations Educational, Scientific and Cultural Organization (UNESCO) seem to offer an opportunity that Iraq must grasp with both hands, and we invite it to reinforce cooperation and release the necessary resources to ensure the success of these programmes.

Moreover, according to our information, it appears that compulsory education is imposed only up to the age of 12 years, whereas the minimum age for admission to employment is 15 years, thus leaving a legal gap of three years. We ask the Iraqi Government to provide information on this matter and to take steps to raise the age of completion of compulsory schooling to 15 years so that it coincides with the minimum age for admission to employment.

These measures will make it possible to increase enrolment, attendance and completion rates in primary and secondary education and reduce school drop-out rates to prevent children being exposed to the worst forms of child labour.

Even though it is crucial to work on the preventive aspect, the situation in Iraq makes substantive work on the remedial aspect necessary. Indeed, large numbers of children have been recruited for use in conflict and have been seriously traumatized. The Government therefore needs to take effective and time-bound measures to remove children from armed groups and ensure their rehabilitation and social integration. It would be useful to provide the Committee of Experts with full information on the measures taken in this respect and on the number of children removed from armed groups and rehabilitated.

The large number of children who have been detained makes it necessary to emphasize to the Government of Iraq that children withdrawn from armed groups should be treated as victims and not as offenders.

Moreover, one speaker stated during the discussions that children who have been detained are placed in detention together with adults. We call on the Government to provide information on this point and, more generally, on children's conditions of detention.

If the Government of Iraq takes steps to stop detention measures for children as soon as possible, the information on their conditions of detention will enable it to take appropriate steps to ensure the social reintegration of these children.

As we have heard, sordid incidents of sexual slavery have been reported by various organizations. The Government must take effective and time-bound measures to remove children under 18 years of age from sexual slavery and ensure their rehabilitation and social integration. As the Government has not provided any information on this in its report, it would be useful for it to provide written information to the Committee of Experts on the specific measures taken and the number of children removed from sexual slavery and rehabilitated.

In order to comply with all of these recommendations, we ask the Iraqi Government to request ILO technical assistance.

Employer members – We appreciate the detailed nature of the submissions and found this most useful. We also thank the other speakers that took the floor and believe that this was quite a rich discussion about clearly a very complicated issue. The core of this case is the procurement and use of children in armed conflict. Related issues in this case include the deprivation of children of basic education, the prosecution of children for participation in conflict, treating them as offenders and the abduction, sexual exploitation and sexual abuse of children. Undoubtedly, there is no worse form of child labour than forcing children into armed conflict. Clearly this is the most serious of violations.

It is clear from the discussions that there is a broad consensus regarding the seriousness of the issues presented in this case and the need for the Government to take immediate measures, both in law and practice, to address these most serious issues. The Employers also take a moment to recall that the use of children by Daesh or ISIS or the Popular Mobilization Forces is equally problematic. While the Employers' group recognizes the challenges facing the country, it is also clear from the discussion today and the interventions made that members of the international community stand ready to support the Government in these important efforts. We think that this is an example of how the international community can come together to address this most serious issue. Therefore, in the strongest terms, the Employers' group urges the Government of Iraq to collect and make available without further delay information on investigations, prosecutions and penalties relating to the worst forms of child labour, according to national enforcement mechanisms. We urge the Government to develop policies and a programme aimed at ensuring equal access to free public 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 to dissuasively penalize those who breach this law. We support the call for an action plan for

the Government to cease using children for pro-government military forces, whether this use is either compulsory or voluntary.

The Employers' group urges the Government to supplement without delay the UNESCO Teacher Child Project and other projects with such measures that are necessary to afford access to basic education for all children of school age, particularly girls, particularly in rural areas and those areas affected by war.

The Employers' group urges the Government to take effective measures without delay to ensure that children who are most often unwillingly conscripted and associated with armed groups that they are not unfairly treated simply because of that association, that they are not treated as offenders and that all are afforded appropriate means of social reintegration back to civil society.

The Employers' group urges the Government to identify and support without delay children who have been sexually exploited and sexually abused through such means as sexual enslavement by either anti-government or pro-government forces and ensure that their basic human rights are restored and respected and that there is particular attention given to their integration into civil society.

The Employers' group urges the Government to avail itself of ILO technical assistance as a matter of urgency to ensure its continued path to meeting its obligations under the Convention.

Finally, the Employers' group invites the Government, and stresses the importance of its provision of information in detail on the measures taken to implement these recommendations, to the next meeting of the Committee of Experts in November of 2019.

Conclusions of the Committee

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

The Committee deplored the absence of information provided by the Government and the lack of progress in the country.

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.

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 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.**

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.

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)

Written information provided by the Government

The Ministry of Labour and Social Protection of Population of the Republic of Kazakhstan (hereinafter – the Ministry) takes the opportunity to express its respect and gratitude to the International Labour Organization (hereinafter – the ILO) and has the honour to extend its congratulations on the Centenary of the ILO.

From the perspective of long-term close cooperation with the ILO on 16 May 2019, under the aegis of the XII Astana Economic Forum (hereinafter – the AEF), an international conference in observance of the Centenary of the ILO (hereinafter – the Conference) to discuss the report of the Global Commission on the Future of Work (hereinafter – the Report) was held in Nur-Sultan.

The AEF is one of the largest and most important international forums held annually with participation of the President of the Republic of Kazakhstan and global leaders, international experts, representatives of governments, business and scientific communities, media, etc. Within the AEF, the most important socio-economic issues, global trends, new challenges and ways to address them are discussed.

More than 200 delegates attended the Conference, among which the main speakers were the Deputy Prime Minister of the Republic of Kazakhstan, Ms Gulshara Abdykalikova, the Minister of Employment and Labour Relations of the Republic of Uzbekistan, Mr Sherzod Kudbiyev, and the representative of the International Social Security Association, as well as other international organizations, foreign government officials, diplomats, national and foreign associations of workers and employers.

During the Conference, a comprehensive and constructive exchange of views took place on the various aspects outlined in the Report. Following the Conference the fundamental recommendations of the Report were adopted.

In addition, on 20 May 2019, in compliance with the road map for the implementation of the ILO recommendations, the Ministry submitted to the Government of the Republic of Kazakhstan the Draft Law "On amendments and additions to some, legislative acts of the Republic of Kazakhstan on labour issues" (hereinafter – the Draft Law).

The Draft Law involves the exclusion of the mandatory vertical of trade unions, simplification of registration, em-

powerment of trade unions with the right to organize, conduct events with international organizations and implement projects aimed at protecting the rights and interests of employees in accordance with the legislation of the Republic of Kazakhstan, as well as the exclusion from the national legislation the rules regulating participation of the National Chamber of Entrepreneurs of the Republic of Kazakhstan "Atameken" in social and labour relations.

The Ministry will continue to work on the further promotion of the Draft Law with the subsequent submission to the Majilis of the Parliament of the Republic of Kazakhstan.

We highly appreciate the ILO's activities for its invaluable contribution and assistance in improving the legislation in labour and social issues, employment, occupational safety and social dialogue, technical assistance by providing consultations, recommendations and other training programmes.

In this regard, we hope for further constructive cooperation aimed at the development of international partnership in the labour sphere.

The Ministry avails itself of the opportunity to renew to the ILO assurances of its highest consideration.

Discussion by the Committee

Government representative – Kazakhstan is a member of the ILO since 1992 and is striving to fulfil its commitments in accordance with the national standards and practices. In our years of working with the ILO, Kazakhstan has ratified 24 Conventions which have been implemented by the legislation of the country. The ILO, through providing technical consultation and assistance, has supported the country. The work of the high-level mission which visited the country in May 2018 resulted in a road map to implement the recommendations of the Committee and the Committee of Experts with regard to the Convention. In the framework of the road map implementation, an analysis has been carried out on the application of the Law on Trade Unions and the National Chamber of Entrepreneurs (NCE) in consultation with the employers' and workers' organizations at all levels, including national, territorial, and the local level.

A number of recommendations have been prepared on the assistance and procedures to follow to receive financial assistance from international workers' and employers' organizations. Information has been sent to the Committee of Experts on the judges' associations, prison staff and firefighters' unions, and on collective agreements covering these categories of workers.

The road map has been developed in light of that. A draft law on changes to labour legislation has been developed and I would like to inform you that on 20 May of this year the draft law was submitted to the Office of the Prime Minister and the President's Administration. Once again, we would reaffirm Kazakhstan's commitment to the ILO in the area of social and labour relations. In this regard, allow me to report on the measures taken in response to the comments that we have received from the Committee.

Firstly, with regard to the right to establish organizations without prior authorization (refusal of registration, re-registration and liquidation of organizations). Currently, there are three national trade union organizations representing around 3 million workers (or practically half of the wage workers in our country). There are 39 sectoral, 19 regional, 439 local, and more than 20,000 primary trade union organizations.

By virtue of an Order of the Ministry of Labour and Social Protection of Population, adopted on 29 June 2018, expert advice was provided on the question of registration and activities of trade unions to more than 100 trade unions. According to the legislation, all trade unions of Kazakhstan are established without prior authorization – neither the State's nor the enterprise's – as per the Convention. Primary trade unions do not have to undergo registration in the justice departments. If trade unions wish to acquire legal personality and obtain a business identification number, then they have to undergo registration. If there are shortcomings, the registering body rejects the application and provides the reasons therefor.

Regarding the registration of the Congress of Free Trade Unions of Kazakhstan (KSPK), once all shortcomings identified by the registering body are addressed, it can once again apply for the registration (and can do so an unlimited number of times). We will provide the support to any trade unions seeking registration.

The draft law I have referred to will simplify the procedures and will give a union one year (instead of six months) to confirm its status.

Secondly, with regard to the comments relating to the right to form and join organizations of one's own choosing, in Kazakhstan, trade unions enjoy the right to establish trade union organizations, choose the status and structures and area of activity. They are not dependent upon state bodies and they are not subjected to their authority nor do they have to report to them.

The mandatory association, as provided for in the Law on Trade Unions was necessary to strengthen the role of trade unions in resolving issues arising when they are carrying out their functions to protect the interests of workers. The provisions of this law served to make trade unions strong social partners whose opinions, as the result, carried weight when it came to taking decisions in the labour and social sphere. However, in light of the comments of the ILO and a number of tripartite consultations with the social partners, a decision has been taken to review the existing system of trade union structures. To that end, a draft law to amend certain legislative acts of the Republic of Kazakhstan has been developed. It provides for the repeal of compulsory affiliation to a higher level trade union organization (in this regard changes are being made to sections 12, 13 and 14 of the Law on Trade Unions), simplification of the procedure to confirm trade union status and increase to up to one year of the time frame given to trade unions to confirm their status of a republic, sectoral and regional organization. We would also express interest in receiving ILO technical assistance on the above-mentioned issues as the draft legislation passes through Parliament.

Thirdly, regarding the involvement of the Government in the NCE, proposals to amend the Labour Code have been formulated with a view to withdraw the authority of the NCE to represent employers at the national, sectoral and regional levels. In 2018, a five-year transitional period has ended; the Government withdrew from the structure of the NCE and no longer has a right of veto. The Government therefore has no power to impact on the activities of the NCE. The NCE will no longer be the representative of employers and that has the following implication: the NCE will no longer be on the tripartite commission on social partnership or other bodies. It will be leaving the sectoral organizations and will no longer be a signatory of the sectoral agreements. It will also no longer be present on the regional committees. The changes that I have indicated are provided for in the draft Law that I have mentioned which went to the Office of the Prime Minister in May this year. We would again, here, welcome the technical support of the ILO.

Fourth, and as concerns the right of organizations to organize their own activities and formulate their programmes, currently, amendments to section 176 of the Labour Code are being drafted in relation to the right to strike in hazardous facilities. In accordance with section 176 of the Labour Code, strikes are recognized illegal in the rail-

way, civil aviation, healthcare and also hazardous facilities. The Labour Code states that at such organizations, strikes can be carried out if there are guarantees that services vital to populations will be provided, i.e. strikes will be carried out without harming the whole of the population of the territory concerned and without involving hazardous facilities.

The fifth comment relates to the amendments to article 402 of the Penal Code. In September 2018, an interdepartmental meeting examined this issue. The provision was amended to so as to provide for an alternative penalty of community work. The Government will pursue its work in this regard.

The sixth comment relates to the right to organize and receive financial assistance from international organizations of workers and employers. In Kazakhstan, there are no obstacles to the cooperation and carrying out of activities aimed at training of trade union officials and development of social and labour sphere financed by international organizations with the sole exclusion of financial support for anti-constitutional activities which undermine the sovereignty and the independence of the country. The resolution of the Government of 9 April 2018 gives a list of international foreign organizations which provide financial support and grants; that list includes the International Labour Organization and a number of other institutions. We have provided a written explanation regarding the legislation dealing with the cooperation with international organizations. At the same time, the draft Law I have referred to contains an amendment on the right of trade unions to carry out activities with international organizations on projects to improve the situation of workers in the Republic of Kazakhstan.

In conclusion, I would like to say that the Republic of Kazakhstan will continue making all efforts to develop institutes of social partnership in order to protect the rights of workers and employers. We will also be moving to ratify the Part-Time Work Convention, 1994 (No. 175). Once again, I would like to reassure you that the Government of Kazakhstan will continue to take all necessary measures in order to achieve the objective of full compliance with Convention No. 87.

Worker members – The case of Kazakhstan is one that has appeared recurrently before our Committee. In 2015, 2016 and 2017, our Committee examined the extent to which the situation in Kazakhstan conformed with the Convention. One direct contacts mission, one high-level tripartite mission and one road map later, we are once again dealing with the case of Kazakhstan. Needless to say, the situation in the country, despite all the above, remains particularly worrying when it comes to freedom of association. We are concerned that the country is not taking seriously the actions carried out thus far by the ILO and does not have a genuine desire to change its policies. In previous years, we already reported on the violence perpetrated against trade union leaders. Besides the violence already reported, we have been informed of further acts of violence against trade union leaders, in particular violence against the President of the Trade Union of Oil and Energy Workers in the region of Karaganda.

We deeply regret that the Government of Kazakhstan is persistently reviving practices that go against freedom of association. In addition to acts of violence, another modus operandi pervasive in Kazakhstan is that of filing legal proceedings against trade union leaders.

We have heard that Mr Eleusinov and Mr Kushakbaev have been released. This is a step in the right direction. Nevertheless, we emphasize that they are still facing severe restrictions to their freedom and movement and have been banned from carrying out trade union activities. This is also the case for Ms Kharkova.

A number of problems exist in relation to the applicable legislation in Kazakhstan. It is problematic that prison staff and firefighters are banned from establishing and joining trade unions. The Government of Kazakhstan affirms that only people of a certain rank (in the military or police) are subject to this ban. The Government of Kazakhstan must not use this as an excuse to circumvent or abuse the fact that police and armed forced are excluded from the freedom to establish and join organizations, as stipulated in the Convention.

If all prison staff and firefighters obtained a rank within the military or the police, the Government of Kazakhstan could de facto take away the rights and liberties prescribed to them in the Convention. In this way, it would be interesting to find out the proportion of ranked staff in comparison to that of civilian staff within each profession. It has already been established that the duties carried out by firefighters and prison staff do not justify their exclusion from the rights and guarantees laid out in the Convention. I refer you to paragraph 69 of the General Survey of 2012 on Fundamental Conventions for more information on this point.

We also wish to recall that derogations from the freedom to establish organizations should be interpreted restrictively, as stipulated in paragraph 67 of the General Survey of 2012.

In the case of Kazakhstan, it is also worth recalling the right to establish organizations without prior authorization. While the need to register a trade union is accepted, doing so cannot be a prerequisite for carrying out trade union activities that are legitimate. However, after the new trade union law entered into force, Kazakhstan obliged trade unions to register or re-register, and began to consider the activities of non-registered trade unions as illegal. It is difficult to bring the registration procedures to a successful conclusion and they sometimes take so long that they are damaging freedom of association. The Government systematically refuses to register independent trade unions and is even dissolving pre-registered ones.

Let us take the example of the Confederation of Independent Trade Unions of Kazakhstan (KNPRK). After two years of unsuccessful attempts to register, this trade union tried to register once again, this time under a new name, the KSPK, but was unsuccessful. This trade union has been refused registration four times in a row for no real reason. In addition to the registration problems facing independent trade unions, many other trade union organizations, whose independence is questionable, have been able to register without difficulties.

The Government has drawn attention to the helpline it has put in place to deal with questions related to trade union registration. However, it is our responsibility to say that this helpline does not have the capacity nor the necessary mandate to address problems of this nature.

Workers should have the right to establish any organization of their choice as well as to become a member. However, the law obliges sectoral, territorial and local trade unions to associate with a higher-level trade union structure within six months of registering. As we understand it, the Government is planning to prolong this time frame to one year. This is not in conformity with the Convention.

There are even more restrictive criteria when it comes to founding sectoral organizations. For example, sectoral organizations must include at least half of the total workforce of that sector or cover the territory of at least half of the regions. These criteria are too restrictive. They hamper the workers' ability to establish trade unions which, in turn, affects the much-needed trade union plurality. In order to conform with the Convention, these criteria must be more reasonable.

In light of the above, it remains to be said that workers must have the right to freely and autonomously decide if they wish to associate or not with a higher-level trade union

structure or to become a member. The Government of Kazakhstan has had time, since 2015, to amend the trade union law so as to align it with the Convention, but it is now clear that it did not do so. It is no longer enough for the Government to make promises and commitments.

The Law on the National Chamber of Entrepreneurs also lays out restrictions for employers' organizations in relation to freedom of association and to the right to organize, in violation of the Convention.

These different violations of freedom of association jeopardize one of the founding values of the International Labour Organization, namely social dialogue. Both the workers' organizations and the employers' organizations are effectively subject to restrictions on their right to organize. The social partners must have full independence so that they can freely and efficiently represent the interests of their members.

The law provides that a certain number of companies can be categorized as companies that carry out so-called "hazardous industrial activities". The vague nature of this concept and the fact that most companies can say that they engage in such activities, makes it impossible to accurately determine what activities fall under this category. This uncertainty means that, in practice, the majority of actions carried out by trade unions can be considered illegal and takes away the right to strike in three of the largest companies.

However, the Convention sets out the right of trade unions to organize their activities and develop a programme of action. This Convention is, for us, central to the right to strike and, as we know perfectly well, the right to strike is the very basis for the full expression of freedom of association. The legislation of Kazakhstan unreasonably obstructs the full expression of the right to strike in the largest companies. The right to strike should not be restricted except for the essential services. Interrupting the essential services could put the whole population or part of it at risk, endangering people's lives, safety and health. We hope that the Government will follow up meaningfully on the recommendations that we can provide it with at the end of our discussions.

Trade union leaders have been convicted and imprisoned on the basis of article 402 of the Penal Code which makes it a crime to go on strike if a court declares that strike as illegal. Penalties may go up as far as three years' imprisonment in some cases. We wish to strongly insist that a worker who has participated in a peaceful trade union activity was doing nothing more than exercising a fundamental right and therefore should not be subject to criminal sanctions. As the General Survey of 2012 indicates, criminal sanctions are only possible if crimes or offences are committed at the time of the trade union activity, and only when laws that penalize such acts apply.

We now find out that, after a meeting with all the public bodies concerned, the Government intends to entrust the inter-institutional working group of the Office of the Prosecutor with reviewing the above-mentioned article of the Penal Code. The involvement of the social partners in such questions is, in our opinion, equally as essential.

Lastly, while the law prohibits trade unions from accepting "direct" financial aid from international organizations, joint activities and projects are fully authorized in practice. The information provided by the International Trade Union Confederation (ITUC) shows that the authorities are refusing to register trade unions if they are affiliated with an international trade union organization, even if they do not receive direct financial aid from them. The laws and practices in place are therefore out of line with Article 5 of the Convention.

The Government maintains that it issued recommendations to trade unions on whether to accept financing from international organizations. It would be useful to see those recommendations in writing and ensure that they respect the principles of the Convention.

Employer members – I would like to thank the distinguished Government delegate for the submissions made before our Committee today. I begin by noting that the Convention was ratified by Kazakhstan in 2000 and this case, as the Worker spokesperson has pointed out, has been subject to ten observations by the Committee of Experts since 2006. This case has been discussed in the Committee three times, notably in 2015, 2016 and 2017, most recently.

In the Committee in 2017, the Employers' group noted that despite the very clear direction provided by the Committee in 2015 and 2016, and despite the long-standing concern expressed by the Committee of Experts since 2006, back in 2017 it appeared that the Government had still not taken action on the serious issues related to workers' and employers' organizations freedom of association, and in particular a lack of action on the issue of the freedom to establish and join organizations of their own choosing without prior authorization from the Government.

In the Committee in 2017, the Employers' group expressed its deep concern at the Government's continued failure to ensure that the Law on the National Chamber of Entrepreneurs of 2013 provide employers' organizations with full autonomy and independence without interference from the Government. The Employers' group noted its deep concern that the law resulted in the interference with the freedom and independence of employers' organizations in particular, and that the failure of the Government to amend this law was deeply problematic.

An ILO high-level mission to Kazakhstan took place in May 2018, which led to the adoption of a road map by the Government which included a promise of concrete action to address the issues of non-compliance, together with continued technical assistance from the ILO.

Furthermore, as regards specifically the issues of freedom of association that related to employers' organizations, and in particular related to the NCE, the ILO ACT/EMP Bureau undertook a technical mission to Kazakhstan in January 2019. The specific purpose of that mission was to discuss with the relevant ministries amendments to several laws related to the NCE. This resulted in a basic agreement on necessary amendments during the mission, and yet, despite that basic agreement about the necessary amendments, the Government in a later communication denied the necessity of most of the proposed amendments to the legal framework. In addition, we understand that the ACTRAV Bureau of the ILO provided technical assistance to the Government for ongoing freedom of association issues related to workers' organizations.

So there has clearly been continued and constructive engagement from various departments within the ILO aimed at raising the understanding of the Kazakhstan Government in this regard.

As a result of this activity, and the continued lack of progress, the Employers must begin our intervention this year, by once again expressing our deep concern at the Government's continued failure to ensure that the law on the NCE of 2013 must provide employers' organizations full autonomy to form and function. It must provide employers' organizations independence to form and function without interference from the Government. The establishment of the NCE by this law, constitutes a serious obstacle to employers' organizations freedom of association and in the Employers' group view, serious issues of continued non-compliance with the Government's obligations under the Convention.

Therefore, the Employers submit that, in particular, the legislative framework, and in particular the law on the NCE, which had the effect of establishing the NCE as an organization with compulsory membership and an all-encompassing mandate to represent employers, remains

problematic and of concern. This concern is not alleviated by the Government's submissions today, that its participation in the NCE has withdrawn and that it is no longer on the board with the power to impact the NCE. With all due respect, that is not information that appears to be accurate.

As a result, the restriction of the employers' freedom of association which has now persisted for more than five years, in which the Employers' group sees no progress to remedy the situation, requires the Employers' group to call upon the Government as a matter of urgency, to prepare, in close consultation with the social partners, of the most representative free and independent employers' and workers' organizations, amendments that are consistent in respect of the law relating to the NCE that will ensure that employers' and workers' organizations can establish and join organizations of their own choosing without governmental interference. This we believe is of the utmost importance.

In addition, we also note that there are issues related with the Government's interference with the formation and establishment and free activities of workers' organizations. Many of those issues were addressed by the Worker spokesperson and the Employers would say that the availed information at this time indeed points to obstacles that continue to exist regarding the registration of trade unions. Therefore, the Government should, in consultation with the representative social partners, review these obstacles in order to find solutions to give full effect to the right to establish organizations without previous authorization, as required under Article 2 of the Convention.

In addition, the Employers note that there are certain aspects of the law on trade unions that continue to infringe the right of workers to decide with autonomy whether their trade union should join a national trade union or not. And it appears that there are elements of that existing law that pre-empts that decision.

In addition, there are issues of concern that deal with the high threshold that seem to be a significant obstacle to the workers' rights to establish and join organizations of their own choosing. Therefore, we also raise concerns in respect to these issues.

There is also a question in this case about the right of organizations to receive financial assistance from international organizations of workers and employers. And the issue here is the absence in the law of an authorization of workers' and employers' organizations to benefit, for normal and lawful purposes, from the financial or other assistance of international workers' and employers' organizations.

Therefore, we take note of the Government's indication that a recommendation on receiving financial assistance from international organizations has been drafted, and we take this opportunity however to emphasize that it is important that this issue be clarified in an unambiguous manner by the law, and request the Government to clarify the legal status and the content of this Recommendation.

Finally, I note that the Government has made submissions in response to the Committee of Experts' observations regarding strikes in manufacturing and other hazardous industries. I also note Mr Leemans' statement in this regard. We would simply say at this point that the observations made by the Committee of Experts under this point which relate to provisions of the labour code, the law on civil protection, and the criminal code exclusively concern issues related to the right to strike.

In this case there are comments regarding strikes and entities operating hazardous production facilities that are considered illegal, and penalties that are foreseen for the incitement to continue a strike declared illegal by the court.

The Employers recall our well-known position that Convention No. 87 does not deal expressly with the right to strike, and therefore, this is not an issue in which with there is consensus within this Committee on the ability to give direction to the Government on these points. We also highlight at this moment that the position that Convention No. 87 does not expressly deal with the right to strike, is not only the position of the Employers' group, but it was also included in evidence by the 2015 statement of the Government group of the ILO Governing Body. Therefore, as there is no concessions on this point, we will not address this issue any further, and leave the Government the flexibility to address these issues in a manner that it seems appropriate.

In the closing of these opening comments, the Employers' group wishes to stress, at this time, that it is necessary that there be concrete action. There has been goodwill and good-faith efforts by the ILO and its various activities as well as the social partners, and now it is time for the Government, without any further delay, to remedy these issues which constitute significant interference with the free functioning of independent workers' and employers' organizations.

Worker member, Kazakhstan – I would like to focus on the main points which, in our view, from the point of trade unions, are the most important. Firstly, I would like to note that we, the Federation of Trade Unions (FPRK), are always in favour of solidarity between trade unions and we promote campaigns of trade unions.

In April, the FPRK came up with an official announcement to the attention of our colleagues, campaigners trying to look at the decisions of our colleagues, Messrs Eleusinov and Kushakbaev and thanks to our efforts, the courts decided to release them. On 18 May 2018, the FPRK joined the complaint of the International Federation of Trade Unions (ITUC) to the ILO. We support the commitments that have been undertaken by the Government and look forward to further improvements in legislation. In October 2018, the FPRK made an official appeal to the law and enforcement authorities of Kazakhstan in support of the statements of trade unions leaders from the KNPRK. What we want to note is with regard to the situations we have discussed here today. We are concerned about the fate of our colleague Mr Senyavsky who suffered an attack. We believe that it is important to ensure that those individuals involved are brought to justice.

Secondly, the FPRK is making the utmost efforts to promote and apply ILO principles and standards of the ILO. Following the high-level visit, the Government and the social partners developed a road map for implementation of the recommendations of the Committee's comments on the application of the Convention. The FPRK has worked with other representatives, including the trade union leaders of Kharkova and Belkina, in order to draft amendments to legislation, as discussed by the Government today, which are necessary to bring practice into line with the Convention.

Taking into account the joint discussion, as well as a seminar that was held on 4 and 5 September 2018 which was organized together with the ILO, additional proposals for amendments to the Law on Trade Unions and other legislative acts were developed and sent to the Ministry of Labour. The FPRK participated in the working group to consider the draft of our amendments. The amendments aim at simplifying the registration procedure of trade unions; excluding the obligatory affiliation of trade unions; and participation of international organizations in trade union activities.

We have heard today a number of proposals from the Government. We did make a number of proposals which did not make it to the draft law; those related to the exercise of the right to strike and collective agreements. I think we can recognize that the changes being made to the Law on Trade Unions can lend a genuine impulse to the development of the application of the Convention in Kazakhstan.

We have recently raised the question on the need to ratify further ILO Conventions. Since the fall of the Soviet

Union, we have not ratified many Conventions. We believe that the Government should strive to ratify five Conventions which are absolutely essential for the country: the Social Security (Minimum Standards) Convention, 1952 (No. 102); the Collective Bargaining Convention, 1981 (No. 154); the Safety and Health in Agriculture Convention, 2001 (No. 184); the Part-Time Work Convention, 1994 (No. 175), and the Minimum Wage Fixing Convention, 1970 (No. 131). Ratification of these Conventions will enable us to improve the condition of labour and social legislation and enhance the legal protection and guarantees of workers.

We hope that the Government this time will respond responsibly, fulfil its obligations and that all of the issues that have been agreed and put into the road map and adopted following the visit of the ILO high-level mission will be resolved. We hope very much that all of those provisions will be put into practice.

Employer member, Kazakhstan – I would like to echo the information that we have heard on the importance of the Convention for employers' organizations. After the activities of the NCEs, the activities of employers' organizations were reduced. We were not able to do the work that we wanted because there was a law obstructing that, but before the creation of the NCE in Kazakhstan, there were efforts to unite the employers' structures in one organization. We were against this and we tried to appeal to the Parliament and the Ministry but unfortunately the process of changing legislation is extremely slow and some ministers were not able to continue this work while they were in office. I think there has been a detrimental impact on the capacity to implement the Convention because of the slowness of procedures. With the arrival of the new Minister I think the activities relating to legal changes will continue. We have seen certain elements that were in the Law being removed. I think that the acceleration of this process is very important. I welcome the visits of the ILO coming to meet the social partners and consider the application of the Convention. A number of proposals have come out of that which we, the Employers, agree with. All of the provisions indicated in these documents should of course now be put into practice by the Government. We hope that the first step will lead on to further steps, with an impact on the Law on Trade Unions and the Law on the NCE. These Laws limit the abilities of organizations, including employers' organizations, to exercise their rights freely. I think the processes that have begun will continue and will be completed this year. Our tripartite cooperation will enable us to be more successful as we move through the legislative process. A single organization like the NCE works for entrepreneurs but it cannot really work in the area of labour relations. I think that the changes that we have seen will take us close into line with the practice of the Convention.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The EFTA country, Norway, member of the European Economic Area, aligns itself with this statement. We attach great importance to human rights, including freedom of association and the right to organize of both workers and employers, and recognize the important role played by the ILO in developing, promoting and supervising international labour standards.

The EU–Kazakhstan relationship is governed by the Enhanced Partnership and Cooperation Agreement which has enabled us to strengthen our bilateral cooperation. This agreement includes commitments to effectively implement the ILO fundamental Conventions.

Kazakhstan is becoming a recurrent case at the Committee, as conformity with the Convention was already discussed in 2016 and 2017. Repeated requests were made by this Committee to the Government to amend the legislation related to trade unions, notably the provisions of the Law on Trade Unions which limits the rights of trade unions to form and join trade unions of their own choosing, as well as other provisions included in the Labour Code, the Constitution and the Criminal Code.

We welcome that following the Committee's recommendations, an ILO high-level mission took place in May 2018. We note with interest that a road map was approved on this occasion which provided for a number of steps to be undertaken in order to implement the recommendations of the Committee of Experts. However, we regret the persistent lack of progress with regard to freedom of association, and the right to organize in the country including the right to strike, despite repeated requests by this Committee.

While welcoming the release of the two trade union leaders arrested in 2017, we express deep concern over allegedly continued harassment, intimidation and violations of fundamental human rights of trade unionists This included the physical assault on the leader of the Karaganda region branch of the fuel and energy workers union in November 2018. At this point, we take note that the released trade union leaders were reported to be prohibited from engaging in trade union activities.

We also express concern over the fact that some trade unions are still denied registration. In particular, the KNPRK, which went into liquidation and, as a consequence of the new law on trade unions, has still not been able to register or re-register. That said, we request the Government to engage with the social partners to review the difficulties identified by trade unions and to ensure the right of workers to establish organizations without prior authorization from the Government. Such a review should include the possibility of facilitating the registration and re-registration process of trade unions and revise the mandatory affiliation requirement.

We want to reaffirm that an environment conducive to dialogue and trust between employers, workers and government is essential for social and economic stability and contributes to creating a basis for solid and sustainable growth and inclusive societies.

Based on the above considerations, we reiterate the requests made in 2017:

- We call on the Government of Kazakhstan to respect the workers' right to establish and join organizations of their own choosing. To ensure that this right is fully respected, we urge the Government to amend the trade union law adopted in 2014 without further delay and in particular section 11(3), section 12(3), section 13(2) and (3), and section 14(4), in consultation with the social partners.
- Employers also have the right to form and join the organization of their own choosing. As repeated several times by this Committee, we urge the Government to amend the Law on the Chamber of Entrepreneurs and any other relevant legislation to ensure the autonomy and independence of the free and independent employers' organizations in Kazakhstan.
- We urge the Government to take measures to ensure that the right to strike is fully respected in the country and amend the 2015 Labour Code as well as section 402 of the Criminal Code accordingly, as the Government has already committed to several times before this Committee. We request the Government to provide information on the reform of the criminal law and procedure so that no penal sanction is imposed against a worker for having carried out a peaceful strike.
- Finally, we encourage the Government to take the necessary measures – in line with the current experts' report – to authorize workers' and employers' organizations to receive financial assistance from international organizations of workers and employers.

We are pleased to hear that the Government is preparing a new Law to amend the Law on Trade Unions. We encourage the Government to continue to avail itself of ILO technical assistance in order to proceed with the reforms needed and ensure that the legislative changes comply with ILO Conventions.

In practice, we expect from the Government not to impede registration of independent trade unions, to respect the workers' right to organize and freedom of association, including the right to strike, and to put an end to harassment, intimidation and arrests of trade unionists in the country. We will continue to closely monitor the situation and remain fully committed to our cooperation and partnership with Kazakhstan.

Government member, United States – The United States is deeply concerned by the ongoing obstacles to the achievement of freedom of association in Kazakhstan. In particular, we are troubled that the Government has not instituted any meaningful changes to address the issue.

The Committee has reviewed this case every year since 2015, except for 2018 when a high-level tripartite mission visited the country. Throughout this time, the Government has not implemented any of the recommendations of the supervisory bodies. This inaction has allowed for the continuous violation of the rights of workers and employers in Kazakhstan.

This is especially concerning in light of allegations of violence, restrictions on union activities, and intimidation through ongoing spurious criminal charges against trade unionists. We share deep concern over the alleged beating and injuries suffered by trade union leader, Dmitriy Senayvskiy, and request more information on the status of the investigation. We also note with concern the ongoing criminal trial against union leader, Yerlan Baltabay. While we welcome the release from prison of Amin Eleusinov and Nurbek Kushakbaev in 2018, we continue to be concerned about the continued ban on their and Larisa Kharkova's participation in trade union activities, as well as the restriction on Kharkova's movement.

In July 2018, we were pleased to hear that the Federation of Trade Unions of Kazakhstan, together with the Government, ILO, and independent trade union representatives, began drafting legislative amendments that would bring Kazakhstan's legislation into compliance with the Convention, in accordance with the ILO road map for Kazakhstan. Unfortunately, since then, Kazakhstan has made little progress towards bringing this draft legislation into law. We welcome the Government's announcement of the new draft law in May 2019 and we encourage the Government to provide additional information to the Committee about the scope and status of the law, as well as to convey a copy of the draft law for review by the ILO and its Members.

To that end, we urge the Government to take the following necessary measures to help bring Kazakhstan into conformity with the Convention:

- fully investigate any acts of violence against union leaders;
- cease harassment and interference in the activities of workers and employers;
- bring before Parliament and adopt legislation to bring the Labour Code, the Law on Trade Unions, the Criminal Code, and the Law on the National Chamber of Entrepreneurs into compliance with the Convention.

Now is the time for the Government to take substantive actions toward implementing the recommendations of ILO supervisory bodies. We urge the Government to address immediately the outstanding freedom of association issues in the country in close cooperation with the ILO and the social partners.

Observer, International Trade Union Confederation (ITUC) – I am speaking on behalf of the members of the KNPRK. It was liquidated in a case brought by the Government before the courts as were its member organizations. Its financial and legal documentation was seized and this is a clear violation of the fifth article of the Constitution of Kazakhstan and the Convention.

The courts have also decided to sentence leaders of trade unions: Larisa Kharkova; Amin Eleusinov; and Nurbek Kushakbaev who was awarded the Arthur Svensson prize for trade union activity. And, we have also seen members being fired or rather dismissed from their places at work in order to eliminate members of our trade union.

The Government is not implementing the measures agreed in the road map which was put together, together with the ILO. There is also a new civil case against Larisa Kharkova and a criminal case against Yerlan Baltabay, the President of the Independent Trade Union of Oil and Energy Workers.

The Government is continuing to destroy independent trade unions. It is forcing employers to not sign collective agreements. It is intimidating waged workers and hampering the creation of new trade unions or joining trade unions on behalf of the KNPRK and its members' organizations. We call on the Committee to demand from the Government of Kazakhstan to immediately put into practice the road map worked together with the ILO high-level mission and to bring its legislation and practice into line with the Convention – also to put a stop to the administrative and criminal prosecution of trade union activists and stop interfering in the internal affairs of trade union organizations.

Government member, China – The Chinese Government has closely followed the speech made by the Kazakhstani Government. We have noticed that by legislation, the Government has made a great effort in implementing the Convention including the extensive dialogue between the social partners as well as establishing the hotline. We have also noticed that, apart from listening carefully about the suggestions from the social partners and the ILO, Kazakhstan will continue to revise their legislation. China strongly supports the Kazakhstan's dialogue with the social partners and would like to see a better implementation of the Convention. And we also would like to see more help from the ILO.

Worker member, United States – Canadian workers join us in our statement. A year ago, the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) requested suspension of trade benefits granted to Kazakhstan by the United States Generalized System of Preferences. This action followed previous submissions regarding the persistent failure of Kazakhstan to protect and respect freedom of association. Since the brutal repression of an oil sector strike in 2011, killing at least 17 unionists and injuring dozens more, the Government has initiated, continued and accelerated a course of actions in legislation and in practice to deny workers the rights contained in the Convention. The criminalization of independent trade unions and efforts to eliminate all authentic unions has been a thorough and sustained programme of the Government since that strike.

Aside from the laws others have commented on and the forced deregistration of many independent unions and the KNPRK, employers and the Government have worked together to remove democratically elected union leaders and replace them with employer-designated leaders. This programme has also taken extreme actions to deny strike rights. Since 2012, authorities have used excessive force to contain strikes, resulting in at least 12 deaths and arrested and prosecuted outspoken oil workers and government critics, almost all of whom were convicted despite allegations that they were tortured.

As discussed in the Generalized System of Preferences (GSP) petitions, family members, fellow independent federation officials and individuals suspected of associating

with KNPRK leader, Larissa Kharkova, report threats and acts of intimidation by the police and unknown individuals. Ms Kharkova, having served two years of a four-year sentence, remains restricted to Shymkent and has a strict curfew and constant surveillance.

Retaliation against the federation's Press Secretary, Lyudmila Ekzarkhova, escalated after the AFL–CIO filed its 2017 petition, included targeting, harassment and eventually forcible deportation of her husband. The Government has created a climate of fear for independent union leaders and all those who associate with them.

The Government has pursued a pattern of harassment and criminalization against the independent federation and against key sectoral unions that have demonstrated independence. In October 2018, police raided the home of Yerlan Baltabay, leader of the Union of Fuel and Energy Workers of the dissolved KNPRK. The Government began a series of police and legal actions against him very similar to those directed against Larissa Kharkova, in spite of the fact that her case was conducted without credible evidence and violated criminal procedure in Kazakhstan. On 28 February 2019, the Government liquidated Yerlan Baltabay's energy sector union for failing to change its by-laws to comply with the 2014 law on unions though the union tried five times to re-register since 2015 and was denied each time. Such aggression is faced by independent unions to eliminate those who refuse to bow to government pressure.

In February 2019, Kuspan Kosshigulov, who is here with us today, spoke on behalf of the independent unions of Kazakhstan at the December 2018 ITUC World Congress. He was attacked and detained on a train and taken to a police station for interrogation and examination with his 8 year-old child in the weeks after the Congress. Union and allies view this as a retaliation for Kuspan's activity at the ITUC Congress.

The Government must make meaningful changes to its legislation and end anti-union practices in order to ensure freedom of association according to the Convention.

Government member, Canada – Canada thanks the Government of Kazakhstan for the information provided today. Canada considers Kazakhstan an important partner in many areas of international cooperation, and looks forward to many more years of positive collaboration. We note that Kazakhstan continues to make significant efforts to improve the standards of living for its people, especially important at the momentous occasion of the transition of power from first President Nazarbayev to President Tokayev, elected this month. However, we note with deep concern that this is the fourth time in five years that the Government of Kazakhstan has been called to appear before this Committee due to non-compliance with the principles of the Convention, with little apparent progress on these issues to date. We have concerns about deteriorating respect for labour and human rights in the country, including incidences of violence against trade unionists, undue restrictions on the right of peaceful assembly, and the inability of workers and employers to join autonomous and independent organizations of their choosing.

Respect for freedom of association and the right to organize is fundamental. Strong and independent workers' and employers' organizations are also key in addressing economic and social challenges, and collectively can help ensure and sustain the well-being of both individuals and enterprises. Canada therefore urges the Government of Kazakhstan to implement the previous conclusions of this Committee without any further delay. In particular, we urge the Government to: (i) amend the Law on Trade Unions to ensure workers can freely establish and join trade unions of their choosing; (ii) effectively address the current difficulties in the trade union registration process; and (iii) amend the Law on the NCE to ensure employers' organizations in Kazakhstan can function independently and autonomously. All such law reforms should be consistent with international labour law and standards, including this Convention, and the result of genuine and effective tripartite dialogue.

We also urge the Government to cease and prohibit the harassment of trade union leaders and members, ensure any perpetrators of such actions are brought to justice in accordance with due process and the rule of law, and protect the rights of individuals engaged in peaceful protest. Finally, we encourage the Government to avail itself of ILO technical assistance in its efforts to ensure compliance with the principles of the Convention. Canada remains committed to working with the Government of Kazakhstan towards these ends as a partner.

Observer, IndustriALL Global Union – I am speaking on behalf of IndustriALL Global Union representing workers in mining, energy and manufacturing sectors throughout the world, including Kazakhstan. I have taken this floor to speak about inadmissible situation with workers' rights in Kazakhstan. In 2017 we raised the issue about consequences of adoption of the repressive Law on Trade Unions and the dissolution of the Confederation of Independent Trade Unions of the Republic of Kazakhstan. Now, we see that the same legislation is effectively used to prevent registration of this and other independent trade union organizations.

The Law on Trade Unions provides for a mandatory two-step registration that can take half a year. In the same time a local trade union upon registration must join a sector level union, and in their turn the sector level unions must become part of one particular national trade union centre.

The practice now is that unions are repeatedly denied registration at all levels by the judicial authorities if they do not plan to join the specific union centre, or if they previously happened to be members of independent unions. In the same time, members and activists of independent unions are legally prosecuted or punished with large fines for performing their union-related tasks.

Another matter we want to point out is Criminal Code, which is now widely used to limit workers' ability to strike through the charges in "incitement of interethnic discord". Lack of its clear definition creates large space for manipulation of workers' rights.

Prohibition of strike at workplace with harmful and dangerous conditions also requires a clearer definition. So far, because of this particular legislation, every strike of oil workers is under ban. Even if it is called by workers behind the gates of the enterprise and does not disrupt overall mode of the enterprise operation.

We consider this is a continuation of repression against workers stemming from the massacre in Zhanaozen, the oil town of Kazakhstan, where at least 16 people were killed and many more wounded in December 2011 in result of clashes with police. Independent trade union leaders are subject to repressions, some of them were convicted, or physically assaulted, while one of them, Yerlan Baltabay, already mentioned a number of times here, head of the local trade union "Decent Work" for petrochemical industry workers is being trialled right now. And, Erlan attended this Conference in 2017 to speak about union rights violations in his country, and now this is clearly a retaliation to his participation.

Taking into consideration these manipulations with workers' rights, which constitute blatant violations of the Convention, in absence of any meaningful step from the Government of Kazakhstan to improve the situation, IndustriALL calls on to consider this case under special paragraph of the ILO Constitution.

Government member, India – India welcomes the delegation of the Government of Kazakhstan and thanks it for providing the latest update on the issue under consideration. India appreciates the commitment of the Government

of Kazakhstan to fulfil its international labour obligations including those related to the Convention through progressive implementation of the relevant recommendations of the ILO and the willingness to constructively work with it.

We take positive note of the efforts being made by the Government of Kazakhstan in genuine consultation with its social partners to draft a law in this regard which essentially aims at simplification of the process of registration of trade unions and their empowerment in the spirit of social dialogue and tripartism and in accordance with their specific national context. We look forward to its enactment by the Parliament of Kazakhstan next month as planned for.

In fulfilling its labour-related obligations, we request the ILO and its constituents to fully support the Government of Kazakhstan and provide all necessary technical assistance that it may seek in this regard. We take this opportunity to wish the Government of Kazakhstan all success in its endeavours.

Worker member, Australia – Criminal sanctions against workers peacefully exercising their right to freedom of association are unacceptable and inconsistent with the Convention. So much is made clear in the conclusions of the Committee of Experts in the present case of Kazakhstan. Kazakhstan has a long and regrettable history of laws and practices that exhibit clear disregard for the right to freedom of association. In 2015, the UN Special Rapporteur extensively documented these problems.

The criminalization of industrial conduct in Kazakhstan includes the following. Firstly, the Criminal Code's article 174, which bans inciting social, national or other discord. Under these provisions, union lawyer, Natalia Sokolova, was sentenced to six years' imprisonment in August 2011. Her crime of incitement involved publicly calling for a change to the system for calculating workers' wages.

Secondly, the requirement to obtain preauthorization for public assemblies which can only be conducted in designated and often isolated areas. Participation in unauthorized assemblies can attract severe criminal sanctions, including imprisonment. The Criminal Code also prohibits providing "assistance" to "illegal" assemblies, including by "means of communication", thus criminalizing such simple acts as the use of social media to organize workers. Section 402 of the Criminal Code, under which an incitement to continue a strike declared illegal by a court is punishable by up to three years' imprisonment.

In January 2017, Nurbek Kushakbaev, Deputy Chair of the KNPRK, was charged and detained for allegedly inciting the continuation of a hunger strike. The indictment against him included declassified material that showed that the phones of the union and its leaders had been tapped by the authorities since October 2015. Serious questions arose about whether Mr Kushakbaev received a fair trial. Journalists were not permitted to attend. Key witnesses gave inconsistent evidence, including one who changed her version of events overnight.

On 7 April 2017, Mr Kushakbaev was sentenced to two and a half years' imprisonment and ordered to pay the equivalent of more than €75,000 in compensation to the company involved and more than €2,400 in costs. The court also banned Mr Kushakbaev from engaging in "public activities" for two years following his sentence. He was eventually released on bail in May 2018 but the restrictions on his right to participate in union activities remain.

In its recent correspondence to this Committee, the Government of Kazakhstan seeks to reassure the Committee that processes are in train for the positive revision of the laws that have been identified as being inconsistent with international standards. Conspicuously absent from the list of measures that the Government provides, is any reference to these criminal laws – laws which are anathema to free-functioning trade unions and the right of Kazakhstani workers to enjoy what is supposed to be a constitutionally guaranteed right to freedom of association.

Government member, Belarus – The delegation of the Republic of Belarus is grateful for the detailed information provided by the Government of Kazakhstan and the report of the Committee of Experts on its compliance with the Convention. We are also grateful for the efforts Kazakhstan has been making to carry out its obligations vis-à-vis the Convention and the ILO. The Belarusian delegation assesses positively what the Government of Kazakhstan has done to implement the recommendations of the Committee of Experts. We welcome amendments to existing legislation in the country, particularly as they apply to the activity of trade unions. We would emphasize that this work is being done in accordance with the country's social partners. We appreciate the cooperation that Kazakhstan has had and continues to have with the International Labour Organization and we welcome the carrying out of an ILO mission to the country last year, and consultations which were held in April this year. We would like to express our support to the Government of Kazakhstan as it continues to act to implement the recommendations made to it by the ILO on the basis of the road map which it has worked out together with the Organization.

Worker member, France – The case of Kazakhstan is, unfortunately, well-known in our assembly. It is also important to recall that there are human lives behind the case that we are discussing. Thus, we must put human beings, not profit, at the centre of our concerns. I will take a few minutes, which is not much, to talk about imprisonment, harassment, intimidation and interrogation, as carried out by the national security services.

What is there to say about the President of the KNPRK, Ms Larisa Kharkova, who is facing new charges in addition to those for which she was sentenced to four years of restrictions on her freedom of movement, 100 hours of forced labour and a five-year ban on holding any position in a public or a non-governmental organization?

What is there to say about the lawsuit filed against Mr Yerlan Baltabay, leader of the sectoral Trade Union of Oil and Energy Workers, whose offices have been systematically searched and its official documents confiscated? What is there to say about the psychological pressures on these trade union activists and their families?

What is there to say about the physical assault launched on 10 November 2018 against Dmitriy Senayvskiy, representative of the same trade union in the region of Karaganda, who was hit across the head, and sustained several fractures to the arm and other injuries?

These are just a few examples among many others. Kazakhstan is one of ten countries with the worst record on workers' rights violations according to the ITUC Global Rights Index. Workers who wish to join a trade union of their choice face administrative pressures, threats and intimidation.

Our conclusions from 2017 on this specific point strongly recommended that the Government of Kazakhstan ensure that trade union activists did not face reprisals. They also recommended ensuring that workers could exercise their internationally recognized right to peaceful assembly and amending the law in that regard. In addition, they recommended that the Government conduct a survey on the use of violence and torture in Zhanazoen as a form of reprisal or as a deterrent.

There is a long list of names that should be brought before this assembly given the high number of attacks that are taking place. It seems that Kazakhstan today requires particular attention from our Committee and from the international community in order to bring an end to practices which violate the Convention.

Government member, Turkey – We thank the Government of Kazakhstan for the information it provided and

welcome its willingness and commitment to constructively engage and cooperate with the ILO. The Government of Kazakhstan has demonstrated efforts to strengthen and adapt its current legislative framework to bring it into line with ILO standards. We encourage the Government of Kazakhstan to continue to undertake necessary steps in this regard. We commend the positive and significant steps taken by the Government of Kazakhstan in consultation with the social partners, including its taking into account the observations of the Committee of Experts to amend its internal laws. Recent amendments made by the Government of Kazakhstan with a view to the implementation of the road map as a result of the ILO mission in May 2018 and in order to bring their national legislation in accordance with standards of the Convention should be acknowledged.

We believe that Kazakhstan, which respects the ILO and international labour standards and fulfils its obligations of submission of reports related to the ratified ILO Conventions, will continue to work with the ILO and social partners in the spirit of constructive cooperation.

Worker member, Norway – I speak on behalf of the trade unions in the Nordic countries. As in the International Labour Conference in 2015 and 2017, we also this year express our deep concerns about continuous lack of progress bringing the Law on Trade Unions in Kazakhstan into full conformity with the Convention.

This year we are also deeply concerned about criminal charges against trade union activists, as well as provocations, beating and injuries suffered by trade union leaders of which the Government has done nothing to investigate the matters to bring the perpetrators to justice. In the road map adopted at the high-level tripartite mission in May 2018, Kazakhstan pledged to submit a new draft trade union law to Parliament in November 2018. This has not been done. Instead authorities have continued to shut down independent unions, denied registration to new unions, and exercise pressure, including prosecution, on those who dared to protest.

I wish to remind that the Arthur Svensson prize was awarded to the Kazakhstani independent unionists, who were sentenced in unfair trials to prison or limitation of freedoms. The Trade Union Law, seriously limits the ability of trade unions to define their own structure, put forward demands and realize their right to strike, as well as the problems regarding the union registration by the state bodies, reorganization and liquidation. The free exercise of the right to establish and join organizations implies the right of workers to freely decide whether to associate or become members of a higher-level trade union structure. This is not the case in Kazakhstan as the law have high thresholds to establish a higher-level organization by making it almost impossible to form confederations.

In the 2017 conclusions, this Committee called on Kazakhstan to take all necessary measures to ensure that the KNPRK and its affiliates are able to fully exercise their trade union rights and are given the autonomy and independence needed to fulfil their mandate and to represent their constituents.

The Justice Ministry in 2018 four times refused to register the KSPK – twice in August because the name was too similar to a previously registered union, and twice in September on minor technicalities. Nordic workers including judges, prison staff and firefighters, enjoy the right to form and join unions of their own choosing and to bargain collectively. This protects us from monopolization and secures plurality of trade unions in the Nordic countries. We urge the Government of Kazakhstan to ensure the right of workers to freely join and establish trade unions, and to organize their activities free of interference by the authorities. This must be ensured both in the law and practice.

Government member, Russian Federation – I would like to express my gratitude to the distinguished representative of the Government of Kazakhstan and the country's mission for having provided material, explanations and comments on the heart of this matter, and new information about what the State is doing to comply with its international obligations in respect of guaranteeing freedom of association.

Kazakhstan has been working steadily in order to improve its implementation of the Convention through constructive cooperation with the International Labour Organization.

We welcome the adoption of a road map which was agreed at the end of the ILO mission to Kazakhstan held in May last year. We also welcome steps the Government is taking to carry out that road map.

The Government has taken a comprehensive series of measures to bring its national law and practice fully into line with its obligations under the Convention. It is particularly important that this work is being done in close cooperation with the social partners, and strengthening the foundations for tripartite cooperation in accordance with the guidelines issued on the matter by the ILO.

After consultations held with the ILO and the social partners in April this year, amendments to the legislation will be sent to Parliament.

We are certain that this work will conclude successfully. We hope that the Committee will note the information provided by Kazakhstan with satisfaction, and having done so closed consideration of this case in the very near future.

Observer, Public Services International (PSI) – I am speaking on behalf of the European Public Service Union (EPSU) and PSI.

I would like to inform the Committee of new violations that have arisen, and which confirm the violations that have already been reported to the Committee of Experts. Our affiliate organization, the Trade Union of Health Workers of Kazakhstan, has been the object of interference, while its members have been and continue to be victims of pressure and threats from the authorities and public employers. These are violations of the right to freely join an organization of one's choice.

This situation is directly linked to two concurrent facts. On the one hand, our affiliate organization, the Trade Union of Health Workers of Kazakhstan, left the Federation of Trade Unions of Kazakhstan less than two years ago. On the other, a new, alternative organization for the health sector, the Trade Union of Health Workers (SENIM), was, at the same time, established under the umbrella of the Federation. Since then, there has been a massive exodus of members from our affiliate trade union to the one recently established. At the same time, a very high number of registrations for organizations formed through our affiliate have been annulled. This did not occur naturally but as a result of interference, pressure and threats, as mentioned previously. For example, for the regions of Turkistan, Atyrau and Kyzylorda, all organizations formed through our affiliate were completely decimated in the space of only two weeks. We also know that our affiliate has complained to the civil service agency in the Kazakhstan and to the anti-corruption authorities, but to no avail.

Another concrete example is that of an organization based in Astana whose registration was annulled, which then lead to a lawsuit. The decisions of the Court of First Instance and the Court of Appeal raised concerns over the organization's independence. Despite the fact that interference from the hospital administration is widely documented, both judicial decisions ruled against the trade union representatives.

I would like to underline that, as a result of these developments, since March 2018, there has been a sharp fall in the number of organizations affiliated to the Trade Union

of Kazakhstan, from 926 to 288, and the number of trade union members has also decreased from 311,000 to 78,000. This represents a loss of 68.9 per cent and 75 per cent, respectively. We ask the Committee to duly consider these violations and to ensure that the conclusions for this case contain specific measures that put an end to those violations.

Government member, Armenia – We welcome the delegation of Kazakhstan and thank it for the information provided today. We welcome the ratification of 24 ILO Conventions by the Government of Kazakhstan, obligations on which have been incorporated into the national legislation. We also welcome Kazakhstan for their endorsement of the report of the Global Commission on the Future of Work and note the convening of a high-level forum dedicated to the 100th anniversary of the ILO in May this year. We note that with the view to implement the road map on the implementation of ILO recommendations elaborated as a result of the ILO mission in May 2018 and in order to bring the national legislation into accordance with the standards of the Convention, Kazakhstan held various workshops and discussions, as well as drafted amendments to the current legislation related to the activities of trade unions and entrepreneurs. While praising Kazakhstan for its efforts, we encourage it to continue its positive engagement.

Worker member, Germany – "International trade union solidarity constitutes one of the fundamental objectives of any trade union movement" – to quote the Committee on Freedom of Association. Accordingly, the Committee considers that legislation prohibiting a national trade union from accepting financial aid from an international workers' organization violates Article 5 of the Convention. However, this continues to be the case in Kazakhstan, whose Constitution and national legislation prohibit unions, inter alia, from receiving funding from international trade union organizations.

Already, in 1995, the Committee on Freedom of Association Case No. 1834, called on the Government to amend the Constitution and the law. Almost 25 years later, there is still no real change in sight. It is true that the now-announced amendment to the law, gives unions "the right to organize, hold events together with international organizations, and implement projects aimed at protection of rights and interests of workers in accordance with laws of the Republic of Kazakhstan". However, this regulation does not contain any information on the question of financial support. Also, an amendment to article 5(4) of the Constitution has not been announced.

This is but one additional point on a long list of violations of ILO standards in which we have serious doubts about Kazakhstan's willingness to actually bring about a national law and practice in line with its international obligations.

In March 2019, the European Parliament passed a resolution criticizing Kazakhstan for taking no concrete steps to actually implement the provisions of the ILO road map, or the recommendations of the United Nations Special Rapporteur on Freedom of Assembly and Association. The Parliament has therefore urged the Government to end the crackdown on independent trade unions, stop the politically motivated prosecution of trade union leaders, and to bring national legislation into line with ILO standards.

Similarly, in March 2019, the UN Committee on Economic Social and Cultural Rights also calls, in its concluding remarks on the State report of Kazakhstan, not only for the implementation of the obligations under Article 8 of the UN Covenant and Economic Social and Cultural Rights, but also for the Obligations under the Convention as well as the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Against this background therefore, we call on the Government to take the necessary steps to amend article 5(4) of the Constitution. In addition, we call upon the Government to prove to the Committee of Experts its compliance with the Convention on the basis of specific laws which are in force, and not merely announced. Furthermore, we demand special attention be given to this case of serious and persistent non-compliance.

Government member, Uzbekistan – We would like to thank the Kazakhstani delegation for its exhaustive report and its compliance with the Convention. Our delegation welcomes the active cooperation of Kazakhstan with the ILO on this issue.

On the recommendation of the Committee, Kazakhstan accepted an ILO high-level mission recently. I would particularly stress that, together with that mission, the Government of Kazakhstan has drawn up a road map to implement its recommendations in order to bring its legislation into full compliance with the Convention.

Let me highlight the following points: the preparation of recommendations for all social partners concerning the receipt of financial aid and support are unions from international organizations; and of the measures to amend legislation regarding trade unions and employers as the result of wide-ranging discussion at national and international levels. We are sure that these measures indicate the attachment of Kazakhstan to creating working conditions which are dignified and deserve the recognition of this Committee.

Worker member, Burkina Faso – My voice echoes the voices of the 14 trade union centres from the 12 African countries. I would like to congratulate the employers' spokesperson on her intervention, in which she used a phrase that I will repeat here: the need for goodwill.

It is true that Kazakhstan has ratified 24 out 189 Conventions. The Convention in question was ratified in 2000 and we observe that, in five years, the country has appeared before the Committee four times. This is consistent proof that no orderly relation exists between the speeches made here and the facts on the ground. From this point of view, the International Labour Organization must ensure respect for the platforms on which the authorities come to speak.

It is necessary to consider the possibility of applying sanctions more widely, not just against countries behind on their (financial) payments but also against countries that do not meet their commitments. It is unacceptable that they make certain statements at different fora but, on the ground, do something else.

First, with regard to the violation of standards ratified by Kazakhstan, we wish to simply refer to page 15 of the rules issued in 2014 which states that countries that have ratified a Convention must commit to applying in law and in practice what has not already been done. Second, in the same document, on page 28, it says in paragraph 1 that the principle of freedom of association is at the heart of ILO values. It is inexcusable to see a country ratify a Convention in 2000 but then interfere in the affairs of health worker trade unions, thereby violating Article 2 of that same Convention.

Such actions lead to a lack of social justice which can be the cause of violence and radicalism.

I conclude by saying that all those that violate the Convention with a view to weakening trade unions, are themselves weakened. Indeed, if the social partners are weakened, poverty will become so bad and intolerable that other voices will be born and these voices will be radical, demanding and lacking in diplomacy. It is then that we will regret not having the courage to truly work towards respecting international standards which are the essential pillars of the ILO, an organization founded in 1919.

Government member, Tajikistan – Tajikistan notes the efforts of Kazakhstan to implement the road map and the recommendations of the ILO, developed on the basis of the ILO mission in May 2018, as well as to bring national legislation into line with the provisions of the Convention.

In particular, we emphasize the following points:

- seminars and discussions were held with the participation of international experts on the implementation of ILO recommendations;
- a helpline has been established for registration and activities of trade unions;
- recommendations were developed on obtaining financial assistance from trade unions and international organizations.

We also note the consultations held on 30 April 2019 by the ILO secretariat to agree on draft amendments to the legislation and the intention of the Government of Kazakhstan to introduce the relevant legislation in July 2019 We hope for further constructive cooperation between Kazakhstan and the ILO on the implementation of the road map.

Worker member, Russian Federation – I am speaking on behalf of the Workers' delegation of the Russian Federation. Over the last few years, beginning at the 105th International Labour Conference, our delegation has been expressing its concerns about the complicated procedure for the legal registration of unions in Kazakhstan. We have drawn the attention of this Committee to the fact that certain provisions of the legislation of Kazakhstan have not been in line with the basic principles of this Organization. Unfortunately, it turns out that our fears were justified. The situation has got seriously worse over the last couple of years. We have not seen any substantive changes to legislation in accordance with the road map that was agreed with the ILO. Instead, current laws have been used to wipe out one of the national unions, the FNPRK. Following that, several branch affiliates were forced to close because they had been trying to go through the re-registration process in accordance with the existing laws in Kazakhstan on unions. They came up against a lot of obstacles and dozens of times they were refused registration by the courts.

Similar obstacles are placed in the way of branch unions which were part of the former Confederation and which have made several attempts in the course of 2018 to register new, country-wide unions. There are many cases of local unions also being refused registration. Meanwhile, the State is using not only laws which have already been criticized, including by experts, but is exercising direct and systematic pressure on trade union activists and leaders. Three leaders of the Confederation have been convicted on spurious charges – the President, Larisa Kharkova and the leaders of the branch unions, Amin Eleusinov and Nurbek Kushakbaev. Their cases have not been heard yet but their freedoms have certainly been restricted. At the moment, a criminal case is being opened against another leader of the Confederation, Yerlan Baltabay, who spoke at the Committee two years ago on the case of Kazakhstan. Irrespective of the need to move the charges, the workers of the Russian Federation are convinced that the criminal persecution of these people and many other activists who are constantly being illegally pressured, physically beaten and persecuted through administrative measures, are being treated like this because they have legally been engaged in trade union activity.

In 2011, the authorities of Kazakhstan opened fire on a peaceful protest of workers in an Oil and Gas Factory. They were demanding an increase in wages. Sixteen people were killed and tens of activists were taken to court and prosecuted. We see, unfortunately, that the Republic of Kazakhstan does not appear to want to have any regard at all for its international obligations in respect of freedom of association. That is why the Workers' delegation of the Russian Federation demands that this case deserve a special paragraph.

Government representative – First of all I would like to convey my thanks to those who made suggestions and recommendations about this particular case involving Kazakhstan. We greatly appreciate the International Labour Organization and its assistance and the opinions of international employers' and workers' organizations. And, of course, we will make further efforts as we know we have to in order to make progress in Kazakhstan towards fully complying with the provisions of the Convention.

There are just a couple of comments I would like to make in response to what has been said.

Firstly on the functioning of employers' organizations. In 2018, we went through a transitional period and some organizations left the NCE. We are making further efforts, we have been and will continue to do so to clearly define in our legislation the roles and functions of employers' organizations and of the NCE. In order to make sure that we have clear parameters for what they are doing and the action they are taking, technical assistance from the International Labour Organization of course will be very helpful to us in this respect and we do hope that we will be able to receive more this year. That will help us to ensure that the provisions in the draft law which we have prepared and which is going to go to the Parliament very soon are appropriate.

We understand the concern that has been expressed about the use of force against members of unions. Whenever there is a case like this we will investigate it.

As to the charges of hooliganism against leaders of the demonstration that took place in 2011 and legal investigation of the trade union leader, Yerlan Baltabay, action was taken in accordance with the Criminal Procedures Code.

Workers have rights, unlimited rights to set up and join trade union organizations. There are a couple of exceptions: the fire service and the army, people working in prisons and those who are employed in the prisons and rehabilitation through labour camps in our country, as well as troops of the Internal Affairs Ministry. These people are not able to join trade unions.

According to the provisions of the Convention, it is up to national legislation to define the extent to which the guarantees provided in the Convention can be applied to the armed forces, etc. I would like to emphasize, once again, however, that civilians working in the prison system, in the army, that is people working on things like finances and the provision of healthcare, the legal services in human resources departments, they, according to the law are entitled to join trade unions and that right at the moment can be fully enjoyed without restriction.

I would like once again to take this opportunity to say that Kazakhstan has taken initiatives to amend its law on trade union activity, its labour code and other pieces of legislation. Over the next two months we will get down to work on bills to amend our legislation. Those will then go forward to the Parliament of Kazakhstan in the hope that the amendments and the new legislation can be adopted as soon as possible. Again, technical advice from experts here in the ILO will be more than welcome and we hope to benefit from that in the course of next year.

Moving on now to registration procedures for trade unions. Where there have been problems those will be thoroughly considered and investigated with the bodies responsible for registering trade unions which are part of the judiciary and therefore come under the Ministry of Justice.

I can assure you that Kazakhstan will make whatever efforts are necessary to ensure that the country is fully in compliance with its obligation under the Convention.

Employer members – The Employers thank the distinguished Government delegate for both the oral submissions provided this afternoon and evening, as well as the written information provided in respect of this case. We also thank those that intervened in the discussion that took place.

It seems to the Employers' group that now is the perfect opportunity to seize upon the goodwill that the Government has indicated that it has in respect of this process, and

to see that translated into action. Therefore, taking into account the Government's submissions in this regard, the Employers urge the Government to 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 in law; to prepare, in close consultation with the social partners, amendments to the provisions in question of the trade union law with a view to first, ensuring that workers can freely decide whether they are sector-based territorial or local trade union affiliates with a national trade union, and second, lowering the threshold for national sector-based trade unions.

In addition, the Employers' group is of the view that the Government should prepare, in close cooperation and social dialogue with the representative employers' and workers' organizations, the necessary amendments to this legislative framework that at this moment provides obstacles to the free association of both workers' and employers' organizations. As a part of this, the Employers' group urges the Government to prepare, in consultation with the representative employers' organizations, the amendments to the relevant regulations on the NCE in order to ensure that employers can establish and join organizations of their own choosing. While we have taken due note of the Government's submissions with respect to the transitional period in the NCE Law, we fear that the Government has missed the point in respect of the Employers' concerns. So to be clear, the point is that the Government has no legitimate role in the activities of free and autonomous employers' organizations. So, we encourage the Government to engage in consultation with the most representative employers' organizations and to accept ILO technical assistance in this regard to ensure that the legislative framework allows the free and autonomous functioning of employers' organizations separate and independent from the Government.

Therefore, we welcome the Government's indications that the draft law is pending and will resolve these issues and we will be hopeful that that does in fact happen. We also encourage the Government to provide information on the legal status and the contents on its recommendation regarding authorization of workers' and employers' organizations to receive financial assistance from international workers' and employers' organizations. We note our deep concern that a number of these recommendations have been repeated for some time and so it is our firm expectation that this move forward without delay.

Worker members – Kazakhstan has been examined before our Committee time and time again. It has also recently hosted a high-level tripartite mission whose members had the opportunity to make a number of recommendations to the Government

We call on the Government to urgently implement the recommendations received from our Committee in 2015, 2016 and 2017. Similarly, it should implement the road map presented upon completion of the high-level tripartite mission. All these actions should be undertaken in consultation with all worker and employer representatives.

Above all, it is fundamental to request the Government to put an end to the acts of violence committed against trade union leaders and activists. It can do so, notably, by prosecuting and punishing the perpetrators effectively. Putting in place penalties that sufficiently deter perpetrators is crucial in that regard.

In addition, the Government must also stop intimidating trade unionists particularly through legal proceedings, remove any restrictions to their trade union activities and drop any charges against them.

The registration procedure poses a number of further problems and is now effectively restricting freedom of association. We ask the Government to respond to the concerns raised by the social partners with regard to the recurring problems associated with the registration procedure and to dialogue with them with a view to taking all necessary measures. In particular, there is a need to heavily amend the trade union law with a view to lifting all legal obstacles and ensuring freedom of association in the country.

We emphatically ask the Government to ensure the registration of all trade unions, particularly the KNPRK or its successor, the KSPK.

It is also important to note the interference that still takes place in the internal organization of trade unions in Kazakhstan. We ask the Government to refrain from all interference in the internal affairs of trade unions.

The obligation to associate with a higher-level trade union within six months of registering undermines the freedom for trade unions to choose whether to do so or not. It is therefore necessary to amend the trade union law to guarantee the right of workers to decide freely whether they wish to associate with or become members of a higher-level trade union structure.

More fundamentally, the Government should refrain from defining the structure of any trade union, from limiting the categories of trade unions and from reserving the right to decide whether a trade union exists or not. The criteria for affiliation outlined in the legislation are equally as strict. It is important to make the criteria for affiliation less restrictive to guarantee true freedom of association.

Equally, the Government should guarantee that employer organizations are fully independent by amending the law on the National Chamber of Entrepreneurs.

More generally, the Government should respect the freedom to take collective action, including the right to strike. In that regard, there is a problem with the concept of hazardous industrial actions and the procedure for determining whether an activity is indeed hazardous or not. The concept is still too vague and may include a large number of activities. The procedure allows for the company itself to decide whether its activities are indeed hazardous industrial activities. This overly restricts the right to strike. We have noted the position of the Employers' group on the right to strike. We take this opportunity to remind them that the Worker's Group believes that the right to strike is in fact included in the Convention.

The remarks of the Committee of Experts on this point are very relevant and we support them entirely. In 2015, the Government Group recognized that the right to strike is linked to freedom of association, which is a fundamental principle of the ILO. The Group recognized the need to protect the right to strike in order to fully guarantee freedom of association, particularly the right to organize activities, with a view to promoting and protecting the interests of workers.

I also take this opportunity to thank the governments which have made this point throughout our discussions. I will say no more on this and refrain from interpreting the position expressed the Government Group.

It is therefore necessary to amend the Labour Code with a view to making it clearer on what establishments are considered hazardous and with a view to revising the procedure for determining whether a company engages in such activities. The company itself must not decide.

We request that article 402 of the Penal Code be repealed because it criminalizes strike action if declared illegal by a court.

We have heard that some recommendations have been addressed to trade unions that receive international financing. It would be interesting to see those recommendations in writing therefore we ask the Government to send them to the Committee of Experts. The fact remains that the legislative aspects of this issue continue to be problematic. They must be brought into total conformity with the Convention. Therefore, we ask the Government to amend the legislative framework relating to international financing in

order to guarantee that the social partners are free to receive financing from international partners.

In order to implement all of these recommendations, we ask the Government to request technical assistance from the ILO.

In light of these serious, recurrent and persistent shortcomings, despite the many recommendations made as a consequence of the many times that the case of Kazakhstan has been examined before our Committee, despite the many ILO initiatives aiming to ensure that Kazakhstan conforms with the Convention, and in light of the lack of progress made in that regard, we request that the conclusions of the Committee are included in a special paragraph.

Conclusions of the Committee

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

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.

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

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;**
- **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.**

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.

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

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.

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 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.

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.

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.

And we fully share India's remarks regarding the need for increased transparency of the Committee.

LAO PEOPLE'S DEMOCRATIC REPUBLIC (ratification: 2005)

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

Discussion by the Committee

Government representative – I would like to thank the Committee for inviting to this session the Lao People's Democratic Republic (Lao PDR) to deliver our statement in response to the comments made by the Committee of Experts. I will allow my delegate to deliver the statement on my behalf.

Another Government representative – The comment on which the Government of Lao PDR is invited to respond today is an observation of the Committee of Experts on the application of the Convention, which Lao PDR ratified in 2005. This was the first ever observation on the application of the Convention by Lao PDR as previous comments were at the level of direct requests.

The Lao PDR is fully committed to the cause of eliminating the worst forms of child labour as a matter urgency.

The commitment is also demonstrated by my country's accession to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2006. My country has received valuable technical assistance from the International Programme on the Elimination of Child Labour in the past, and I thank our international cooperation partners for realizing this assistance. Measures to apply the Convention have been hampered by the fact that the Lao PDR is a landlocked, mountainous country that still ranks among the UN's least developed countries, even if it is on track to "graduate" from that status by 2024. To give the Committee a sense of where the Lao PDR currently stands on its journey towards a sustainable development, between 1990 and 2015 the Lao People's Democratic Republic more than halved the number of persons living in poverty and those suffering from undernourishment, and brought net enrolment in primary schools up from 59 to 99 per cent. In the same period, the under-5 mortality rate dropped from 170 to 86. However, significant challenges remain such as birth registration, child nutrition and primary school completion.

The observation of the Committee of Experts addresses two issues, trafficking of children, and commercial sexual exploitation of children generally and in the tourism sector. The Lao PDR has sought to strengthen its protection framework for a good number of years and in recent years has benefited from visits and recommendations by the UN Special Rapporteur on the sale and sexual exploitation of children.

I would like to inform that the Lao Government at all times takes the necessary measures to ensure that the investigations and prosecutions are carried out for persons, including foreign nationals and officials, who engage and are involved in trafficking in persons under 18 years of age. This commitment is also readily evident from the country's legal framework. The Law on the Protection of the Rights and Interests of Children, 2007, prohibits sexual relations with children aged between 12 and 18 in exchange for money or other benefits; and criminalizes the production, distribution, dissemination, importation, exportation, and displaying and sale of child pornography. The Penal Code criminalizes rape and rape of children; sexual intercourse with a child under the age of 15; engaging in or facilitating prostitution; the procurement of female minors into prostitution; the forced prostitution of children; and marital rape. A major development was the adoption of the Anti-Trafficking Law in 2016, under which trafficking in children is an offence that carries 15 to 20 years of imprisonment.

The data recorded by the Office of the Supreme People's Prosecutors reveals that there were 28 cases of trafficking in persons under 18 years of age with 31 offenders in 2016, 21 cases with 21 offenders in 2017 and 29 cases with 33 offenders in 2018. In total, over the past three years there were 78 cases with 85 offenders investigated and prosecuted.

The tourism industry is also a rapidly growing sector in the country. The Ministry of Labour and Social Welfare, in cooperation with the Ministry of Information, Culture and Tourism, will include the protection of children and the prevention of sexual abuse and exploitation as part of its strategy on sustainable tourism. It will promote strong partnerships between the public and the private sectors to promote the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism among hotels.

The Lao PDR took part in a meeting of the Association of South East Nations (ASEAN) held in Cambodia in 2017 under the Alliance 8.7 initiative as a contribution to Sustainable Development Goal No. 8 and the elimination of child labour in all its forms by 2025. The Lao PDR, together with inspection officials from other ASEAN Member States and social representatives, discussed action for accelerating national-level strategies to eliminate child labour. Delegates reaffirmed the urgency for combating child labour and the important role that labour inspectorates play in this effort. The Lao PDR agreed with all ASEAN Member States counterparts on a set of recommendations to this end, including strengthening the institutional and human capacity for our labour inspection system to more effectively detect and remedy child labour cases, in addition to strengthening social dialogue on this critical topic.

The National Commission for Advancement of Women and Mothers and Children with the support of UNICEF has also taken all necessary measures to prevent and combat the sale and sexual exploitation of children in the country through the implementation of legislative initiatives, institutional framework and child protection policies.

The Lao PDR Government has also started a child protection system mapping, assessment and planning exercise to develop a vision and action plan in strengthening the child protection system in the Lao PDR as well as the Strategy for the Social Welfare Workforce Development. In collaboration with the development partners and different sectors including the private sector, the Lao Government is undertaking the measures available to support care, recovery and reintegration of child victims and also provides recommendations to address those issues, including improving child protection and minimizing the risks of children becoming victims of sale and sexual exploitation.

At the village level, the Child Protection Network has been established to bring child protection services closer to communities where social welfare staff are not present. These measures aim at improving the child protection system specifically to address two key concerns raised by the UN Special Rapporteur. In addressing the first concern, the Child Protection Network gives the correct information to the correct targeted group of children so they know who, and how, to safely turn to when they feel at risk of trafficking or sexual exploitation; to address the second concern, the Child Protection Network raises awareness for targeted groups of children on the risks when they consider working abroad.

In order to improve the capacity of the Child Protection Network, UNICEF is supporting the Lao Government, especially the Ministry of Labour and Social Welfare to establish the social welfare workforce and build their capacities to provide responsive child protection services to children and their families.

The Ministry of Labour and Social Welfare of the Lao PDR and the National Commission for Advancement of Women and Mothers and Children with the support of UNICEF is mobilizing financial and support from development partners to further develop policies and implement programmes to combat the sale and sexual exploitation of children nationwide.

In 2010, with the technical and financial support from the ILO, the Ministry of Labour and Social Welfare of Laos conducted the Child Labour Survey. The findings from the survey were effectively used for developing the National Plan of Action on Prevention and Elimination of Child Labour from 2014 to 2020. The survey finding was also used for designing policies including the Labour Minister's decision on the light work list that allows employment of young workers and the hazardous work list that does not allow employment of young workers. In addition, the Lao PDR has been closely working with its ASEAN Member States, ASEAN dialogue partners and development partners in carrying out a number of projects aimed at promoting safe and fair migration, for instance, the Triangle Project for safe labour migration, the SAFE and FAIR Employment, and Rural Employment Promotion.

However, moving forward to address trafficking in persons' related issues, a number of challenges remain for the

Lao PDR. Limited supporting resources and capacity of officials in charge of cases are restricted. More capacity-building programmes for local officials and financial resources are needed. It is essential that the Lao PDR continues to work closely with social and development partners in dealing with the remaining issues.

In conclusion, the Lao PDR reaffirms its commitment to continue observing and implementing the ratified ILO Conventions. In this regard, the Lao PDR would like to take this opportunity to request the Committee, the ILO, all international development partners and social partners to appreciate the constraints of the Lao PDR as well as the efforts of the Government and the social partners to ensure the worst forms of child labour are eliminated.

Let me end by thanking the Committee in advance for its advice in these matters and assuring it of Laos' fullest cooperation so we can end the case of the worst forms of child labour once and for all.

Employer members – First and foremost, we would like to thank the Government representative for being present and making submissions before this Committee. This is the first time the Lao PDR case is being heard in relation to the Convention. As observed by the Committee of Experts, there are two issues that were cited. The first being under Articles 3(a) and 7(1) of the Convention which defines the worst forms of child labour – in this case, child trafficking, and the latter relating to penalties.

The Government of the Lao PDR was requested by the Committee of Experts to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions are carried out of persons who engage in trafficking of children, including foreign traffickers as well as state officials suspected of complicity, and that effective and dissuasive sanctions are imposed. Facts reveal a serious lapse on the part of the law enforcement authorities of the Government to carry out thorough investigations as well as prosecutions of perpetrators including foreign nationals. The Committee of Experts took cognizance of several reports; one such was the report submitted by the Lao PDR under Article 44 of the Convention on the Rights of the Child in October 2017. This report stipulates that the Government of the Lao PDR has implemented an Anti-Human Trafficking Law which imposes a sentence of 15 to 20 years of imprisonment and a fine for trafficking offences where victims are children. It also noted from the same source that from 2013 to 2015 the Ministry of Public Security had received 78 complaints involving 125 child victims of trafficking, of whom 58 had been girls but had only resulted in 35 convictions. While it is encouraging to see that some perpetrators have been brought to justice, a matter of serious concern is the lack of progress and of follow-up relating to other cases.

Making reference to a second report of the Committee on the Rights of the Child (CRC), a July 2015 report of the National Commission for the Advancement of Women and Mothers and Children (NCAWMC) on the implementation of the Optional Protocol of the CRC on the sale, prostitution, and pornography involving children (OPSC), the Committee of Experts noted the development of a worrying trend on account of a series of non-prosecution of complaints and out-of-court settlements that have taken place.

The same report cites the presence of agents or *mamasans* as a source of facilitating trafficked children to be offered as prostitutes to paedophiles often based on bizarre and inhumane categorization. The report cites that children are very much part of the *Borikan* or female sex workers and the growing number of *sao meu teu* or "mobile phone girls" often offered to migrant workers by the perpetrators operating within this vicious system.

While acknowledging that the problem of child trafficking for exploitation is widespread in the Greater Mekong region, and that the Lao PDR has provided information pertaining to the cases relating to trafficked child victims, we are concerned about the cases that remain either unreported or have fallen through the cracks. In this regard, we acknowledge, as have the Committee of Experts, the People's Supreme Court record reporting 269 cases involving trafficked children in 2016 and 264 such cases in 2017. As the Committee of Experts has reported, citing a 2015 report of the CRC in its concluding remarks on the Lao PDR, the large number of cases relating to trafficking and sexual exploitation of children not leading to a conviction is due to traditional out-of-court settlements at the village level and the failure of the judicial authorities to enforce the law. This is a serious concern. The Committee of Experts also took note of the CRC concerns that the prosecution of foreign traffickers is rare, and impunity remains pervasive. Corruption and the alleged complicity of the law enforcement, judicial and immigration officials have often been cited as the main reasons for this situation.

The Lao PDR has a system in place to combat child trafficking and commercial sexual exploitation, but what is sadly lacking is its consistency and effectiveness. A combination of gaps in the system as well as corruption has largely led to this situation. As a result, children are trafficked into and out of the Lao PDR and many are left vulnerable to commercial sexual exploitation.

In view of the above, the Employers call on the Government to take urgent and necessary measures to strengthen the capacity of the law enforcement authorities, including the judiciary. We also call upon the Government to establish a monitoring mechanism to follow up on complaints filed and investigations carried out, as well as to ensure that an impartial process of prosecuting cases that takes cognizance of the special requirements of child victims, such as protecting their identity and the requirement to give evidence "behind closed-doors", be considered.

The second issue, as observed by the Committee of Experts is in respect of clause 7(2)(d), which relates to children at special risk, and these are the children who are exploited and commercially exploited for sex. The Committee of Experts noted from the reports submitted by the Lao PDR under the Convention on the Rights of the Child that the country had taken a number of initiatives, as part of the Australian aid-funded project, to develop educational material targeting the tourism sector and community representatives, parents and guardians of young children, as well as young persons who are vulnerable in the Greater Mekong area. Several training sessions had been held with the relevant stakeholders, including the community police.

Similarly, the Committee of Experts has noted from the CRC NCAW report of 2018, that is on the OPSC, of various measures taken by the Government, including the development of regulations to administer hotels and guest houses, as well as measures taken to monitor the compliance of these guidelines. Inspections of premises and conducting awareness-creating workshops with the objective of curbing child prostitution are some of the measures implemented. The above action taken by the Lao PDR is very encouraging and the Employers welcome further action in pursuance of the elimination of child trafficking and the prevention of commercial sexual exploitation of children. However, as the Committee of Experts noted, based on a concluding observation by the CRC under the OPSC, serious concern had been expressed at the failure of the authorities to prevent children from being sexually exploited by foreign paedophiles, especially the Government's inability to effectively address this issue. Therefore the Employers wish to express that this failure is closely related to some of the matters that were discussed in respect of the first issue.

In the above context, the Employers echo the Committee of Experts' call and call upon the Government to take immediate and time-bound measures to protect children from becoming victims of commercial sexual exploitation. In doing so, we call upon the Government to implement effective measures in consultation with employers and workers, targeting places where the incidence of such abuse and exploitation is said to be high. Similarly, action should be taken to mobilize business groups within the tourism industry such as hotels, tour operators and taxi drivers,etc. A closer monitoring of tourists and visitors in areas where the rates of incidence have been high, especially to prevent and/or weed out paedophiles, should be immediately taken.

Worker members – This is the first examination of the application of the Convention by the Government of the Lao PDR. Also, this is the first time that the Committee of Experts has made observations on the Government's application of the Convention. The comments of the Committee of Experts on the Government's application of Convention No. 182, in law and practice, raise serious concerns.

The Committee of Experts highlights issues with the Government's application of Articles 3(a) and 7(1) of the Convention. According to Article 3(a), the scope of the Convention covers all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict. Article 7(1), on the other hand, obliges member States to take all necessary measures to give effect to the Convention, including through the provision and application of penal and other sanctions as appropriate.

The Government has reported on measures it has taken to address child trafficking and commercial sexual exploitation of children in recent years. However, the Government appears to have concentrated its efforts on appropriate legislation without ensuring that, in practice, the incidence of child trafficking and exploitation is combated through investigations, prosecutions and punishment of offenders.

According to the Government, it is proactively implementing the Anti-Human Trafficking Law of 2015. The Anti-Human Trafficking Law provides for a sentence of 15 to 20 years of imprisonment and a fine for trafficking offences where the victims are children. It has been reported that from 2013 to 2015 the Ministry of Public Security received 78 complaints involving 125 child victims of trafficking, of which 58 were girls. These complaints have resulted in only 35 convictions thus far. The People's Supreme Court record shows 269 cases involving trafficking of children were recorded in 2016 and 264 such cases in 2017. We regret that the large number of cases of trafficking and sexual exploitation of children has not led to any significant increase in convictions and punishments.

The Government must take all necessary measures to ensure that, in practice, through investigations and prosecutions, persons engaging in the trafficking of children, including foreign nationals and state officials suspected of complicity, are held accountable. The Government must ensure that there are sufficiently effective and dissuasive sanctions imposed on perpetrators. The Government must provide information on the number of investigations, prosecutions, convictions and penal sanctions for the offence of trafficking in persons under 18 years of age, in accordance with the provisions of the Anti-Human Trafficking Law.

We deplore the behaviour of some foreign nationals who are entering Laos under the guise of tourism to perpetrate the sexual exploitation and trafficking of children. We are concerned that, according to reports, over 90 per cent of child trafficking for commercial sex exploitation takes place across borders affecting Lao as well as Vietnamese and Chinese children. This sex tourism disproportionately affects children in close proximity to national borders.

We call on the Government of Lao to take immediate steps, in consultations with social partners, to ensure that industry players in tourism do not allow their businesses to be used to traffic and exploit children. The Government must redouble its efforts on measures taken, including developing regulations on the administration of hotels and guest houses, and measures for monitoring compliance of such regulations through inspections, and conduct awareness-raising workshops on child trafficking and prostitution.

The Government is under an obligation to take effective and time-bound measures to protect children from becoming victims of commercial sexual exploitation in the tourism sector. The Government must consult all social partners and civil society and other industry players to address this social evil. The Government must report on the measures it has taken in this respect and should explore the option of seeking technical assistance from the ILO to improve compliance with its reporting obligations to the ILO.

The Convention obliges the Government to work with social partners to design systems to eliminate the worst forms of child labour including measures to remove children from the worst forms of child labour and for their rehabilitation and social integration through access to free basic education and, wherever possible and appropriate, vocational training. We regret that the Government's report does not contain any measures on the removal of children suffering such exploitation and trafficking or the rehabilitation and education of victims. The joint Lao–Australian taskforce "Project Childhood" targets measures for greater awareness of this social menace.

We also refer to further reports which indicate that nationally there are only two shelters for all victims of trafficking – adults and children – both of which are NGO project-based operations. We are seriously concerned that the absence of Government investment in rehabilitation and education of victims of sexual exploitation and trafficking of children makes victims vulnerable to re-trafficking and undermines other measures designed to address the worst forms of child labour. The Government must provide information to the ILO on measures to provide rehabilitation support and efforts to ensure that these children go back to school and complete their education.

Finally, the Government must take the necessary measures to ensure that, in practice, through investigations and prosecutions, persons who engage in the trafficking of children, including foreign nationals and state officials, are held accountable and that the current culture of impunity is brought to an end. We call on the Government to provide information as to the number of investigations, prosecutions, convictions and sanctions for the offence of the sexual exploitation and trafficking in persons under 18 years of age, in accordance with the provisions of the Anti-Human Trafficking Law and in line with the Convention.

Employer member, Lao People's Democratic Republic – Thank you for allowing me to speak on behalf of the Lao National Chamber of Commerce and Industry (LNCCI) and as a representative of Lao employers. I would like to strongly support the Strategic Framework that the Government has set up, the National Committee on Combating and Anti-Trafficking in Persons as well as the related laws and regulations.

In the Lao PDR, our tripartite partners work closely with the social and development and concerned government agencies in creating preventive measures against the worst forms of child labour. This is a violation of fundamental human rights. For instance, several forms of information dissemination have been used to ensure that access to information on the child's rights protection and support services can be readily available. This includes the promotion

of programmes on radio, TV, hotlines, village loudspeakers and through the network of friends and families. We always urge our social partners to use these many tools of communication. The Lao Government promotes and supports family enterprises which will help create more employment.

Apart from creating public awareness on the prevention of human trafficking, the Government also promotes education, health care, and small and medium enterprises. Employers and development partners also provide technical and financial support to help students and women who are the victims of human trafficking to find employment. The social partners and key stakeholders play a role to increase their constructive dialogue and future action plans on the issue.

The LNCCI is a member of the Combating and Anti-Trafficking in Persons Committee. This Committee calls for the Government to strengthen the prevention, protection and prosecution against human trafficking especially the law enforcement. Increasing effectiveness in protecting human rights is even more crucial in the growth period in tourism.

Employers are not only involved in and support the tripartite partners, but also play an important role in producing and distributing guidelines of the Lao labour law and other related laws, regulations and international agreements so as to ensure that our members could guarantee the basic rights, equality and treatment without discrimination on any grounds of their workers, as well as ensuring that workers and their families receive sufficient welfare.

The LNCCI, with development partners, conducted various trainings and established the Women's Entrepreneurial Centre which provides various trainings on strengthening the capacity of our members and encouraging women in entrepreneurship and leadership by enhancing their professional skills.

Lastly, on behalf of the LNCCI, we would like to express our gratitude to the International Labour Organization for the continuous technical and financial support to the Lao PDR and especially the support on strengthening the tripartite mechanism for the prevention and combating of trafficking in persons programme and the national policy framework and decent work as well.

Worker member, Lao People's Democratic Republic – I am speaking on behalf of the Lao PDR workers. Child trafficking is a criminal act that violates the fundamental rights of the most vulnerable children. The Lao Trade Unions represents the workers. We have seen and heard about human trafficking and child labour not only in Laos but elsewhere. At all times, the Lao Trade Unions has undertaken its role in protecting and promoting the legitimate rights and interests of the Lao workers, including those working in the formal and informal sectors.

Currently, the Lao Trade Unions has participated in the Committee on Combating and Anti-Trafficking in Persons, in close collaboration with the Police Department, through the implementation of various activities such as the dissemination of legal information on combating trafficking to trade union officers and members, workers in general at the workplaces at province and district level, and also communities. In addition, the Lao Trade Unions has disseminated and raised awareness to trade union officers, members, both formal and informal workers and all Lao communities regarding Lao Trade Union's regulations and laws, labour law and law on combating and anti-human trafficking in persons and other documents, including national and international instruments, which are related to labour employment and human trafficking issues through various channels like radio, newspapers, magazines and TV.

As the workers' organization, we have closely worked together with the Government and employers' organization through tripartite consultation regularly to prioritize and address the matters, including trafficking in persons, the elimination of the worst forms of child labour and the promotion and protection of the rights and interests of young workers, and on how to prevent young workers from sexual exploitation. We strongly believe that the Lao Government will take sufficient measures aimed at improving and managing the child protection issues and specifically to address key concerns raised as we aware. Therefore, the Lao Trade Unions realize and support the National Plan and the intentions of the Government's response to this case.

However, the Lao Trade Unions would like to recommend that the Government should strictly enforce the existing Law on Anti-Human Trafficking in Persons and other legislation related to the protection of the rights of workers. The Government and concerned sectors need to take bold action to eliminate the situation of the worst forms of child labour. It should intensify its efforts to: investigate, prosecute and convict traffickers, including complicit persons and child sex tourists; train police and border officials on formal victim identification and referral procedures, with a focus on vulnerable groups; strengthen efforts to secure, formalize, and monitor unofficial border crossings in remote and mountainous areas commonly used by Lao labour migrants returning from abroad, and screen for trafficking indicators among them; and collaborate with society and mass organizations such as trade unions, youth organizations and women's unions to eliminate the worst forms of child labour. In partnership with local and international organizations, it should increase resources and vocational training to support victims to reintegrate them into their home communities. Further, it should improve transparency by collecting information on Government anti-trafficking activities, including case details and financial allocations, and share this information among ministries and with non-governmental stakeholders.

By following through on these recommendations, the Lao PDR can come closer to reducing the trafficking that takes place and increasing transparency, support and accountability for trafficking victims.

Lastly, we would like to echo the points made by the Committee of Experts in its report that the Government has to: (i) ensure that perpetrators of child trafficking, including foreign trafficking and state officials suspected of complicity, are subject to thorough investigations and prosecutions; (ii) take effective measures to protect children from becoming victims of commercial sexual exploitation in the tourism sector. Last but not least, I would like to call on the international trade union organizations and other international communities to continue their support to the Lao Trade Unions.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The candidate country, Albania, and the EFTA country, Norway, Member of the European Economic Area, as well as Georgia, align themselves with this statement. Eradication of child labour constitutes a priority of European Union human rights action. We support the ratification and implementation of the UN Convention on the Rights of the Child, as well as the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). We reiterate our strong commitment towards guaranteeing the fundamental human rights of every child as defined in the 2030 Agenda for Sustainable Development target to end child labour in all its forms by 2025.

This year, as we mark the 30th anniversary of the UN Convention on the Rights of the Child and the 20th anniversary of the International Labour Organization's Convention on the worst forms of child labour – representing the cornerstone of international protection of children's rights – the need to see more results towards eliminating child labour is even more blatant.

Laos and the European Union have a close and constructive relationship, based on substantial development cooperation, support to the national reform agenda and a commitment to open markets by granting preferential access to the EU market via the "Everything but Arms" scheme, which is conditional to the respect of fundamental human and labour rights principles including the fight against child labour and abuse.

Trafficking and sexual exploitation of children constitutes one of the worst forms of child labour. According to Lao's National Violence Against Children Survey, carried out by the National Statistics Bureau in cooperation with the Ministry of Labour and UNICEF, one in 14 girls and one in eight boys are sexually abused as a child. Adolescents make up a significant proportion of female sex workers in Lao: 27 per cent of female sex workers are reported selling sex at their first sexual experience at a mean age of 17 years. Furthermore, cases of trafficked, exploited and sexually abused children grow with increasingly open borders. Some of the victims of trafficking, particularly women and girls, are reportedly as young as 11 years old. Trafficking victims are often migrants, mostly coming from the rural areas, forced out of the country due to poverty and a lack of educational opportunities. Trafficking cases usually involve children and young people who are either exploited in the commercial sex industry or forced into factory, agricultural or construction labour. There are also a number of cases of girls sold abroad as brides.

We are deeply concerned that a large number of cases of trafficking and sexual exploitation of children in Lao still does not lead to a conviction owing to traditional out-of-court settlements at the village level and the failure of the judicial authorities to enforce the law. We urge the Government to ensure proper implementation of the Anti-Human Trafficking Law and to undertake the necessary measures so that all perpetrators are duly prosecuted, including foreign traffickers and their accomplices among the law enforcement, judiciary and immigrations officials. Only sustained and decisive measures to combat trafficking and exploitation of children as well as impunity in general, will send a clear message to society that violence is unacceptable and will be punished.

We welcome the Government's efforts to address with specific awareness-raising measures the travel and tourism sector, which is particularly prone to the risk of sexual exploitation of children. We strongly encourage the Government and its competent authorities to carry out regular inspections on hotels, guest houses and other accommodation and entertainment sites to enforce and monitor their compliance with the relevant regulations put in place. These regulations should be part of comprehensive national time-bound programmes aimed at eliminating sexual exploitation of children and coordinated with regional programmes to combat trafficking in young women and children. Actions to promote responsible business and engagement with private operators in the travel and tourism sector represent an essential component of effective national policies and should complement enforcement measures.

Finally, we call on the Government in Lao to intensify its efforts as to guarantee the highest possible protection against any form of child labour or any other form of exploitation so that the children of Lao can enjoy a life conducive to their physical, mental, spiritual, moral and social development. The European Union and its Member States remain committed to their cooperation and partnership with Lao.

Government member, Thailand – It is my great pleasure to deliver this statement on behalf of ASEAN. Firstly, ASEAN welcomes the progress made in the efforts of the Lao Government to fulfil its obligations under the Convention, with the support of the international community such as the ILO, UNICEF, ASEAN, Laos' neighbouring countries and other stakeholders bilaterally and multilaterally.

Secondly, ASEAN is of the view that the worst forms of child labour is a matter of urgency that needs to be eliminated without delay. In this regard, ASEAN congratulates the Lao PDR on its accession to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2006. Further, ASEAN believes that the issue of child labour is multifaceted, and the national context should be taken into consideration in the examination of the case regarding the matter. ASEAN also encourages the Government of the Lao PDR to continue its efforts, in consultation with social partners as appropriate, to prohibit and eliminate the worst forms of child labour so as to implement the provisions of the Convention.

Thirdly, ASEAN notes with appreciation the necessary measures, including the enhanced Action Plan on Child Protection System, taken by the Lao PDR to implement the recommendations of the Special Rapporteur on the Sale and Sexual Exploitation of Children, who paid a visit to the Lao PDR last year.

Fourthly, ASEAN recognizes that the Lao PDR is in need of technical assistance and support in addressing difficulties and challenges in the implementation of its obligations under international and regional instruments relating to labour issues.

Lastly, I wish to inform that ASEAN has intensified its cooperation on anti-trafficking in persons under the ASEAN Convention Against Trafficking in Persons, especially Women and Children, which entered into force in 2017. Now ASEAN is in the process of developing "the Proposed Actions on Improving Cooperation between Labour Inspectors, Recruitment Agency Regulators and Anti-Trafficking Police".

Worker member, Japan – I would like to touch on the failure of the judicial authorities to enforce the law on trafficking of children and urge the Government to exert further efforts to eliminate trafficking. It is believed that the majority of victims are trafficked from the Lao PDR to Thailand and the majority of victims are girls under the age of 18. Of those people trafficked to Thailand, it is estimated that about 35 per cent end up being trafficked for sexual exploitation.

The Lao Government, as reported just now, has been making efforts to prevent human trafficking. And there were several judicial and administrative measures taken to counter trafficking. For example, article 89 of the Lao national law prohibits all forms of human trafficking. If found guilty, penalties include imprisonment from five years to life, fines between US$1,230 to US$120,300, the confiscation of assets or capital punishment. The Law on Anti-Trafficking in Persons entered into force in February 2016.

However, there are challenges in combating human trafficking. The first challenge is porous borders and human connectivity across borders. There are well-established connections and networks across the borders and border officials have been complicit and taking bribes to facilitate transportation of Lao nationals across the border.

The second challenge is insufficient victim protection and reintegration: victims of trafficking might receive some assistance but not the full package they require to move on from their trafficking experience and reintegrate into society. As a result, there is a high likelihood of victims returning to the same situation.

Next, I would like to touch on measures to be taken in the future. First and foremost, implementation of the laws and action plan is key, including implementation of the 2016–20 Action Plan concerning Anti-Trafficking. Second, the Government should investigate, prosecute and convict traffickers, including complicit officials and child sex tourists. Third, the Government should train police and

border officials on formal victim identification and referral procedures, with a focus on vulnerable groups.

The Government should also increase expenditures from the Government anti-trafficking budget for service provisions and assistance programmes for victims, and expand these services for male victims. And not to mention, poverty is the main cause of trafficking. It should be emphasized that tripartite efforts for the elimination of poverty and economic development is key to eliminating human trafficking in the longer term.

Worker member, Philippines – The Federation of Free Workers and the Nagkaisa Labour Coalition in the Philippines are deeply concerned with the deteriorating situation of children in Laos. The discussions under this Committee are an opportunity to bring up remedial measures to improve the lives of Lao children.

Other than a transit of trafficked workers from China, Myanmar and Viet Nam, Laos is known as primarily a source country for women and girls trafficked for commercial sexual exploitation and labour exploitation as domestics or factory workers in nearby Thailand. We understand that out of the 200,000 to 450,000 young people from the Greater Mekong subregion, 90 per cent of them are bound for Thailand.

It appears that Laos' fight against child labour is regressing. The 2018 Trafficking in Persons report showed that the Government of Laos does not fully meet the minimum standards for the elimination of trafficking and did not demonstrate overall increasing efforts to do so compared to the previous reporting period. The Government took some steps to address trafficking. The work done is still wanting and needs to be reinforced by the Government. Making the situation worse, the 2018 report found some corrupt officials reportedly continued to facilitate and profit from illegal activities involving trafficking of children and minors.

Bureaucratic and poor Government coordination make it difficult or restrict the operations of non-government partners to effectively implement the Laos National Action Plan to Combat Trafficking.

We in the Philippines have similar problems, like Laos, on child labour. Thus, we join with the Laos Federation of Trade Unions which recommends to put "flesh and blood" to and reinforce the implementation of the 2016 Anti-Trafficking Law by, among others, increasing funding to anti-trafficking service provisions and assistance programmes for victims.

We respectfully urge the Government of Laos to collaborate with trade unions, civil society, as well as the governments of its neighbours, to implement the 2016–20 National Action Plan. Thus, we reiterate our call for the strict enforcement of the law in Laos.

Worker member, Singapore – I would like to touch on the continued rampant sexual exploitation of children, primarily in travel and tourism in the Greater Mekong region and urge the Lao Government to double its efforts to tackle trafficking and sexual exploitation.

To me, a child should be given the opportunity to grow up in a safe environment, have access to education and eventually the empowerment to make their own career choice upon obtaining higher education. It is indeed saddening to hear that in Laos there are incidences of traffickers in rural communities who are often acquaintances, friends and even relatives of the victims. They might lure the victims with false promises of legitimate work opportunities in neighbouring countries, then subject them to sex or labour trafficking. This is definitely not a safe environment to grow up in.

According to the US 2018 Trafficking in Persons Report, the Government of Laos does not fully meet the minimum standards for the elimination of trafficking and did not demonstrate overall increasing efforts to do so, compared to the previous reporting period. Hence, it has been downgraded to tier 3. This drop in ranking speaks a lot of the lack of efforts on the part of the Government of Laos.

It was indeed encouraging to hear that the initiative entitled "Project Childhood" funded by Australian Aid to combat the sexual exploitation of children was actually introduced in Laos. Under this project, quite a number of educational materials were developed for the tourism sector, community representatives, parents and guardians of children and young persons. Moreover, several training sessions and workshops were held with relevant stakeholders, including community police. The Government had also taken various measures, including developing regulations on the administration of hotels and guest houses and measures for monitoring compliance of such regulations through inspections. However, these efforts have clearly been shown to be ineffective in eliminating the sexual trafficking of children. I urge the Government to report on the results achieved under this project and to actually share more on the further actions to be taken under the prevention pillar.

What else can the Government do better? Awareness starts from home. The Government could go into the communities and villages and speak to the adults, the parents and the children to warn them of the possible harms and dangers. The Government could also incorporate education on the risk of sexual exploitation into the school curriculum. School staff could also be trained to look out for signs of this risk, especially for students from very poor families. What I want to urge the Government officers to do is to put yourself in the shoes of the victims, or just imagine your child ending up as a victim of sexual trafficking, and I am sure you will go all the way out to eradicate this situation.

Worker member, China – We have listened carefully to the information given by Lao's delegates. We have noted that the trade union of Lao has cooperated with the Government and employers' organizations closely, conducted various activities to combat human trafficking and achieved positive progress, including strengthening the publicity of laws and policies related to combating human trafficking and regularly conducted tripartite consultations on anti-human trafficking and child labour.

We encourage Lao's Government to strengthen current legislation. We also want to ensure the rights of workers. We also hope the ILO could provide necessary technical support for Lao to enhance capacity building in fulfilling international Conventions.

Government representative – We listened carefully to, and take note of, the advice, comments and recommendations as well as suggestions from all interventions in this session.

With regard to the observation of the Committee on the application of the Convention by the Lao PDR, it is observed that all interventions are constructive and practical in nature. The comments and recommendations are taken into account and will further serve as guidance in improving and enhancing ongoing efforts in the realization of our obligations under the Convention.

It is recognized that trafficking in persons for commercial sexual exploitation or for labour exploitation is a clearly unacceptable practice in all nations, and it is also a transnational crime that needs immediate resolution.

In this regard, I would like to repeat that the Lao PDR has been strictly enforcing the law on the protection of rights and interests of children for over ten years. This law prohibits sexual relations with children in exchange for money or other benefits, and criminalizes the production, distribution, dissemination, importation, displaying and the sale of child pornography. In addition, the Law on Anti-Human Trafficking has been adopted and entered into force few years ago, and many other legal frameworks and work

programmes are introduced and being implemented nationwide.

However, the Lao PDR is on its way of moving from a low-income to a low-middle income economy, and about half of the population is living in poverty. The country's line agencies concerned are still facing challenges and difficulties, such as technical expertise, legal advice and financial resources, in fulfilling our obligations under the Convention, and other related instruments. We therefore would like to call on the ILO, international communities and social partners to continue providing us their assistance and support.

In this connection, I would like to assure the Committee that the Government of the Lao PDR is fully committed to the Convention and other related labour instruments, including at the regional level, for instance the ASEAN-level related framework.

Last, but not least, I would like to conclude by expressing my sincere appreciation to the Committee for its observations. Many thanks also go to all ASEAN Member States, representatives of workers' and employers' organizations and others for their constructive interventions and support extended to the Government of the Lao PDR in this regard.

Worker members – We thank the Government representatives of the Lao PDR for the report and the information provided to the Committee. The situation relating to the worst forms of child labour in Lao is alarming. We have noted that the Government has taken some steps in law to address this scourge. It has increased the number of years of mandatory education, it has moved to introduce a system of mandatory civil childbirth registration, adopted a national Anti-Trafficking Law and introduced penalties for those convicted of child trafficking offences.

There have also been some efforts made by the Government to address the issue in practice. There have been awareness-raising campaigns, the development of a National Plan of Action on Human Trafficking and the expansion of bi- and multilateral cooperation to combat human trafficking. The Government also provides temporary shelter, legal, medical, vocational training and reintegration services. These are all necessary strategies that must form part of a holistic approach to dealing with a serious and complex issue. However, viewed overall, the Government's efforts in practice, including, significantly, the investigation, prosecution and punishment of offenders, foreign or local, and rehabilitation and education of victims, have fallen short.

We have noted that the Convention expects the Government to adopt a zero-tolerance approach to the worst forms of child labour by taking measures to prohibit its occurrence absolutely.

We join the Committee of Experts in this regard to express our serious concern over the lack of effective implementation of the criminal prohibition of trafficking and commercial sexual exploitation of children contained in the national law and as referred to in the Convention. We also note the recommendations made by the UN Special Rapporteur on the sale, trafficking and sexual exploitation of children, Madame de Boer-Buquicchio, after her visit to Lao in 2017.

The Government must intensify inspection services with all the means necessary for the control, prosecution and punishment of offences against the exploitation of children in the worst forms of child labour.

The Government must put in place a specific framework for children who are victims of such abuses, including facilities to rehabilitate and reintegrate these children. The children will also require protection and access to medical, social, legal and housing services.

The Government must ensure that there are measures to improve the functioning of the education system and to monitor the effective implementation of the compulsory education system and must provide up-to-date statistical information on enrolment and drop-out rates.

In consultation with the social partners, the Government must develop an action plan to combat the sexual exploitation of children and to put in place a mechanism to review and update the action plan. In this regard, we note that access to education is the best guarantee for safeguarding children from the worst forms of work. The Government must take all necessary measures to raise the school enrolment rate in both primary and secondary education, especially in areas where sexual exploitation and trafficking is rife. Also, we urge the Government to provide the necessary financial and human resources to implement the Anti-Trafficking Law and the National Plan of Action, focusing on children who are most vulnerable, including children from low-income families, and to strengthen the capacity of, inter alia, police officers, border guards, consular service officials, labour inspectors and social workers to identify child victims of trafficking.

We call on the Government to ensure that child protection, victim assistance and access to education are all central to the efforts to combat sexual exploitation and child trafficking and other worst forms of child labour. We call on the Government to take effective and time-bound measures to protect children from becoming victims of hazardous work or commercial sexual exploitation and trafficking. We stress the importance of access to education for all children until they achieve minimum working age, of assisting child victims of trafficking and forced labour, and of effectively prosecuting, convicting and penalizing perpetrators.

The Government should step up efforts to compile comprehensive and reliable data which will allow the relevant bodies to be satisfied that significant and measurable improvements are made to bring the Lao PDR into full compliance with the Convention. The Government should avail itself of ILO technical assistance to this end.

Employer members – We take this opportunity to once again thank the representatives of the delegation from Lao for being present and for sharing additional information with this Committee, and also to the distinguished speakers who shared a lot of information with regard to the case at hand.

It was indeed good to be briefed about the technical assistance that the Government of Lao has received from the Office and that this is continuing. We are also happy to note that these measures include incorporating some of the strategy, some of the objectives or some of the key efforts in relation to the DWCP for the period 2017–21. We certainly hope that the momentum in relation to what you have implemented will continue in terms of the National Plan of Action on the Prevention and Elimination of Child Labour. Having listened to my Employer colleague from the Lao PDR, the Deputy Secretary of the Lao Chamber of Commerce and Industry, we now understand that the Government of the Lao PDR is receiving assistance from all other stakeholders, both employers and workers, in its measures to comply with its obligations under Convention No. 182. We are also extremely happy to note that employers and workers are being consulted and are very much involved in respect of the interventions targeting the elimination of trafficking and commercial sexual exploitation of children. We understand that this includes the setting up and continuing the Anti-trafficking Committee comprised of tripartite partners. However, in spite of some of the measures, there still exists some gaps in the system, some of it the creation of those responsible for dispensing of justice and the enforcement of law and order, and this is a matter that needs to be addressed with prompt attention.

This has still left children in the Lao PDR remaining vulnerable to being trafficked and being subject to commercial sexual exploitation, thus amounting to violations under the

Convention. However, having taken note of the self-reflecting attitude of the Government of the Lao PDR which we congratulate, the Employers' group wishes to make the following recommendations and call upon the Government to: (i) take urgent and necessary measures to strengthen the capacity of the law enforcement authorities, including the judiciary; (ii) establish a monitoring mechanism comprised of relevant officials, including tripartite partners, in order to follow up on complaints filed, investigations carried out, as well as to ensure an impartial process of prosecuting cases that take cognizance of the special requirements of child victims, such as protecting their identity and the requirement to give evidence behind closed doors; (iii) prevent entry into the country, as well as track movements, of all perpetrators, including paedophiles, involving trafficking and commercial sexual exploitation of children. A focused plan of action should be implemented targeting agents; (iv) take immediate and time-bound measures together with the social partners to protect children from becoming victims of commercial sexual exploitation and should include: (a) implementing programmes such as Project Childhood under the AusAID programme in order to educate vulnerable children and communities against the dangers of and with focus in preventing children from being trafficked and being subject to commercial sexual exploitation; (b) set up centres to rehabilitate child victims and reintegrate them into society, and to ensure that they complete their education to integrate them into society effectively; (v) continue to formulate and thereafter carry out specific interventions targeted at eliminating the worst forms of child labour, including trafficking and commercial sexual exploitation, in consultation with stakeholders, as envisaged under Article 5 of the Convention; (vi) seek further technical assistance from the ILO and incorporate a strategy as proposed above in a continuing National Action Plan, including the ILO Decent Work Country Programme; (vii) we call upon the Government of Lao PDR to submit a full and detailed report on the above matters before the next meeting of the Committee of Experts this year.

Conclusions of the Committee

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

While acknowledging the complexity of the situation, the Committee deplored the current situation.

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:**
  - **(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.**

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.

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.

Government representative – On behalf of the Lao Government, we take note of the conclusions and recommendations 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)

Discussion by the Committee

Government representative – We would like to start by congratulating you on the Centenary of the ILO which represents a marking point in the history of the Organization. We also highly value the efforts of your esteemed Committee in enshrining the principles on which the ILO was founded in many fields of labour on top of which is supporting stability, protection and social justice.

With regard to the remarks in the report for 2019 regarding Libya and the application of Convention No. 111, we would like to inform you that the State of Libya, based on its religious dogma, has banned all forms of discrimination and has implemented the Convention through the Labour Relations Act No. 12 of 2010 and its Regulations. The Libyan Penal Code has criminalized all sorts of discrimination and from your esteemed remarks which focused on some isolated wrongdoings, we would like to reaffirm that the Government of National Accord has made all the necessary efforts in implementing the above referenced laws. For example, we have activated the role of labour inspectors and given them the status of judicial police officers so that they can monitor those infringements and the violations of Conventions. We would like to ask you to categorize Libya as an unstable country which is still experiencing political divisions and wars in many regions, the latest developments of which have seen combat around the outskirts of the capital which are still ongoing. Our Government commits to provide a detailed report on all the questions and remarks contained in the report as early as possible.

In conclusion, we would like to reaffirm that the State of Libya has fulfilled all its commitments over many years and cooperates with all the member States to achieve what we all seek for. We also trust that your esteemed Committee and all the member States will provide the technical support and assistance that we need in these exceptional circumstances, as we have been used to see before. We would like to reiterate our thanks to this Committee and the Committee of Experts.

Employer members – The Employers' group would like to thank the Government for its comments and statements today. Libya ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in June 1961. This fundamental Convention aims to guarantee human dignity and equal opportunities and treatment for all workers, prohibiting all discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin.

Today is the first time that the Committee on the Application of Standards is examining the application of the Convention by Libya in law and practice. The Committee of Experts previously made two observations on this subject, in 2008 and 2010, and decided this year to give the case "double-footnoted" status.

Libya became an ILO Member in 1952 and has ratified a total of 29 Conventions comprising eight fundamental Conventions, two governance Conventions and 19 technical Conventions.

We note that the Government, supported by the United Nations, continues to struggle to exert control over territory occupied by rival factions which are intensifying the geographical and political divisions between the east, west and south of the country.

We emphasize that the Office is providing ongoing technical assistance to the Libyan Government to improve the labour situation. In particular, we underline the fact that three ILO technical assistance projects are under way to invest in human capital in Libya:

1. RBSA project concerning capacity-building for Libya's constituents and national stakeholders to combat unacceptable forms of work and promote fair and effective policies in the area of labour migration. This is a reconstruction project to take action against unacceptable forms of work, in particular child labour, forced labour and trafficking. Results are expected with regard to the elimination of child labour and forced labour by means of a plan of action, including with respect to evaluation and improvement of the labour market, strengthening the capacities of the Libyan authorities regarding governance of the migration of workers and, last but not least, the role of the social partners in economic stability and the resolution of social disputes.
2. Resource mobilization project concerning jobs for peace and resilience. The aim of this project, supported by the Office, is to continue mobilizing resources to extend the work already done by the previous project.
3. Project concerning support for equitable migration for the Maghreb. The aim of this 36-month project, in collaboration with the Office and Italy, Morocco, Mauritania and Tunisia, is to improve the capacities of government actors and the social partners. Economic migration and the promotion of social dialogue are at the heart of subregional training courses organized by this project.

We encourage the Libyan Government to continue its commitment and its cooperation with the Office in areas such as non-discrimination, child labour, forced labour, trafficking in persons and labour migration.

Let us now turn to the main issues of non-conformity in law and practice identified by the Committee of Experts in its report on Libya.

The first issue is of a legislative nature. To recap, Article 1 of Convention No. 111 defines discrimination as including any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. This provision covers in general terms any discrimination that can affect equality of opportunity and treatment in law and practice, whether directly or indirectly. The Committee of Experts observed that a number of national legislations relating to the principle of equality before the law and equal opportunities are not in full conformity with the definition of discrimination or the grounds of discrimination enumerated in the Convention.

Firstly, article 6 of the Constitutional Declaration of 2011 does not contain any reference to the grounds of race, colour or national extraction. Secondly, article 7 of the draft Constitution does not include the grounds of race, national extraction or social origin and only refers to Libyan citizens. Thirdly, section 3 of the Labour Relations Act (2010) prohibits discrimination on the basis of "trade union membership, social origin or any other ground of discrimination", whereas the grounds of race, colour, sex, religion, political opinion and national extraction are not explicitly mentioned. In addition, this provision does not include any definition of discrimination in employment and occupation.

In its communication to the Committee, the Government indicated that it was participating fully in the technical assistance projects.

The Employers' group endorses the observations made by the Committee of Experts and supports their four recommendations aimed at ensuring conformity of the national legislation with the Convention.

First recommendation: consider amending article 7 of the draft Constitution to ensure that the grounds of race, national extraction and social origin are included as prohibited grounds of discrimination.

Second recommendation: include a definition of the term "discrimination" contained in section 3 of the Labour Relations Act (2010). As the experts recall, a clear and complete definition of discrimination in employment and occupation is vital for identifying numerous situations in which discrimination can occur and for taking corrective action.

Third recommendation: confirm that the grounds of race, colour, sex, religion, political opinion and national extraction would be included in the terms "any other discriminatory basis" of section 3 of the Labour Relations Act (2010) and revise section 3 to make that apparent.

Fourth recommendation: provide information on the concrete measures taken to ensure that direct and indirect discrimination on all of the grounds enumerated in Article 1 of the Convention are prohibited, in law and in practice.

In addition, the Employers' group recommends that the government authorities consult the representative workers' and employers' organizations when introducing the recommended legislative amendments and reforms.

The second issue relates to the absence of measures taken by the Government to combat discrimination against migrant workers. Indeed, serious discrimination is taking place against migrant workers originating from sub-Saharan Africa, who are reportedly sold as slaves. This practice constitutes the extreme and unacceptable consequence of discrimination based on colour. We regret that the Government's report to the Committee of Experts says nothing on this sensitive issue, which is crucial in terms of human rights.

The Employers' group therefore endorses the experts' recommendations – firstly, to take immediate measures to address the situation of racial and ethnic discrimination against migrant workers originating from sub-Saharan Africa (including women migrant workers), in particular to bring an end to forced labour practices; secondly, to provide detailed information on all of the measures it is taking to prevent and eliminate the occurrence of ethnic or racial discrimination in law and in practice in all aspects of employment and occupation; and, thirdly, to provide detailed

information on the measures it is taking to promote tolerance, understanding and respect between Libyan citizens and workers from other African countries.

I conclude this case provisionally by urging the Libyan authorities, firstly, to bring their legislation into conformity with the definition of non-discrimination and with all the prohibited grounds of discrimination covered by the Convention. Secondly, the Employers' group calls on the government authorities to take the necessary steps without delay to eliminate all racial and ethnic discrimination towards migrant workers originating from sub-Saharan Africa, in accordance with Libya's international commitments. The Government is encouraged to continue to collaborate effectively and constructively in the Office's various technical assistance projects.

Worker members – Before I begin my statement, I would like to point out that a complaint was lodged with the Credentials Committee regarding the Government's failure to organize tripartite consultations on the composition of the Libyan workers' delegation.

Convention No. 111 was adopted in 1958. As the Committee of Experts noted in its 2012 General Survey, some manifestations of discrimination have acquired more subtle and less visible forms. In Libya's case, we are not dealing with such subtle forms of discrimination. Indeed, the forms of discrimination in this case are egregious and have very serious consequences for victims.

The central objective of the Convention is to eliminate all forms of discrimination in all aspects of employment and occupation, by implementing equality of opportunity and treatment in law and in practice in a concrete and progressive manner.

The Convention defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The Convention also refers to any other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

While the Convention allows each country considerable flexibility to adopt the most appropriate measures in terms of their nature and timeline, the objectives to be pursued must not be subject to compromise. The State cannot remain passive, and the implementation of the Convention is assessed on the basis of the efficacy of the national policy and the results achieved.

Unfortunately, the conflict situation in Libya makes it very difficult to resolve the problems that we are about to address. As we have already stated in this Committee, the Libyan Government, which is responsible for appearing before our Committee, must ensure the fulfilment of the commitments made by Libya through the ratification of the Convention. This is the consequence of the sovereignty recognized to the Government that appears before us.

The Convention lists a number of grounds on which discrimination in employment and occupation is prohibited, as we have just mentioned.

The Constitutional Declaration of August 2011, establishing the basis for the exercise of power in Libya during the transitional period until the adoption of a permanent constitution, contains a provision establishing the equal treatment of Libyans. This provision also contains a list of grounds. However, a number of grounds for discrimination do not appear in this Constitutional Declaration, rendering it inadequate. These are the grounds of race, colour and national extraction.

One of the other grounds set out in the Constitutional Declaration, that of "social status", appears to be restrictive compared to that enshrined in the Convention, namely the grounds of "social origin", which can be interpreted more broadly.

The draft Constitution pending adoption by referendum also omits a number of grounds, namely those of race, national extraction and social origin.

The Committee of Experts also notes that protection against discrimination only covers Libyan citizens. However, as the Committee of Experts recalls in its 2012 General Survey on the fundamental Conventions, no provision in the Convention limits its scope as regards individuals. Indeed, the Convention aims to protect "all persons", without any distinction.

In addition, the Libyan Government stated in its report submitted to the Committee of Experts that national legislation prohibits discrimination on the grounds of race, colour, sex, religion and national extraction, referring to section 3 of Act No. 12 of 2010 promulgating the Labour Relations Act (2010). However, this Act seems only to cover the grounds of trade union affiliation, social origin or any other discriminatory basis. Hence, the grounds of race, colour, sex, religion, political opinion and national extraction are not explicitly mentioned in this legislation. Legal provisions should list all of the grounds for discrimination set out in Article 1(1)(a) of the Convention.

In accordance with Article 1(1)(b) of the Convention, it would also be useful for the Government to consult the social partners and other appropriate bodies on the amendments to be made to the above-mentioned legal standards to bring them into line with the Convention and to consider the possibility of broadening the prohibited grounds for discrimination.

Moreover, the Labour Relations Act (2010) does not include any explicit definition of discrimination. However, it is frequently pointed out that a clear and complete definition of what constitutes discrimination in employment and occupation makes it possible to identify the many situations in which discrimination can occur and thus remedy it.

As I mentioned at the beginning of my intervention, some manifestations of discrimination have now acquired more subtle and less visible forms. This is not the case with the situation in Libya. Indeed, there is clear discrimination against a very specific group of people: migrant workers from sub-Saharan Africa. While discrimination against all non-national workers is observed, the 2017 report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya (A/HRC/34/42) indicates that sub-Saharan Africans are especially vulnerable to abuse as a result of racial discrimination. It is also reported that these people are sold on slave markets in Libya, are subject to racial discrimination on the grounds of their colour and are subjected to forced labour practices.

It is urgent that this blatant discrimination cease. Despite the current difficult situation in Libya, the Government must act and take the necessary measures to put an end to these flagrant violations of the fundamental rights of a significant proportion of the population in Libya.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries the Republic of North Macedonia, Montenegro and Albania, as well as Georgia, align themselves with this statement. The European Union and its Member States are committed to the promotion, protection and respect of human rights and labour rights, as safeguarded by the fundamental ILO Conventions and other human rights instruments. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular. The European Union and its Member States are also committed to the promotion of universal ratification, effective implementation and enforcement of the core labour standards.

The prohibition of discrimination is one of the most important principles of international human rights law. In the European Union's founding treaties, in the Charter of Fundamental Rights of the European Union, and in the European Convention on Human Rights, the prohibition of discrimination is a core principle. Convention No. 111 is founded on the same principle.

The European Union, its Member States and Libya are partners, and we remain committed to Libya and its transition to a democratic, law-based State. The European Union recalls that there is no military solution to the crisis in Libya and urges all parties to recommit to the United Nations-facilitated political dialogue and work towards a comprehensive political solution. In this regard, the European Union reaffirms its full support for the work of the Special Representative of the Secretary-General (SRSG) and the United Nations Support Mission in Libya (UNSMIL). With reference to the recent escalation of armed conflict, we reiterate that to bring security, political and economic sustainability, and national unity to Libya and the Libyans, there can only be a Libyan-led and Libyan-owned political solution through an inclusive UN-led political process, with the full participation of women, and in full respect of international law, including human rights. Need for compliance with Convention No. 111 is essential in this respect.

National legislation in compliance with international labour standards is indispensable. Libya's Constitutional Declaration of August 2011, which remains in effect until a permanent constitution is adopted, provides that: "Libyans shall be equal before the law" (article 6) and that "[T]he State shall guarantee for every citizen equal opportunities and shall provide an appropriate standard of living." (article 8). However, as the Committee of Experts points out, the grounds of race, national extraction and social origin are not included in the prohibition of discrimination contained in the draft Constitution, and this prohibition only covers citizens. In similar fashion, the Libyan Political Agreement from 2015 in Guiding Principle 8 affirms: "the principle of equality between Libyans in terms of enjoyment of civic and political rights and equal opportunity, and rejection of any discrimination between them for whatever reason". These legal constraints are also present in the Labour Relations Act of 2010 which does not define discrimination and does not enumerate the exact grounds of race, colour, sex, religion, political opinion, and national extraction as prohibited. We therefore urge the Government to make all the necessary changes to bring these legislations into line with the Convention in order to cover all discrimination.

As reported by the Committee of Experts, the discrimination is particularly dire against migrant workers, especially those originating from sub-Saharan Africa, on the basis of race, colour or national extraction in employment and occupation. Libya is both a destination and transit country for migrants. While many suffer human rights violations and abuses in the course of their journeys, once in Libya migrants continue to be among the most vulnerable, including to detention and deprivation of their liberty, frequently in inhumane conditions. Some of them are also exposed to financial exploitation and forced labour, a clear infringement of Convention No. 29, related to Convention No. 111, which is being examined. Black persons from sub-Saharan countries are being sold in slave markets in Libya and are subject to colour-based discrimination. Based on recent data from the International Organization for Migration (IOM), there are currently over 666,700 migrants in Libya, with 5,333 of them in detention.

While acknowledging the deteriorating situation and security challenges within the country, violations of human rights and violence against civilians, including refugees and migrants, are completely unacceptable and must be denounced in the strongest terms. We urge the Government to take all the necessary immediate measures to prevent and address the situation and bring an end to forced labour practices.

The EU and its Member States are working in close cooperation with the UN to help Libya improve the situation and protection of its citizens, refugees and migrants. We will also continue to help Libyans address the migratory challenges, notably to fight against smuggling and trafficking in human beings and support the resilience and stabilization of host communities.

Given the current developments, while aiming at overcoming completely the current system of detention centres, we seek to urgently evacuate refugees and migrants from the detention centres on the frontline. Where possible, we enable them to find safety outside of Libya. We welcome the progress achieved so far in the framework of the Trilateral African Union–European Union–United Nation Taskforce, which allowed for the assisted voluntary return of migrants to their countries of origin.

The European Union and its Member States will continue to assist the Government in its endeavours and monitor the situation in the country.

Worker member, Italy – Many reports from the BBC and other international media show evidence of the new "Century Lager" existing in Libya, especially for migrants. But being Italian, I have more direct knowledge also through other reports and tales, those of the people who could save their lives in the Mediterranean and succeeded in arriving in my country. I am talking of the survivors of the abuses of the Libyan detention camps, in the courtyards of which, still today, thousands of sub-Saharan migrants are locked up. A real extermination of sub-Saharan peoples in Libya is under way: humans are killed, kidnapped, tortured, left to die of epidemics, and abandoned to their fate without being treated. Doctors from Lampedusa hospitals have seen people with fractures in the lower limbs, because they are thrown from the floors of the buildings, where they are forced into forced labour, when they rebel or do not pay the requested money. Elimination techniques targeting black migrants are used by both State and non-state actors, in a climate of lawlessness; a genocide with an increasingly racial connotation. To date, a commonly used word to refer to black people in Libya is "abidat", which translates to "slaves".

During their regular prison and detention centre monitoring visits from 2012 to April 2018, the UNSMIL (the UN Support Mission in Libya) regularly observed discriminatory practices against sub-Saharan African detainees in terms of conditions of detention and, occasionally, concerning their treatment, compared to Arab and Libyan detainees. For example, in some facilities, Arab detainees had beds and/or mattresses, while sub-Saharan African detainees slept on the floor on blankets. Further, in some facilities, Arab and Libyan detainees had more frequent and regular access to prison yards.

The fact that women are held in facilities without female guards further facilitates sexual abuse and exploitation. Dozens of Somali and Eritrean women are raped by Libyan policemen and militias. They are invisible rapes, which nobody talks about, which will only re-emerge if they are properly cared for.

We read in the 2018 report of the UNSMIL and the Office of the UN High Commissioner for Human Rights (OHCR) that: "Libyan law criminalizes irregular entry into, stay in or exit from the country with a penalty of imprisonment pending deportation, without any consideration of individual circumstances or protection needs. Foreign nationals in vulnerable situations, including survivors of trafficking and refugees, are among those subjected to mandatory and indefinite arbitrary detention. Libya has no

asylum system, has not ratified the 1951 Convention relating to the Status of Refugees, and does not formally recognize the United Nations High Commissioner for Refugees (UNHCR), while de facto allowing the agency to register some asylum seekers and refugees from a limited number of countries. In practice, the overwhelming majority of migrants and refugees are arbitrarily detained as they have never been charged or tried under Libya's migration legislation. They languish indefinitely in detention until they are returned through the IOM or the UNHCR.

Migrants and refugees are subjected to extreme violence, at times on camera, as their relatives watch in agony. Most frequently the methods used include beatings with various objects, suspension from bars, pouring petrol, boiling water or chemicals on victims' bodies, electric shocks, stabbing, pulling nails, application of heated metals to flesh, and shootings, particularly the legs.

We understand and know only one race, the human race, and we urge the Libyan authorities to uphold human rights law and standards. This should include working towards an end to the mandatory, automatic and arbitrary detention of migrants and refugees, stamping out of torture and ill treatment, sexual violence and forced labour in detention. We urge also the Government to take immediate measures to address the situation of racial and ethnic discrimination against migrant workers, including women, in particular bringing an end to forced labour practices and to prevent and eliminate the occurrence of ethnic and racial discrimination in law and in practice in all aspects of employment and occupation and to provide detailed information on all the measures it is taking at this aim.

Observer, International Trade Union Confederation (ITUC) – Thank you for giving me the opportunity to speak about Libya, the country where there are three governments and hundreds of militias of armed groups that continue to vie for power and control of the territory, lucrative trade routes and strategic military sites.

The number of immigrants and asylum seekers travelling through Libya en route to Europe remains considerable, while the number of people who have died trying to reach Europe, via the so-called Central Mediterranean route, has risen sharply. Those who have been detained in Libya have been subjected to ill-treatment and inhuman conditions by the guards of the official detention centres run by any of the rival governments and unofficial places of detention controlled by militia or traffickers and smugglers. They have been victims of generalized and systematic human rights violations and violations by detention centre officers, the Libyan coastguard, and people smugglers from armed groups. Some have been arrested after having been intercepted by the Libyan coastguard in the sea while trying to cross the Mediterranean to reach Morocco. According to estimates, nearly 20,000 people are being detained in the detention centres in Libya run by the Department for Combating Illegal Immigration.

On the other hand, journalists, campaigners and human rights defenders are currently exposed to harassment, attacks and enforced disappearance by armed groups and militia allied with various authorities and rival governments.

Libyan women have been particularly hard hit by the ongoing conflict, which has disproportionately affected their right to move freely and participate in public and political life.

For all these reasons, we request that technical assistance be urgently provided in Libya to put an end to all forms of discrimination.

Government member, Canada – Canada thanks the Government of Libya for the information provided. All persons have the right to be treated fairly, with dignity and be free from discrimination. In that context, Canada notes with concern the observations of the Committee of Experts regarding shortcomings in both Libya's draft Constitution and the Labour Relations Act of 2010 to effectively prevent discrimination in employment as well as other reports indicating that Libyan workers face human rights violations and discriminatory labour practices, particularly women, internally displaced persons, journalists and activists.

Canada remains deeply concerned about continued reports of racial and ethnic discrimination against migrant workers – particularly accounts of forced labour of migrant workers from sub-Saharan Africa – and the apparent lack of effective measures taken by the Government to address the discrimination, and the human and labour rights violations perpetrated against these persons. Canada strongly condemns all forms of forced labour, trafficking in persons and slavery, including against vulnerable migrants seeking a new home and a better life.

While acknowledging the complexity of the political situation in Libya and the ongoing armed conflict in the country, Canada nevertheless urges the Government of Libya to:

(i) ensure that all persons in Libya are protected against direct and indirect discrimination in employment and occupation in both law and practice, including discrimination based on race, ethnicity, gender and political opinion;
(ii) remedy the current situation of gender, racial and ethnic discrimination against all persons, including Libyan and migrant workers;
(iii) bring an end to forced labour practices, including trafficking in persons for the purposes of sexual exploitation, and ensure perpetrators are brought to justice; and
(iv) promote tolerance and respect among Libya's diverse population and towards migrant workers, including those from sub-Saharan African countries.

Canada looks forward to the Government of Libya reporting in detail in the near future on all measures taken to achieve these objectives.

Observer, World Federation of Trade Unions (WFTU) – Convention No. 111 is an important tool to combat all forms of discrimination in the area of employment. Therefore, the Convention does not run counter to the deep convictions of the Libyan people, who have already adopted, over a period of centuries, moral standards that promote equality between human beings.

We would like to stress the shared destiny and the age-old fraternity of Tunisian and Libyan workers, and we consider them to be in fact a strategic extension of each other. We therefore fully encourage the Government to adopt laws that respect the spirit of the Convention and lay the civil legal foundations for freedom of association and equality between human beings. We also believe that this is the right time to adopt these laws; their adoption will help to mobilize world public opinion against the aggression that the legitimate Government is currently facing.

Finding time for the adoption of these laws in the context of war is difficult, but will demonstrate that the legitimate Libyan Government and Parliament are on the path towards democracy, equality and respect for human rights.

From Tunisia, the cradle of the Arab Spring, we express our unwavering support for the legitimate Libyan Government in this democratic process. We support the Libyan people in the fight for their right to dignity, prosperity and peace in the face of barbarism, militarism and crimes against humanity that spare neither women nor children, nor the country's vital infrastructure.

The adoption of legislation inspired by Convention No. 111 lays the foundation for a free, democratic and independent Libya where life is good, free from bombing, forced exile, racism and dictatorship and the seeds of equality, social justice and political stability are nurtured.

Observer, International Transport Workers' Federation (ITF) – I will speak to the issue of racial and ethnic discrimination against migrant women workers as referred to in the experts' observations and to discrimination against women workers generally.

I think it is safe to assume that the tripartite constituents of this Committee are united in recognizing the complexity of the situation on the ground – one marked by years of conflict that has decimated the economy of Libya. Nevertheless, I think we are equally as united in recognizing the need for the Government to be guided by the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) which, among other things, sets out measures to combat discrimination, including gender-based discrimination, in situations of conflict.

According to the latest figures from the IOM, women make up 11 per cent of the migrant population of Libya. The United Nations Support Mission in Libya, found that an overwhelming majority of women and older girls, who passed through Libya as migrants, reported sexual abuse by traffickers. They also found that women migrants are particularly vulnerable to abuse and ill treatment in detention in Libya, especially in the absence of female guards. This is exacerbated by the fact that women and unaccompanied minors are not recognized as vulnerable groups requiring greater attention.

According to the Global Initiative against Transnational Organized Crime, many migrant women in Libya go to work into private households as maids, or sometimes sold to brothels. This is especially the case for Nigerian women who are the cohort most at risk of falling victim to human trafficking.

Given this background, and the very real phenomenon of multiple discrimination, the Government should intensify efforts to address women migrant workers' vulnerabilities to violence and trafficking.

It is important to note that according to the ILO, women only make up 34 per cent of the economically active population of Libya. The equivalent figure for men is 61 per cent.

A recent report by the Friedrich Ebert Foundation found that female labour market participation in Libya is limited to just four sectors – public administration, education, healthcare and social security. As economically active women workers are concentrated in a small number of sectors, there would be few alternative opportunities for them to enter the job market if jobs in those sectors were not available. Therefore, we can only reach the conclusion that there are some administrative practices that encourage employment of women only in certain sectors.

Gender-based occupational segregation is one of the most insidious aspects of gender inequality in the labour market since it is generally accompanied by lower pay and poorer working conditions. Indeed, gender-based occupational segregation as a form of discrimination is recognized in Convention No. 111.

While fully cognisant of the difficulties on the ground, the Libyan Government should aim to address the extremely serious issues faced by women workers, including migrant women workers, as a matter of urgency. We would all like to see a prosperous Libya that guarantees decent work for all workers and we are ready to assist.

Worker member, Zimbabwe – I speak on behalf of the Southern African Trade Union Coordinating Council (SATUCC). We are worried about the persistence of unequal remuneration and discrimination in Libya, and especially of the deteriorating incidence of slave markets and slave labour in Libya. This horrific practice is mainly targeted at migrant workers, especially blacks from Africa south of the Sahara. We note the efforts of this Conference in the past to address these concerns and we wish to express genuine worries and fears that the persistence of unequal remuneration and discrimination against migrant workers in Libya would only open the door to more grievous forms of workers' rights abuses in Libya.

We find it helpful that the Committee of Experts notes with interest that article 6 of the August 2011 Libyan Constitutional Declaration and article 7 of the draft Libyan Constitution awaiting passage through referendum provide that all Libyans are equal before the law and that they enjoy equal civil and political rights and equal opportunities in all areas without distinction on the basis of religion, belief, language, wealth, gender, kinship, political opinion, social status or tribal, regional or familial adherence. Yet, these provisions do not include reference to the grounds of race, colour and national extraction. The same applies to section 3 of the Labour Relations Act of 2010 which also does not cover other nationalities, races and social origins.

We are pleased that the Committee of Experts has demanded that the Libyan Government should consider amending article 7 of the Draft Libyan Constitution to ensure that the grounds of race, national extraction and social origin are included as prohibited grounds of discrimination, and also define "discrimination" and ensure that section 3 of the Labour Relations Act of 2010 includes reference on discrimination on the grounds of nationalities, races and social origin.

We understand that the persistence of conflict in Libya continues to exacerbate the cases of discrimination against migrant workers, especially black workers. The continued fragility of the Libyan State and the multiple spheres of autonomous political authorities, including the ones controlled by organized criminal networks, continue to pose a threat to the safety and dignity of migrant workers. We therefore urge that support from the international community be prioritized and genuinely mobilized to defuse political instability in Libya.

If measures to ensure accountability for actors in Libya who operate and promote modern slave markets, slave labour and commercial migration are weak and inadequate, the crises will persist. It is therefore imperative that Libya is assisted to revive and restore mechanisms for the effective application of the rule of law.

Furthermore, it is our measured opinion that justice, especially by way of remedies, rehabilitation and compensation for victims of slave labour and commercial migration should be devised and deployed.

Government representative – First and foremost, my thanks to all of those who have taken the floor in this debate. I would like to offer some clarifications if I may. What Libya is suffering from currently at this stage stems from the instability and the ongoing conflicts in certain zones and I can guarantee that our Government is making every possible effort in the safe zones – for example, in the safe zones there are no such violations. The violations that we are looking at today are isolated cases perpetrated by criminal organizations in some of the conflict zones. The Libyan people are a part of the African continent. We can offer proof that all African and non-African workers that are in the safe zone – the safe areas – are experiencing a normal life in normal conditions. The Government, for its part also, supports and encourages every person to seek the settlement of any dispute through legal remedies. I am taking into account what was said by the Committee of Experts regarding the amendment of the Labour Relations Law. We take note of all those observations and we shall present these in the debate in Parliament on the review of this Law.

We also undertake to review as soon as possible the comments made about the draft Constitution. We shall submit these observations to the working group which is currently reviewing the draft Constitution.

Worker members – We would like to thank the Libyan representative for the information provided during the discussion and the speakers for their contributions.

As we have seen, there are still legislative gaps with regard to discrimination, and the draft Constitution pending approval by referendum does not explicitly set out all the prohibited grounds for discrimination, specifically those relating to race, national extraction and social origin. We therefore call on the Government to explicitly include these three grounds in article 7 of the draft Constitution.

We also call on the Government to ensure that protection against discrimination in employment and occupation apply to everyone, and not just Libyan citizens. The term "discrimination" is also not defined in the Labour Relations Act (2010). As indicated by the experts in the 2012 General Survey, a clear and comprehensive definition should be provided. The Labour Relations Act (2010) must also be brought into line with Convention No. 111 by adding an explicit reference to the grounds of race, colour, sex, religion, political opinion and national extraction.

We would like to join the Committee of Experts in inviting the Government to provide information on the concrete measures taken to ensure the prohibition in law and in practice of direct and indirect discrimination on all of the grounds set out in Convention No. 111.

We also request the Government to take urgent and effective measures to end the serious discrimination suffered by migrant workers, particularly those from sub-Saharan Africa. As suggested by several speakers, special attention should be paid to women workers in general, and particularly women migrant workers.

The Government must also ensure that victims of discrimination have access to justice. It is absolutely essential that these persons can obtain compensation for their damages. These persons, as well as witnesses, must also benefit from measures protecting them from reprisals. In addition, the perpetrators of discriminatory behaviour must be subject to effective, proportionate and dissuasive penalties.

Capacity-building for inspection services with a view to combating all forms of discrimination in employment and occupation seems to us to also be a fundamental issue on which the Libyan Government must work.

Lastly, we call on Libya to implement Article 5 of Convention No. 111, which authorizes the introduction of measures that I will call "positive discrimination" measures, thus making it possible to remedy the effects of past and present discriminatory practices and promoting equal opportunities for all. Such measures could be useful for all population groups currently suffering from discrimination in Libya, and particularly men and women migrant workers from sub-Saharan Africa.

In order to implement all these recommendations, we request the Government to seek technical assistance from the ILO. This seems to us to be necessary and essential.

Employer members – We thank all the speakers, and in particular the Libyan Government, for the information that it has just provided to the Committee with regard to bringing national law and practice into line with the Convention. Regarding the substance, we underline the fact that Convention No. 111 is a fundamental Convention and for that reason it warrants particular attention from the ILO, governments and the social partners. Discrimination in employment and occupation is not only a violation of a human right but also a major obstacle to the development of workers and the use of their full potential.

As regards national legislation against discrimination, and in particular the definition of non-discrimination and the full list of protected grounds, we urge the Government to fill the gaps in its legislation without delay.

As regards combating discriminatory treatment suffered by migrant workers originating from sub-Saharan regions, in particular forced labour practices, the Employers' group vigorously calls upon the Government to put a stop to such treatment through radical and effective action. We are aware of the complexity of this issue. Ensuring conformity has been made more difficult by the climate of tension and political instability which has existed on the ground for a number of years. We are also aware of this.

However, the Employers' group urges the Government to take the necessary initiatives to re-establish the state of law. We encourage it to continue its cooperation in the context of ILO technical assistance projects aimed at promoting equitable and effective policies relating to labour migration.

We reiterate that, in future, government authorities must provide the requested information in a timely fashion. We insist that the information must be specific and relevant in order to be able to assess tangible and effective progress in law and practice. We count on the positive attitude of the Government so that this case does not need to reappear before our Committee.

Conclusions of the Committee

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

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

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;**
- **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.**

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.

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.

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: 1995)

Forced Labour Convention, 1930 (No. 29)

Discussion by the Committee

Government representative – The current democratically elected civilian Government has been transforming the country from authoritarian to a democratic federal union. Myanmar has started to enjoy greater freedom and democratic rights since the emergence of the civilian Government three years ago. Though our democratic transition is in its process and the country is faced with numerous challenges, including constitutional constraint and ongoing armed conflicts in some parts of Myanmar, there are visible improvements in many areas, including health, education, socio-economic sectors. These positive changes will be reinforced by ongoing implementation of the Myanmar Sustainable Development Plan (MSDP), which provides a unifying and coherent road map for all future reforms. The MSDP is in accord with the Sustainable Development Goals (SDGs) including SDG 8.

In a multi-ethnic country like Myanmar, making unity out of diversity is a great challenge. Thus, the Government is striving for sustainable peace and genuine national reconciliation and all-round development while embracing democratic practices, human rights values and the principle of inclusiveness. As part of its agenda for peace, the Government has already convened three sessions of the Union Peace Conference or the 21st Century Panglong Conference, and agreed on a total of 51 basic principles for building a democratic federal union that guarantees security and prosperity for all, creating a peaceful and harmonious society. We are planning to convene three more sessions by 2020 to finalize those fundamental principles.

A total of ten ethnic armed organizations have already signed the Nationwide Ceasefire Agreement. The armed forces have also announced unilateral ceasefire in Kachin and Shan States for four months commencing from 21 December and it was extended again in April. Let me pass the floor to Ambassador Kyaw Moe Tun to apprise you of matters related to Convention No. 29.

Another Government representative – Myanmar associates itself with the ASEAN joint statement to be delivered by Thailand. The joint statement reflects the progress, actions and measures undertaken by the Government of Myanmar in its efforts in the elimination of forced labour. As we are in need of a Constitution that can truly protect the democratic rights of the people, the ruling party has recently taken a bold initiative to amend the undemocratic provisions of the 2008 Constitution. To that end, a joint parliamentary committee was formed, and the amendment of the Constitution is in progress. Our democratic struggle is still very much alive.

As we strongly commit ourselves to the elimination of forced labour, the General Administration Department, which is responsible for many issues and matters relating to forced labour, has been transferred from the military-designated Ministry of Home Affairs to the Civilian Ministry of the Office of the Union Government in order to effectively carry out the actions which contribute to the elimination of forced labour.

We do believe that all efforts towards democratic reforms play a role for the promotion and protection of human rights including labour rights. With this in mind, our Government has been encouraging all the relevant stakeholders to intensify the process of labour law reforms, to further strengthen the culture of tripartite social dialogue, and to educate and train people who are heavily involved in the promotion and protection of labour rights in close cooperation with the ILO. Taking this opportunity, I would like to thank the ILO for its continued assistance.

Being a nascent democratic state, Myanmar faces many daunting challenges. However, our Government is resolute to overcome all the challenges in order to bring about the benefit and betterment of everyone living in the country. Due to our efforts in reforming public institutions and strengthening the rule of law to create a fair and just society, significant progress has been made in many areas, including the promotion and protection of labour rights, which is steadily making progress.

The Government of Myanmar has a strong political will and unwavering determination when it comes to the elimination of forced labour. The President of Myanmar, in his message on Workers' Day on 1 May this year, underscored the Government's efforts in bringing about the environment and the condition for the people of Myanmar in which human rights and democracy could fully be enjoyed in a lawful manner. The President highlighted, among others, the promotion of the rights of workers, and the eradication of child labour and forced labour.

One of the root causes of forced labour in Myanmar is due to the decades-long internal conflicts as we have been faced with internal conflicts ever since we gained independence in January 1948. As we understood that the development, whether it is political, economic and social, or cultural, could not be achieved without peace and stability, the current Government has been exerting its efforts to put an end to the armed conflicts in the country and we have undergone rapid social, economic and political transformation in recent years.

We would like to thank the ILO for its remarkable contribution in the elimination of forced labour in Myanmar over the past years. The ILO adopted resolutions relating to the situations of forced labour in Myanmar at the ILC sessions held in 1999 and 2000, respectively. It is noticeable that the complaints on forced labour have significantly decreased due to the Government's steadfast efforts, which include awareness-raising, workshops, seminars and training conducted in close cooperation with the ILO. Our efforts combined with dedication finally yielded good outcomes, and all sanctions imposed on Myanmar have been lifted at the 102th ILC Session in 2013. As a result of our strong commitment for the elimination of forced labour, new instances of underage recruitment are declining and we are committed to resolve all underage recruitment cases. We look forward to receiving continued constructive cooperation from our partners in this regard.

Since its establishment in 2007 with the signing between the Government of Myanmar and the ILO, the Supplementary Understanding turned out well and satisfactorily met its objective in eradicating forced labour in Myanmar. It had been extended yearly and was in force until the end of December 2018. After the expiration of the Supplementary Understanding, Myanmar has been closely working with the ILO to continue implementing the activities and measures to eliminate forced labour under the newly signed Decent Work Country Programme. Therefore, the time-bound action plan is being prepared to establish an appropriate complaint mechanism. To gain deeper knowledge and better understanding and to learn best practices of other countries in this regard, we had a workshop in January 2019. It was actively participated in by members of the Parliament and the high-level working group and technical working group, representatives of the ILO, Government, Workers and Employers. We have been developing the new action plan in consultation and cooperation with the ILO and the tripartite constituents. The negotiation is at the final stage and the draft will be submitted to the Cabinet for approval.

The time-bound new action plan includes four priorities, namely: institutionalization of national forced labour complaints mechanism; training and awareness-raising on forced labour; capacity-building to end forced labour; and

mobilization of tripartite partners for prevention of forced labour in the private sector. We developed this action plan under the Decent Work Country Programme in order to put in place the relevant policies and to coordinate among related ministries. We have already prepared the concept note in order to implement the national complaints mechanism as soon as the new action plan is approved by the Cabinet.

I wish to inform you that the members of the high-level working group have met with the representatives from the relevant ministries and organizations in March and May 2019, and they had fruitful discussions on the establishment of the national complaints mechanism as well as on the interim procedures to resolve the complaints. Indeed, before the national complaints mechanism is put in place, the high-level working group will resolve the complaints made on forced labour by any organizations or individuals, including the ILO, by means of cooperation and coordination with related ministries and organizations.

In addition to working with the ILO, the issue of underage recruitment has been tackled with the collaboration of the UN Country Taskforce on Monitoring and Reporting. Moreover, the Government of Myanmar is actively cooperating with SRSG on Children and Armed Conflict to prevent and address conflict-related violations on children.

In order to further its commitment, in January 2019, the Government established the Inter-Ministerial Committee for the Prevention of Six Grave Violations during Armed Conflict. The Committee held two consecutive meetings in April and May 2019 and discussed the implementation of the new action plan.

As of March 2019, *Tatmadaw* (the armed forces) has already released a total of 987 minors to their parents or guardians for wrongful recruitment. A total of 448 military officers and other ranks were punished by military disciplinary action and a civilian who helped and encouraged the wrongful recruitment was sentenced to one year of imprisonment under the civilian law. In order to ensure the best interest of children, the existing Child Law (1993) was reviewed. Accordingly, the Child Rights Law has been developed in accordance with the UNCRC. Many chapters have been added to the current law and one of the important chapters includes provisions which prevent anyone from committing serious offences, including the recruitment and use of children in armed conflicts.

Let me now touch on awareness-raising activities which is one of the important components in the elimination of forced labour. Despite the fact that we have achieved many tangible developments in promoting and protecting the labour rights because of our continued efforts in awareness-raising activities and programmes, there remain challenges to overcome. We will therefore continue to conduct more training and awareness-raising courses including training of trainers. The awareness-raising seminars are being held across the country and the awareness-raising brochures are being distributed in many parts of the country in eight ethnic languages. Moreover, salient points of the raising of awareness of forced labour are highlighted in the newspapers, radio, TV programmes and news media, and the awareness-raising billboards are erected all over the country in collaboration with the ILO. A total of 9,221 activities, including awareness-raising workshops, seminars, and talks on forced labour were conducted with the participation of more than 360,000 persons in various townships in states and regions from July 2018 to March 2019. Furthermore, over 96,000 pamphlets have been distributed all over the country. In close cooperation with the ILO, we have conducted training of trainers on the elimination of forced labour with the participation of the members of the high-level working group and the technical working group, including officials from the *Tatmadaw* and the police, in January 2019. In addition, the ILO conducted 34 workshops, and employees conducted ten other training and awareness-raising sessions on forced labour throughout the country. It is an undeniable fact that the culture of tripartite social dialogue has grown at the national level in Myanmar and plays a significant role to our efforts to eliminate forced labour. The National Tripartite Dialogue Forum established in 2014 meet three times a year and the discussions, decisions and adoptions with regard to the labour-related matters, including the law reforms, are made during the meetings.

We recognize the role played by the Liaison Officer in the promotion and protection of labour rights as well as the elimination of forced labour. We will continue our close cooperation with the ILO and the other relevant partners in our efforts for the promotion and protection of labour rights based on mutual understanding and trust. We do hope that the ILO can maintain its constructive approach and genuine cooperation with Myanmar for the benefit of the people of Myanmar. We wish to express our sincere appreciation to the current Liaison Officer, Mr Rory Mungoven, for his hard work and valuable contribution to the development of labour sector in Myanmar. We look forward to having the same level of cooperation from his successor.

We are fortunate to celebrate the 100th anniversary of the establishment of the ILO and our tireless efforts for the elimination of forced labour should therefore be well recognized. I think it is time that the relations between the ILO and Myanmar are further enhanced. We wish to urge the ILO to upgrade the current Liaison Office into the Country Office taking into account the long-standing cooperation between Myanmar and the ILO.

In conclusion, I wish to express our sincere appreciations to the countries that supported our endeavours in the elimination of forced labour.

Employer members – We have just taken note of the comments of the Government and a number of those comments are very helpful in the context of this case. In the historical context, Myanmar is not new to the ILO. It joined the ILO in 1952 and has ratified 24 Conventions, including three fundamental Conventions and 21 technical Conventions. That tells us that Myanmar has a long-standing understanding of the sorts of obligations that it has under international labour instruments, so there is no question of confusion about the fact the country knows what it needs to do.

Myanmar ratified the Convention in 1955. However, more than half a century later, Myanmar is still regrettably very far from achieving full compliance with this Convention. We note the continuous support from the ILO and the Myanmar Government's ongoing cooperation in addressing the situation, including the establishment of a Commission of Inquiry in 1997 and several memorandums of understanding signed in 2002, 2007 and most lately, in 2018. We also note that the Committee has discussed this case in total 15 times, albeit that most of those occasions were under the previous regime, so we are looking at a relatively small number of instances under the recently elected democratic civilian regime.

We note that, as recently as this year for instance, the Committee of Experts however double footnoted this case, which means that it remains high on the list of concerns that this Committee deals with on an annual basis. The Committee of Experts commented on Myanmar's obligation under Article 1 of the Convention to suppress the use of forced or compulsory labour in all its forms within the shortest possible period and that is why we are here now. It is the shortest possible period, not the amount of it, but the fact that it is taking too long to get rid of.

We note that as recently as March 2019, the ILO Governing Body discussed the follow up item to the resolution concerning remaining measures on the subject of Myanmar adopted by this Conference in 2013. We note that the Governing Body, in March 2019, expressed serious concerns

over the persistence of forced labour, noting the Committee of Experts' observations pertaining to the Convention, and urged the Government to intensify its already close cooperation with the ILO for the elimination of forced labour, including under the auspices of the recently signed Decent Work Country Programme, through the development of a time-bound action plan which we have heard the Government say is ready for submission to Cabinet and for the establishment of, and transition to, an effective complaints handling procedure. Turning now to the Committee of Experts' observations, we note a few issues. First, we note that the Committee of Experts' focus is on forced labour by the armed forces. The report does not discuss instances or practices in the wider economy. This is an important observation because it places the issues we are dealing with today in the context more of an improving situation than a deteriorating one. In other words, we are down now to the last bits, even as bad as they are. So it is important to note that Myanmar overall can be looked as a case of improvement with a few things, some bad things yet to be dealt with.

The Committee of Experts' report noted from the report of the detailed findings of the independent international fact-finding mission on Myanmar of 17 September 2018 that the use of forced labour by the armed forces persists, particularly in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. The Committee of Experts also noted that almost all of the military personnel found and involved in forced labour received only disciplinary sanctions, and here I would add: noting the Government's comment that a number of military had been sanctioned and that a civilian who had also been involved had been jailed for a year, I would observe that there seems to be a disparity between the level of sanctions applied within the military and the civilian side, and I would therefore add that to the list of issues that needs to be looked at. There should be an evenness or a clarity of treatment irrespective of who perpetrates the issue.

We reiterate the strong commitment of the Employers' group to the full elimination of forced labour as defined in Article 2 of the Convention. We consider any form of forced labour unacceptable and we fully condemn the use of forced labour by the army in these areas. The Employers' group urges the Government to take full, urgent and transparent steps to expedite its obligations under the Convention in this regard.

With relation to penalties, Article 25 of the Convention requires that the illegal exaction of forced or compulsory labour be punishable as a penal offence, and places an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are adequate and strictly enforced.

The Committee of Experts noted with satisfaction the adoption of the Ward or Village Tract Administration Act of 2012, which repealed the Village Act and the Towns Act of 1907 and makes the use of forced labour by any person a criminal offence punishable with imprisonment and fines. However, the Committee noted that no action had been taken to amend article 359 of the Constitution of Myanmar, which exempts from the prohibition of forced labour "Duties assigned by the Union in accordance with the law in the interest of the public" and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population in a number of circumstances. On this point, the Employers note that the country has not been able to undertake a revision of the Constitution yet, but that the State Counsellor recently announced its intention to proceed to a revision of the Constitution. We therefore request the Government to provide information in this regard to understand the steps that the Government has taken and is planning to take to make the revision of the Constitution a reality without delay.

While Myanmar has yet to eradicate forced labour, the measures I have just discussed are important steps towards that goal. There are more, and my colleagues from Myanmar will elaborate on some of these shortly. We appreciate the measures and the support made available by the ILO to the Government and the numerous observations and discussions the Committee, the Committee of Experts and the Governing Body have had thus far. That said, and in recognition of the fact that an unacceptable number of cases of forced labour still exist, we urge the Government to intensify its close cooperation with the ILO to accelerate an end to forced labour without further delay and as efficiently as possible. Particular effort should be made to complete the current work on the establishment of a permanent, effective and trusted national complaint mechanism for handling forced labour complaints.

The Employers' group believes that Convention No. 29 is important not just because it is one of the fundamental Conventions, but more importantly, because its very essence is the need to protect human dignity and freedom against oppression and slavery. It is therefore essential for Myanmar to fully implement and enforce the provisions of this Convention, both in law and in practice.

We note that the Memorandum of Understanding on an action plan for the elimination of all forms of forced labour and the Supplementary Understanding setting out the complaints mechanism expired in December 2018. However, we have heard from the Government that that work has been progressed and is shortly to be submitted to Cabinet in relation to the action plan and that that sets the scene for the completion of work on the complaints mechanism. Therefore, we can have some confidence too that the new Decent Work Country Programme that was endorsed by the national tripartite dialogue forum in September 2018, which aligns with the broader Myanmar Sustainable Development Plan, will continue and strengthen the efforts made thus far in eliminating forced labour and child labour in Myanmar.

We also note that a new draft complaints mechanism was circulated to the social partners in May for their comment and that supplementary information supporting and explaining the draft mechanism has been similarly circulated in the past few days. The Employers of Myanmar are strongly committed to working constructively with the Government to bring this to fruition.

We also would like to share with you that the private sector, through the Chamber of Commerce and the MGBMA, will soon launch a new labour audit service which has a specific chapter around forced labour. This will raise awareness and will support companies in assessing the presence of any form of forced labour practices in their operations. Additionally, and in recent times, the Chamber of Commerce organized, with the support of the ILO and participation of the International Organisation of Employers, a large forum on Myanmar Responsible Business and Human Rights which will again be helpful in mapping existing initiatives and raising awareness on the importance of business mobilization to prevent any form of compulsory or forced labour.

Make no mistake, Employers are strongly committed to eliminate forced labour in Myanmar and we will work together with the Workers, the Government and the ILO to make real progress as measured by the two major indicators which are: the number of forced labour cases received by the Government and the ILO and resolved, and the number of underage recruits released from forced labour.

Indeed, thanks to the efforts of the ILO and the tripartite partners, we note that the number of complaints received under the Supplementary Understanding have decreased. Last year, 130 complaints were within the Supplementary Understanding mandate. Of these, the large majority – 108 – were cases of underage recruitment; 76 of these

were submitted to the Government. During the year, the ILO also closed 431 cases from previous years. Despite the fact that the goal of full eradication of forced labour has not yet been achieved, these are encouraging numbers. We are confident that these efforts together with the Government's continuing commitment will eventually lead us to full eradication of forced labour in Myanmar.

So to this end, in our way of recommendation, we recommend and urge the Government to continue its efforts to ensure the elimination of forced labour in all its forms, both in law and in practice. We particularly urge the Government to amend any national legislation that is incompatible with Convention No. 29, particularly the Ward Village Tract Amendment Act 2019 and Penal Code; to impose and enforce dissuasive penalties against the perpetrators of forced labour, and to ensure that such dissuasion is evenly and fairly applied across both the civilian and armed forces. Conducting awareness building and capacity-building activities to deter the use of forced labour, we note here too that the country definitely needs to scale the efforts reaching out to the regions and states.

So, as we have heard, there has been a long history of internal conflict in Myanmar, and some states are a lot more difficult to raise awareness in simply because they are a lot more difficult to access in any meaningful dialogue way. That is a particular challenge. Nonetheless, further efforts need to be made in that direction. Lastly, we urge the Government to collect and to periodically provide information on progress made to the ILO, to this Conference and more widely to the wider population, so that the population of Myanmar itself has confidence that the things that they fear most will not happen in the future.

We would also highlight the very significant progress ultimately being made in eliminating forced labour practices, and note that instances now complained of are centred mainly in the armed forces. It is therefore there that the priority must now go to close the gap completely. Recognizing the progress that has been made, can I close by saying, let us hope that the next time that Myanmar is discussed here, it is as a case of progress.

Worker members – In 2013, the Committee decided to end all remaining sanctions imposed on the Government of Myanmar pursuant to the 2000 Conference resolution. That resolution had authorized member States to take measures under article 33 of the ILO Constitution to compel Myanmar to comply with the Recommendations of the 1998 Commission of Inquiry Report into serious and systematic violations of the Convention. The 2013 decision followed the Government's adoption in 2012 of a joint strategy developed with the ILO to eradicate forced labour by the end of 2015. Tragically, the Government failed in this endeavour: neither by the end of 2015, nor the end of 2018, the deadline established under a renewed action plan. Indeed, many of the activities under the 2012 and 2018 plans were either never implemented or not implemented fully. As a result of the lack of sufficient political will, the exaction of forced labour including forced recruitment by the *Tatmadaw* continues, particularly in areas of conflict with ethnic communities.

Today the military human traffickers regularly exploit adults and children who end up in situations of forced labour in mining, fishing and other occupations in Myanmar. Others are trafficked abroad including to Thailand and Malaysia for work in fishing, agriculture, construction, manufacturing and other occupations. Some are brutally murdered by their traffickers and left in mass graves along the way. Despite legal reforms to punish the exaction of forced labour in Myanmar, too few have been held accountable. Those who have been punished, mostly lower level soldiers, have received only administrative sanctions not at all commensurate with their crimes.

In recent years, we have seen a Government that remains hostile to transparency, by jailing reporters for obstructing international supervision, including by the UN. We note that the Supplementary Understanding that made clear commitments in 2007 is now lapsed without having been replaced by a functioning national system that has the trust of the social partners and victims. While the establishment of a new government-operated mechanism is to be developed under the terms of the 2018 Decent Work Country Programme (DWCP), it remains to be seen whether this will be effective, given that the military itself perpetrates forced labour and that the Government has not demonstrated to date its ability or willingness to take effective measures to prevent forced labour, to hold perpetrators accountable with effective sanctions and to provide survivors with an adequate remedy.

We are deeply troubled that just six years after the last special sitting on Myanmar in the Committee, we are once again discussing widespread violations of forced labour. The Committee of Experts double footnoted Myanmar expressing deep concern at the persistence of forced labour imposed by the *Tatmadaw* in Kachin and Shan States as well as among the ethnic Rakhine and Rohingya.

The 2018 report of the independent fact-finding mission on Myanmar provides voluminous credible information on the exaction of forced labour in recent years, especially by the *Tatmadaw* (the armed forces). With regard to forced labour in Kachin and Shan States, the mission verified a pattern of continuing systematic use by the armed forces of forced labour. In Rakhine State, the mission similarly reported atrocities, including against children and women.

The mission also reported consistent accounts of men and women who were killed by the *Tatmadaw* in the context of forced labour, either because they refused to work, they tried to escape from the soldiers or were simply unable to continue working. It is true that the Government has undertaken efforts to prevent the forced conscription of children into the army. However, there are credible reports that such conscription continues. The ILO liaison Office in its February 2019 report to the Governing Body reported 116 cases of forced recruitment in 2018, though noted a decline in the number of cases. The ILO also reported that 75 child recruits were discharged in August 2018, including 42 cases submitted by the ILO. Unfortunately there are reports that the Government has taken punitive action against former child soldiers. The 2018 US trafficking in persons report explains, for example, that the *Tatmadaw* filed fraud charges against a group of minors for lying about their age, rather than referring them to protective services.

In another case, a former child soldier was convicted on charges of defamation and sentenced to two years in prison in April 2018 for talking to the international media. As the Workers' group has consistently pointed out, those responsible for committing violations of forced labour have not been punished, or punished in a matter commensurate with the crime.

The Committee of Experts highlights that since 2007, only 377 soldiers, of which only 17 per cent were officers, have faced military discipline of any kind under the complaints mechanism. However, we know from previous reports that such discipline can mean, for example, temporary suspension from duty or demotions in rank.

Further, there has been only one person punished under the Penal Code and the report does not indicate exactly what that punishment was. This is simply not acceptable.

We recall in a previous report, from the ILO Liaison Office about complaints it received regarding the practice of forced labour in prison labour camps. There, prisoners were made to work in quarries and plantations run by the corrections authorities for private commercial purposes.

Alternatively, prisoners are put to work at private plantations nearby the correction centres, for the private gain of the authorities without being paid.

The Special Rapporteur for Myanmar also expressed deep concern at the use of hard prison labour including the shackling of prisoners as punishment. Other sources have reported the serious abuse of prison labour. This is deeply troubling in its own right, but all the more troubling as the Government has continued to arrest and imprison many people in recent years, simply for exercising their right to free expression, to assembly and association.

Moreover, forced labour is also persistent in the private sector. In 2016, the ILO undertook a detailed survey on child labour and agriculture and specifically in inland fisheries, sugarcane and beans. The findings of that survey were alarming and found that in all three subsectors, children were in conditions of forced labour. Creditable reports have indicated that men, women and children are found in situations of forced labour in agriculture, fishing and prospecting for jade and other precious stones.

The use of forced labour in the jade industry has attracted significant international attention in recent years. A report published by Global Witness in 2015, exposed human rights violations in the jade industry in Kachin State. The mines are guarded by the *Tatmadaw* and their presence, and the presence of armed ethnic groups, has led to increased abuses such as rape and forced labour around mine sites. Those who risk their lives to extract the jade in this multibillion-dollar industry see little for their labour, with the vast majority of the benefit going to the army and traders.

Furthermore, we express our concern over the discriminatory State policies and practices against Rohingya population. The so-called clearance operations, which commenced in 2017, have led to a humanitarian disaster resulting in the expulsion of over 700,000 people from the Rakhine State. The extreme vulnerability of the Rohingya has led among other problems to a greatly increased risk for forced labour, by both state and non-state actors. For example many women and girls who fled from the army to neighbouring Bangladesh, have been subject to sex trafficking while others are trafficked to labour as domestic workers. Rohingya children fleeing violence have also been abducted in transit and sold into forced marriage in Indonesia, Malaysia and India. Those who are internally displaced also face increased risk to forced labour.

Finally, we recall that those who have exposed forced labour, including in Rakhine State, have been imprisoned by the authorities. For example in October 2017, Kyaw Moe Tun who reported on forced labour cases in Rakhine State was convicted of defamation and incitement under section 505 of the Penal Code and sentenced to 18 months in jail. The developments in Myanmar require the urgent attention of the Government and the international community.

Employer member, Myanmar – I would like to thank the Committee for providing the possibility to comment on the observations contained in the report and give an overview on the contribution of the UMFCCI, the Business Chamber and the private sector in general to ensure Myanmar is compliant with the Convention.

The Decent Work Country Programme for Myanmar signed in September 2018 has an important outcome related to strengthening the protection against unacceptable forms of work, especially forced labour and child labour. Employers are strongly committed to eliminate forced labour in the country and we work together with the social partners, the Government and the ILO to show progress related to the two major identified indicators, the number of the forced labour cases received by the Government and the ILO and resolved and the number of underage recruits released.

Thanks to the efforts of the ILO and of the tripartite partners, the number of complaints received under the Supplementary Understanding have strongly decreased. Despite the goal of full eradication of forced labour has not been achieved yet employers have noted very encouraging numbers which were known already and these progresses should be recognized.

It is also to be noted that there are a number of recent achievements and milestones in the last ten months. Seventy-five underage recruits, including 42 ILO cases were discharged and released from *Tatmadaw* in September. A short-term consultant was brought in for three months to support the complaints submission process.

Regarding the action plan on forced labour, a training manual on dos and don'ts guidelines and training curricula was agreed and the first TOT session took place on 14 to 15 January of this year. Several dialogues took place at both leadership and political officer levels to foster collaboration.

Myanmar is now in a critical phase as after many years of ILO support it is essential to establish an institutionalized national complaints mechanism for handling forced labour complaints. The system needs to gain trust in confidence by all stakeholders. In this respect, ILO support is still very much needed.

As social partners and private sector representatives, we have to play our part in advocating for a very transparent system, with publicly report cases-related data. We are aware that this is extremely delicate and sensitive – as forced labour is perpetrated by both state and non-state actors, in conflict and non-conflict settings. The Ministry of Labour has recently presented during the last National Tripartite Dialogue Forum – around the end of May 2019, a draft scheme to establish the national complaints mechanism. Complaints could be received by social partners and many different CSOs. The scheme should still be fine-tuned, comment-seeking letters from the Government are being circulated regarding the proposed mechanism, and that seems to be going in the right direction.

To bolster up the process, a knowledge-sharing workshop on national complaints and grievance mechanisms was held by ILO with support from FUNDAMENTALS in Geneva, highlighting the models adopted by several countries such as United Kingdom, Brazil, Qatar and Uzbekistan.

As regards the absence of action regarding the amendment of article 359 of the Constitution, which exempts from the prohibition of forced labour duties assigned by the Union in accordance with the law – in the interest of the public, and could be interpreted as to allow a generalized exaction of forced labour – the country has not been able to undertake a revision of the Constitution yet, but the State Counsellor recently announced the intention to proceed to a revision of the Constitution. If this would happen, we will make sure to draw attention to article 359.

Regarding the report of the detailed findings of the independent international fact-finding mission, we reiterate the strong commitment of the private sector for the full elimination of forced labour, and consider unacceptable the use of forced labour in the country. The Government should ensure full application of the national legislation and the penal code, including proper penalties for the perpetrators.

As concerns training and capacity-building, the country definitely needs to scale the efforts reaching out to all the regions and states. In this regard, a more decentralized approach would definitely be helpful.

The UMFCCI, the Business Chamber and MGMA, Myanmar Garment Manufacturers Association, with the support of ILO/ACTEMP project, have strongly expanded the labour and/industrial relations departments. On 23 May 2019, a new labour audit service which has a specific chapter around forced labour, has been launched: the service

will contribute to raise awareness and support companies, in assessing the presence of any form of forced labour practices around their operations. The first workplace visits are scheduled in the week of June 24 and 28. The UMFCCI and MGMA have also dedicated hotlines for company members to give advice regarding the correct practice for overtime and avoid any violation which could eventually result in forms of compulsory or forced labour.

Additionally, the chamber organized with the support of ILO and participation of the International Organisation of Employers, a big forum on Myanmar Responsible Business and Human Rights on May 30 and 31, which again was helpful in mapping existing initiatives and raising awareness on the importance of business mobilization to prevent any form of compulsory or forced labour.

I am also glad to announce that the UMFCCI is officially endorsing full membership to the International Organisation of Employers on June 9, a day before ILC. Being part of this global network will support the work of the chamber in making sure to design the best strategies and plans to completely eradicate forced labour in any business practice.

The UMFCCI treasure our status of being one of the tripartite constituents. With trust and respect, with one goal for the betterment of all, we have established a strong relation among tripartite bodies.

We have succeeded in receiving the Vision Zero Fund Project, granted by the G20, in February 2017 in Hamburg, Germany. It was mentioned yesterday by Ms Angela Merkel, Chancellor of Germany, during her plenary speech, and we were granted the Japanese Grass-root Fund to build the Occupational Safety and Health Training Centre which was completed recently. The Centre will start providing training in the area of OSH, benefiting all social partners; all of these would not have been achieved if it were not for the dedicated efforts of the tripartite constituents. While a young democracy, young economy, this tripartite achievement was applauded by the Ministry of Labour, Germany, a week ago in Berlin when we met to update on the progress of the VZF project.

Another significant achievement of the chamber, is a two-year (2019–20) Global Fund public–private partnership project, granted in the area of access to health, with two local NGOs and one international, Novartis, a pharmaceutical company based in Switzerland as partners. UNOPS is our principle recipient. Application for the Project was done in March 2018 and was approved in August 2018, to reach out to conflict-prone areas where infrastructure is weak for medicine to be delivered in time to get treatment. Target areas include Rakhine, Chin and Sagaing this year, and Kachin, Shan, Mon and Mandalay next year. The objective is to utilize fast moving consumer goods service through the chamber network, provided by private businesses to carry needed medicines to the remote areas, linking source of medicine to reach to the places where needed.

Alongside this project, sideline activities, promoting the UNGC to the businesses in those areas, awareness-raising of respect for labour and human rights, forced labour, child labour, occupational safety and health, etc. will be convened.

I am the focal point from the UMFCCI for this project. I have been to Sagaing Region early March for the project and promoting the UNGC. I planned twice to visit Rakhine around the third week of March and early April, both in vain since some unforeseen things happened in the areas where we would be visiting. Rethinking to visit end of this June. Planning.

The UMFCCI works closely with the Myanmar Ministry of Education in the context of human capital building, strongly supported cooperation with ILO in providing short-term vocational education training in IDP camps in Kachin and in Rakhine with inclusivity, creating access to entrepreneurship, to jobs and to avoid exploitation. Thanks to the ILO. We participated in the ILO and Ministry of Education joint work on labour market assessment in Rakhine, the report was formally presented to the public on 22 May – in the interest of providing decent jobs to the needy – by bridging vocational education and industries, to avoid exploitation.

We met once in every four months at NTDF, 13 times already. The social partners we often meet during the process of labour law reforms and our partnership becomes seemingly stronger.

The growing strength of the tripartite process is a guarantee that social partners are strongly committed to invest all their energy and needed time to finally put an end to forced labour in Myanmar. We will continue working on this.

While working endlessly on strengthening partnerships, it is very discouraging to learn that the double footnoted case on forced labour has popped up. There is a possibility we are missing information; it is also possible that the Committee has not been updated with developments in the process. Whatever it may be, the important thing is, we keep moving in the right direction.

Let the case of Myanmar on Convention No. 29 be heard as a case of progress the next time.

Worker member, Myanmar – Workers in Myanmar oppose violence and coercion of any kind in the communities or at the work place. We have been struggling hard to establish a modern society that is based on equality for all ethnicities and social dialogue.

The application of this Convention in Myanmar was first brought up in a representation under article 24 of the ILO Constitution in 1994. CTUM, known at that time as FTUB, was documenting forced labour cases, and the atrocities of the military junta to support the ILO's examination of the case. At that time, access to the areas controlled by the Burmese military and the ethnic armed organizations was forbidden. These areas are also rich in natural resources such as timber, gold, precious stones, oil and gas in Kachin, Shan, Karen and Rahkine state, where forced labour was exacted.

Today, free movement is there, although there is limited access to the affected areas. There are complaints that evicted farmers and villagers are still coerced to build roads in outsourced public works, or create profit for the businesses owned by the military personnel complicit in forced labour offences. Myanmar still has to work harder to become a country where forced labour of all forms has been eradicated.

Legal enforcement, labour inspection and freedom of association do not exist in the military controlled and conflict areas. In some of the industrial and garment sector, involuntary and uncompensated overtime work is still found. We have had some cases where the labour inspectors often wrongly interpret the law to put a cap on the maximum claim of the back overtime pay, instead of the whole period of their labour.

Trade unions are deeply worried that the draft amendments of the Labour Organization Law continue to exclude the informal sector and the public sector. The draft amendments still restrict trade union registration by extremely narrow occupations, and intrusive application procedures. These will make workers more vulnerable to forced labour.

Poverty, continuous armed conflicts and forced displacement are pushing thousands of dispossessed farmers, villagers and workers to accept forced labour conditions without choice. The Upper House of the Parliament estimated in 2016 that 2 million acres of land across the country could be considered confiscated. About 11,000 acres of land have been given back to the farmers.

A more inclusive, transparent process at the township level for return and restitution of land is needed. The procedure is still complicated by complicit commercial concessions, misclassification, as well as lack of documentation. More needs to be done to restore the legitimate rights to land, and compensation for the dispossessed farmers and villagers.

First and foremost, it is the responsibility of the Government to ensure that villagers displaced by armed conflicts do not lose their land. Today, about 5 million Myanmar workers are working abroad. They are vulnerable to illegal recruitment fees, ineffective administration, syndicated corruption subjecting them to forced labour conditions, illegal migration and human trafficking.

Although our laws put a cap of about US$100 to charge Myanmar workers seeking employment abroad, many workers end up in debt after paying a much higher fee of US$600 to US$800 to the agency companies or brokers. False and substitute contracts are common.

For example, a Myanmar domestic migrant worker in Singapore was placed to work for two households without holidays and leave. She was not allowed to quit or change the terms and place of work, unless she paid a compensation of six months' salary to the broker. In other cases, workers sent to Thailand were repatriated since no job had been arranged. Others became undocumented workers after realizing that the visa and work permits arranged by the brokers were fake.

Involuntary domestic servitude, forced marriages across the border in China, and sex trafficking persist to account for 70 per cent of the cases reported by the Myanmar Anti-human Trafficking Police in 2018. These female victims, estimated to be in thousands are unable to complain, and are considered cases of overstay in the destination country without due redress and rehabilitation.

Myanmar is a country in transition. Trade unions are involved in the tripartite monitoring board with the migrant recruitment agencies association, and the anti-trafficking police to review complaints. By now, 22 agencies have been blacklisted and remedies have been provided to the complainants. This is a very small step forward compared to the severity of the problem and support by the ILO is needed.

We need to ensure consistency and effective enforcement of this Convention in all the national legislations, and the internal rules of the public bodies would be the best if they can be included in the disciplinary codes of the military.

To do so, we urge for the establishment of a Parliamentary Commission on forced labour. The commission should be mandated with investigative powers to oversee the enforcement of the recommendations drawn by the international institutions regarding forced labour and human trafficking, including the conclusions of this Committee.

Government member, Thailand – I have the honour to deliver this statement on behalf of the Association of Southeast Asian Nations (ASEAN). ASEAN recognizes that the democratic reforms process in Myanmar is gaining momentum, producing tangible results in the field of promotion and protecting labour rights, including the elimination of forced labour.

ASEAN believes that Myanmar's long-standing cooperation with the ILO also contributes to the Government's efforts in the elimination of forced labour. ASEAN welcomes the signing of the Decent Work Country Programme between Myanmar and the ILO in September 2018 since it will lead to more positive and effective reforms in promoting and protecting the rights of labour. ASEAN also expects the action plan being prepared under the Decent Work Country Programme to be finalized soon, particularly the setting up of a national complaint mechanism of the Myanmar Government to end labour.

While recognizing effective measures taken by Myanmar to eliminate forced labour in cooperation with the ILO, ASEAN would like to propose to take more innovative measures to intensify raising awareness throughout the country in order to prevent the occurrence of forced labour, not only in the public sector, but also in the private sector. ASEAN calls on the ILO and international community to continue engaging with Myanmar constructively, and assisting the Government's endeavours for the elimination of forced labour.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The Candidate Countries the Republic of North Macedonia and Albania, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, the EFTA country Norway, member of the European Economic Area, as well as the Republic of Moldova and Georgia align themselves with this statement. The EU and its Member States are committed to the promotion, protection and respect of human rights and labour rights, including freedom of association, of assembly and abolition of forced labour. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular. The EU and its Member States are also committed to the promotion of universal ratification, effective implementation and enforcement of the core labour standards. We wish to recall the importance we attach to improvements with regard to human rights, democracy and the rule of law in Myanmar. Compliance with Convention No. 29 is essential in this respect. While acknowledging the progress made over the last years, we note with regret that this case is now being addressed as a serious one in relation to elimination of all forms of forced labour.

Based on the report of the Committee of Experts, cases of forced labour, including underage recruitment by the *Tatmadaw* army are still being reported and were confirmed by the independent fact-finding mission established by the Human Rights Council, particularly in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. Often, victims were given insufficient food of poor quality, did not have access to water and were kept in inadequate accommodation, and some were subjected to violence if they resisted, worked slowly or rested. Female victims also faced sexual violence.

Forced labour remains a persistent phenomenon in the country, despite the continuous engagement on the issue of the ILO and member States for over two decades now. The Memorandum of Understanding on a joint strategy for the elimination of forced labour was signed in 2012, and then another Memorandum of Understanding in January 2018 which agreed on a new action plan for the elimination of all forms of forced labour for the year of 2018, followed by the transition to the Decent Work Country Programme in September 2018.

The EU and its Member States are also actively engaging with the Government on improving labour rights in the country – including through the Myanmar Labour Rights Initiative. We reconfirm our strong commitment to support the country in this regard. In October 2018 and February 2019, the EU had high-level missions to the country in the context of the enhanced engagement under the Generalised Scheme of Preferences arrangement for Least Developed Countries (Everything But Arms). The EU's Generalised Scheme of Preferences requires countries to abide by the principles of the fundamental labour Conventions. This provided the opportunity for a comprehensive dialogue with national authorities, including on labour rights issues. The discussions continued during a senior officials' meeting in Brussels in mid-May and will continue during the human rights dialogue in the country on 14 June.

In the context of today's discussion in relation to the persistence of forced labour, we welcome that the Government appears to continue working together with the ILO on the existing ILO-led complaints mechanism on forced labour until a proper national mechanism for complaints is established and that the national tripartite dialogue forum is consulted in the establishment of the national complaint mechanism. At the same time, we would like to express our deep concern over a number of issues:

- Progress in the establishment of the national complaint mechanism on forced labour – While noting a new version of a national action plan to set up the mechanism was agreed with the Minister of Labour, Immigration and Population, it has not been endorsed by other ministries, and in particular by the Ministry of Defence administering *Tatmadaw*. Even once set up, it still remains vital that the complaint mechanism is, in practice, accessible in particular for victims of the conflict areas, complaints are independently investigated, and victims protected. Meanwhile, cooperation with the ILO-led complaint mechanism has to continue.
- Lack of penal prosecution of offenders – While a number of military personnel were punished by disciplinary action only, with only one person punished under the Penal Code, the strict application of the provisions of the Ward or Village Tract Administration Act of 2012 and the Penal Code is essential to make the use of forced labour a penal offence and dissuade the perpetrators. Moreover, the punishments should be adequate and strictly enforced.
- Article 359 of the Constitution remains unchanged despite earlier Government promises – the article exempts from the prohibition of forced labour "duties assigned by the Union in accordance with the law in the interest of the public" and as such could be interpreted as a generalized exaction of forced labour from the population.

We note that the discussion about the changes in the Constitution is ongoing in the Parliament and we hope that article 359 will be amended in the process. However, we are concerned that despite progress made in the last years on labour issues, we are now at a turning point. We therefore urge the Government to take the necessary measures, including further capacity-building of various actors, clear instructions of the military not to rely on forced labour, proper investigation and sufficiently dissuasive sanctions and the finalization of the action plan on forced labour, which is currently drafted with support of the ILO, to address the Committee's concerns without delay.

While the elimination of forced labour is the focus of this discussion, we also urge the Government to take the necessary measures to:

- ensure that the current drafts of the Labour Organization Law and the Settlement of Labour Dispute Law comply with international labour standards. While we note that the latter Law was adopted in May, albeit not yet fully assessed, we recognize some progress such as the elimination of sanctions of imprisonment. However several gaps remain, including the non-coverage of the public sector. In addition, we have not yet seen the expected progress on the draft Labour Organization Law. In fact, the current draft, if adopted, would represent a step backwards. We urge the Government to revise the draft in a tripartite manner and by using ILO technical assistance to bridge the current gaps to international labour standards;
- ratify the Minimum Age Convention, 1973 (No. 138) – We note that tripartite consensus was reached on the issue. We urge the government to swiftly ratify Convention No. 138 as this will be a very important step to ratification of all five remaining fundamental ILO Conventions;
- align the current draft of the Child Rights Law with international labour standards on child labour. We take note that it is going to be discussed during the current parliamentary session;
- adopt the already finalized list of hazardous jobs to effectively fight child labour;
- implement measures based on tripartite dialogue to address issues that limit freedom of association in practice;
- take effective measures to ensure that the civil liberties of workers are ensured, including by revising the Peaceful Assembly and Peaceful Procession Law in line with the recommendations of the ILO direct contact mission of October 2018. It remains particularly vital in view of charges put forward in February 2019 against trade unionists in Mandalay;
- take further steps to improve occupational safety and health – while we acknowledge the recent enhancement of the law as a positive step forward, we urge the Government to effectively implement the law and to regularly revise it in particular to further broaden the scope of the law.

The EU and its Member States will continue to assist the Government in this respect and we will continue to closely monitor the situation in the country.

Government member, China – We notice that with the help of the ILO, the Myanmar Government has actively conducted a number of activities promoting the elimination of forced labour and formulated a number of regulations and laws, and forced labour has been substantially reduced. In 2018, the Myanmar Government signed with the ILO the Decent Work Country Programme, and development and cooperation are very important to realize decent work in member States.

The Chinese Government urges the ILO and the international community to help the Myanmar Government to eliminate forced labour, provide more development assistance. We support the Myanmar's Government request to turn the ILO Liaison Office into a regular ILO Myanmar Office, and we also encourage the Myanmar Government to adopt new action plans to establish a forced labour complaints mechanism.

Worker member, Japan – While we note the efforts of the Myanmar Government to eliminate forced labour by the extension of the Supplementary Understanding and the agreement of the first Decent Work Country Programme in 2018, we would like to share our concerns on the forced labour situation in Myanmar described by the UNHRC independent fact-finding mission report in 2018.

First, the case of forced labour by *Tatmadaw* military forces of Myanmar, and ethnic armed organizations for public works. The mission found a pattern of systematic use of men, women and children for forced labour across Kachin and Shan States, throughout the reporting period, including in areas of the states not subject to active conflict. In many instances the *Tatmadaw* arrived in a village and arrested many people who were then detained for forced labour, without warning or consultation. They were detained near the villages or made to travel long distances, made to do different work such as cooking for *Tatmadaw*, portering, digging trenches, cutting down trees, building roads, or made to walk in front to show the routes, or acting as human landmine sweepers to *Tatmadaw*.

The duration of forced recruitment varies from a day to months. The forced recruitment includes women, children as young as 12, as well as teachers. In 2012, the Government and the United Nations signed a joint action plan to end the recruitment and use of child soldiers. In 2018, it was reported that the total number of released children since the signing of the plan was over 924. They were kept

in inhumane conditions without adequate food, water or other facilities. There was no compensation of their labour. Violence, torture, sexual violence and rapes were reported. These situations are still prevalent in Kachin and Shan states. Though there are serious cases of forced labour, we acknowledge, once again, the efforts of the Government to eliminate forced labour.

I take this opportunity to recall the main decision of the last ILO Governing Body in March on this case as follows: Having considered the report submitted by the Director General, the Governing Body expressed serious concern over the persistence of forced labour, and urged the Government to intensify its close cooperation with the ILO for the elimination of forced labour. It also encouraged the Government to promote decent work through responsible investment policies in line with the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.

We wish further efforts of the Government to improve the situation to eliminate forced labour.

Government member, United States – In March 1997, the ILO Governing Body established a Commission of Inquiry to examine allegations of serious widespread forced labour in Myanmar. The ILO has since worked closely with the Government to address the Commission's subsequent findings, beginning with the agreement to appoint an ILO Liaison Officer in 2002. Significant progress was made. The 2007 Supplementary Understanding established a joint ILO–Government complaints mechanism for victims of forced labour. The 2012 adoption of the Ward or Village Tract Administration Act made the use of forced labour by any person a criminal offence punishable with imprisonment and fines.

Despite progress over the years, recent reports, including the September 2018 report of the detailed findings of the independent international fact-finding mission on Myanmar, point to the continued use of forced labour by the military, particularly in Kachin and Shan States, as well as among ethnic Rakhine and Rohingya.

The Supplementary Understanding, providing the legal basis for the ILO's involvement in receiving and referring forced labour complaints, lapsed in December 2018 with no Government complaints mechanism in place. While the Government has recently met with the ILO on outstanding cases and is developing a proposal for its own complaints mechanism, the current proposal does not provide sufficient victim protection or articulate a credible process for independent investigations.

Significant efforts are needed to establish the conditions necessary for a government-run complaints mechanism to function effectively. To date, almost all military personnel found involved in forced labour have received only internal disciplinary action. Only one perpetrator has been appropriately punished under section 374 of the Penal Code. Continued inadequate enforcement will hinder the effectiveness of any complaints mechanism. Additionally, while a 2019 action plan has been negotiated with the ILO, the Government has yet to secure endorsement from all necessary ministries and entities, including the military. We urge the Government to take all necessary measures for the full elimination of all forms of forced labour, including:

- develop and operationalize, in close cooperation with the ILO, an accessible, credible, and accountable mechanism for receiving and resolving complaints of forced labour;
- endorse and implement the 2019 action plan;
- address the full backlog of cases under the Supplementary Understanding mechanism;
- prosecute perpetrators under section 374 of the Penal Code;
- amend article 359 of the Constitution;
- continue to raise awareness and capacity-building on forced labour, particularly in areas experiencing ongoing violence, including through intensified public awareness campaigns.

Lastly, recognizing that the Government has accepted technical assistance, we urge the ILO to prioritize assistance on forced labour, including within the Decent Work Country Programme framework, and to actively solicit donor support where needed.

Employer member, Sri Lanka – The EFC from Sri Lanka speaks as part of the Employers' group and in solidarity with the representations made by the Employer spokesperson as well as our Employer colleague from Myanmar, the Myanmar Federation of Chambers of Commerce and Industry.

We wish to commend the interventions implemented by our colleagues to alleviate and eventually eliminate forced labour, specifically interventions to improve compliance of laws and international labour standards, such as the special audit with emphasis on eliminating forced labour-related practices; it is a noteworthy contribution.

The Myanmar Chambers of Commerce efforts, together with the tripartite stakeholders to improve the country's socio-economic conditions, including worker welfare, is progressive and deserves higher recognition and encouragement. We hope that the next time, if this Committee of Experts were to examine Myanmar, it would be as a case of progress.

Government member, Bolivarian Republic of Venezuela — The Government of the Bolivarian Republic of Venezuela would like to thank the distinguished representatives of Myanmar for their presentation regarding compliance with the Convention. We appreciate the progress made by the Government of Myanmar to eliminate forced labour, making significant progress in close collaboration with the ILO.

We would like to highlight the process of democratic reforms that is producing tangible results in Myanmar with regard to the promotion and protection of labour rights, including the elimination of forced labour. We appreciate the Decent Work Country Programme, signed in September 2018 by Myanmar and the ILO, given that it represents not only a significant step forward for the Decent Work Agenda, but also an effective contribution to the reforms for the promotion and protection of labour rights.

We welcome the fact that the number of cases of forced labour has decreased significantly and call on the ILO and the international community to continue collaborating with the Government of Myanmar in further efforts to eliminate forced labour.

The Government of the Bolivarian Republic of Venezuela hopes that the conclusions of this Committee, the result of this debate, will be objective and balanced and that the Government of Myanmar will therefore be able to proceed towards full compliance with the Convention.

Worker member, Canada – In its efforts to achieve compliance with the Convention, the Government of Myanmar must address weaknesses in land policies that risk leaving entire communities vulnerable to conditions and practices that the Convention seeks to eliminate.

The Government classifies about a third of the country's total land area, as vacant, fallow, or virgin land. Much of this land is actively managed by communities as farmland or productive forest in accordance with customary law and practice. Those using such land usually lack formal documents for it.

Under the Vacant, Fallow, Virgin Land Management Law, which was amended in September 2018, anyone occupying or using such land was given six months' notice to apply for an official permit to use the land or face eviction and up to two years in jail for trespassing on land they have lived or worked on their whole lives.

Large numbers of people in Myanmar were unaware of the amendments and deadlines and could not file claims. Others displaced by armed conflict were unable to file for a permit for their lands.

This policy risks escalating land disputes in areas, such as Kachin and Shan States where there are more than 100,000 displaced persons. There is significant risk that permits to use vast areas of land designated as vacant, fallow or virgin, but belonging to people who have been internally displaced or made refugees, will be granted to investors.

Although the amended law exempts "customary lands designated under the traditional culture of ethnic people", customary tenure is still not legally defined in this or in any other law, leaving decisions over what counts as "customary" to administrators who may themselves be implicated in land grabs.

The law creates incentives for authorities to take land from traditional communities and opens the possibility that private companies can make claims to this land. For instance, applications by companies and individuals to use vacant land trigger a 30-day objection period, with a notice displayed outside local government offices. Many residents of camps would be unlikely to see these notices, let alone act on them with the required "evidence".

In Kachin, a state shaped by decades of civil war, vacant land is becoming scarce and being lost to expanding banana fields. It is increasingly difficult to earn a living. There are documented cases where Government militia forced farmers to grow commercial crops and later agreed to "rent" their land to companies for banana plantations. Locals are told they are being compensated for land use but the US$36 they received per acre also included the crops and all of their labour. In addition, companies use pesticides that has led to the contamination of water and farmers fear the irreversible impact on their land and their only means of income.

There are difficulties to take action against companies as the majority of plantation sites are in conflict zones and they are doing their business under the protection of the armed forces.

Land policies need to address these issues and not deprive people of stable livelihoods or expose entire communities to the practices of exploitation that the Convention seeks to remedy.

Government member, Canada – Canada thanks the Government of Myanmar for the information provided today. Recalling Canada's statement on Myanmar delivered during the 335th Session of the Governing Body in March 2019, Canada notes the Government's efforts to address and eliminate the use of forced labour and the progress made on labour law reform to date.

However, it is clear that much more work remains to be done to effectively end the use of forced labour in the country. In particular, Canada remains deeply concerned about the persistence of forced labour, under violent and inhumane conditions, imposed by the *Tatmadaw* in Kachin, Shan and Rakhine States in Myanmar. We also observe with disappointment that military personnel who extract forced labour largely receive only disciplinary sanctions instead of criminal penalties under the Penal Code.

We note that no action has yet been taken to amend article 359 of the Myanmar Constitution, potentially allowing for an arbitrary or generalized exaction of forced labour from the population. Canada also reiterates its concerns about the absence of a formal and independent mechanism to address complaints of forced labour and provide support for victims.

We therefore urge the Government of Myanmar to take immediate action to: first, strengthen its efforts to ensure the elimination of forced labour in all its forms, in both law and practice and in line with international standards, including forced labour imposed by military, public sector or civilian authorities; second, strengthen efforts to ensure the prosecution of perpetrators and end impunities, and ensure that penalties imposed by law for the extraction of forced labour are adequate and strictly and uniformly enforced against perpetrators; third, amend article 359 of the Constitution to clarify that forced labour may not be extracted from the population under any circumstances; and finally, ensure, in coordination with the ILO, timely establishment of an independent complaint mechanism, with nation-wide reach, timely and effective follow-up, and protection for victims.

We urge the Government of Myanmar to ensure that all reforms are consistent with international labour standards and the result of genuine and effective tripartite dialogue. In that regard, we note the extension of the national tripartite process and the holding of the National Tripartite Dialogue Forum in May 2019, and encourage the Government to take the concerns and comments of stakeholders into account during the legislative and policy development processes.

Finally, we encourage the Government of Myanmar to continue its close cooperation with the ILO towards achieving these objectives.

Observer, International Transport Federation (ITF) – I will speak on the issue of human trafficking and forced labour in fisheries in the context of both internal and external migration. The fisheries sector is one of the major components of Myanmar's economy, employing a total of 3.3 million people. A 2015 ILO report on internal labour migration in Myanmar found that working conditions in the local fishing industry involved physical violence, debt bondage, salaries that fall short of original terms and lack of food. Some 39 per cent of respondents to the ILO survey in the fishing industry were in a situation of forced labour, compared with 26 per cent overall and 26 per cent of respondents in the fishing industry were in a situation of trafficking, compared with 14 per cent overall. Policymakers will do well to adopt a sectorial approach in formulating action plans to combat human trafficking and forced labour in the local fishing industry.

I will now turn to the situation of migrant Burmese fishers. Migrant workers from Myanmar make up a large proportion of the fisheries workforce in Thailand. The Fishers' Rights Network, which is an ITF initiative to build an independent union of fishers in Thailand, mainly organizes migrant fishers. Now, more than 90 per cent of the Burmese fishers the FRN has interviewed in the past 12 months alone has said that they are in debt bondage for more than 20,000 baht, which is roughly US$600, which represents a debt large enough that they cannot pay it off quickly. Exploitation of Burmese fishers is rife.

It was also reported by *The Guardian* newspaper that Rohingha migrants trafficked through deadly jungle camps have been sold to Thai fishing vessels as slaves. Deceptive and coercive recruitment, involving unscrupulous agents or brokers, including Myanmar itself, is a key element in the placing of fishers into exploited situations.

The Government of Myanmar has taken some positive steps to address the issue. Thailand and Myanmar signed a Memorandum of Understanding on cooperation in the employment of workers in 2018 which includes measures on trafficking. Myanmar is also a member of the ILO led SouthEast Asian Forum to end Trafficking and Forced Labour of Fishers and since February of this year, the ILO, together with the Ministry of Labour and the ITF, has helped lead pre-departure orientation for fishers going to work in Thailand. However, despite these initiatives, as our statistics suggest, much more needs to be done. The Government of Myanmar should, as a minimum, ratify and effectively implement ILO Convention No. 188 on Working

Fishing and follow the ILO's General Principles and Operational Guidelines for Fair Recruitment to the letter. The Government should also continue to work with the ILO and the ITF on pre-departure training and related matters.

Government member, India – We thank the delegation of Myanmar for its submission on this agenda item, and the comprehensive update provided therein. We take positive note of the significant progress made by the Government of Myanmar in furthering the ILO Decent Work Agenda, strengthening tripartite social dialogue, and undertaking labour reforms, inter alia, in accordance with this national context and priorities.

As a friendly neighbour, we are fully aware of this context of the ambitious political, economic and social agenda being pursued by the democratically elective civilian Government of Myanmar, and understand the challenges it faces in taking forward the peace process, building institutions and strengthening the role of law, including for the protection and promotion of labour to create a fair and just society for all its people.

We sincerely appreciate the sustained commitment of the Government of Myanmar to create decent jobs, promote responsible investment, strengthen the culture of tripartism, and social partnership, including freedom of association undertaking labour reforms and eliminate forced labour under the auspices of the recently signed Decent Work Country Programme.

The development of an updated action plan including for the establishment of a national complaints mechanism, in close cooperation and consultation with the social partners, and greater efforts towards awareness-raising and capacity-building through training for eliminating forced labour, are other positive initiatives of the Government. The incidence of forced labour in Myanmar has significantly come down, and it is clearly on a declining trend due to the measures taken not only by the Government of Myanmar, but also its Parliament by means of appropriate amendment of the national Constitution.

We support Myanmar's continued cooperation and constructive engagement with the ILO. The ILO and the international community should constructively engage with and fully assist and extend all technical assistance to the Government of Myanmar in its efforts to help realise its overall national economic and social policy objectives by promoting decent work and eliminating forced labour. We wish the Government of Myanmar all success in its endeavours.

Worker member, Malaysia – The Global Slavery Index (GSI) Report on Myanmar estimated 575,000 people to be living in modern day slavery. For every 1,000 persons, 11 persons were victims of slavery in Myanmar. GSI also reported that a key flash point for this was the mass displacement, abductions, sexual violence, and murders committed against the Rohingya population.

Four months ago, Myanmar's Ministry of Labour, Immigration and Population permanent secretary, Mr U Myo Aung, told the media that Myanmar workers working overseas hit 5 million. The actual figure, in my opinion however, is much larger than this because just in Malaysia, as at 2017 there were already more than 450,000 Myanmar workers. Many of these Myanmar workers fled the country to greener pastures in the nearby countries such as Thailand and Malaysia only to face harassment and victimization even before they exit Myanmar.

It is reported that in Myanmar, there is a one-stop centre processing exit visas for workers. This one-stop centre that claims to be the exclusive service provider for running visas and consular services for Myanmar Embassies in China, France, Italy, Japan, Malaysia and Singapore. The costs of visas have escalated multiple times and on top of the visa fees, the workers have to pay service fees.

It is reported that prior to December 2015, Myanmar workers heading to Malaysia paid US$6 for visas but since 2016, the workers are paying a whopping US$83 for Service Fee, System Fee and Immigration Security Clearance fee over and above the visa fees. The visa fees have escalated ten times more and health checks have arisen from US$10 to US$56. These monies are excluding the hundreds of dollars paid to employment agencies that arrange the jobs. Very few workers can afford to pay these new additional fees so they take heavy interest loans or mortgage their property or sell them altogether to pay to travel abroad to seek better livelihood. This drives them into debt bondage and they live on borrowed income for the rest of their lives. Syndicate companies or workers future employers in some cases, create this drive to debt bondage. They are moneylenders or they facilitate the lending. Once aboard, the workers lose their freedom, they have to work long hours to support and pay back the debts.

Despite the efforts put in by the ILO through various programmes, the debt bondage keeps increasing. So Myanmar, being a country that has ratified the Convention, ought to negotiate a G2G Agreement with Malaysia as soon as possible to end the debt bondage and to protect migrant workers heading towards Malaysia for a better livelihood.

Employer member, Singapore – I think we have heard a lot about the comments made by the Committee and also cases presented, or past cases, but I think we see statistics coming down. It is a good sign and I will give credit to the Employers and even to the trade unionists who work in very tight cooperation together with the Government. We need to put a fair statement here and I think what is more important is moving forward. What are the action plans that are going to be put in by the social partners with the help of the ILO as well? I think those are important. We need to emphasize on that, work on that, and I think we would be able to see some light at the end of the tunnel.

A few things that I would like to just re-emphasize is that the training to the employers about forced labour should continue. We should also within the country set standards and guidelines for employers to follow. I think this is important moving ahead. Likewise, the union leaders, you are on the ground, have to advise the employers. We need people to be on the ground to alert the employers as well.

Lastly, we should not forget that the Government of Myanmar plays an important role. We can see that tripartism is important even though the country has less than three years of democracy but I think that we are seeing tripartism in action and we need them to address these domestic issues with the help from the ILO.

Government member, Nicaragua – My delegation would like to welcome the Minister of Labour of Myanmar and His Excellency the Permanent Representative; and express our appreciation for the report presented to this Committee pertaining to the Convention. We also appreciate the efforts made by the Government to implement the Convention, which demonstrate its strong commitment to complying with all of the obligations under the Convention.

We also welcome the Memorandum of Understanding on the action plan for the elimination of forced labour (2018), concluded between the Government and the ILO, and encourage the Office to continue working in conjunction with the Government and provide all the necessary technical cooperation and assistance to continue achieving tangible progress in the country. We commend the ongoing efforts of the Government of Myanmar to implement the Myanmar Sustainable Development Plan (2018–2030), which is in line with the Sustainable Development Goals, including Goal 8.

We applaud the fact that, in close collaboration with the ILO, the Government is intensifying and furthering the labour legislation reform process, strengthening the culture of tripartite dialogue and empowering those most involved in the protection and promotion of labour rights. We encourage the Government to continue to work to achieve

further significant progress towards the elimination of forced labour and we wish it all the best for the attainment of all objectives in this regard.

Government member, Belarus – Belarus is in favour of a universal and equitable approach to all countries and we would like to thank the delegation of Myanmar for the report that it has presented. We welcome its efforts to improve the situation of workers and improve the legislative system. We note the openness of Myanmar to cooperation with the ILO including developing and applying a national action plan. We support the Government's activities to promote peace, pursue social dialogue, and meet its obligations under the principles of the ILO and we welcome the efforts of the Government and encourage the international community to further support Myanmar.

Government member, Switzerland – Switzerland supports the statement delivered by the European Union and would like to add a few points. Switzerland welcomes the range of measures taken by the Government in collaboration with the ILO, and the significant progress made in recent years regarding the elimination of forced labour. However, Switzerland deeply regrets that, despite the efforts made by the Government, cases of forced labour continue to occur in Myanmar.

The imposition of forced labour by the armed forces of Myanmar *(Tatmadaw)* on certain ethnic minorities is of great concern and must be strongly condemned. The measures taken by the Government to combat all forms of forced labour are positive, but efforts must be continued and strengthened in order to eliminate the use of forced labour in all regions of Myanmar. To this end, the Swiss delegation encourages the Government to continue its training and awareness-raising activities as well as its collaboration with the ILO.

In addition, the effective implementation of legislation and its strict application are vital elements in comprehensive action against forced labour. Thorough investigations must be conducted, and criminal offences must incur penalties that are sufficiently dissuasive and are strictly applied to the perpetrators in all cases. Switzerland therefore invites the Government of Myanmar to take the necessary measures to ensure the strict application of the national legislation.

Lastly, Switzerland invites the Government of Myanmar to ratify the Abolition of Forced Labour Convention, 1957 (No. 105), and the Protocol of 2014 to the Forced Labour Convention, 1930. Switzerland will continue to support ILO programmes in Myanmar.

Government member, Russian Federation – First of all, we would like to express our gratitude to the Government of Myanmar for the detailed explanations that it has provided today on measures that have been taken to meet the obligations under the Convention. We have seen from the report that the Government is doing considerable work in close cooperation with the ILO. In Myanmar efforts are being made to carry out democratic reforms. One of the important areas is ensuring the protection of workers' rights and despite the existing difficulties, there is consistent work taking place in order to provide guarantees against forced labour. We particularly note the steps that have been made in order to implement the country programme to further decent work which was signed in September 2018 and we also note the reforms that have been made to the labour legislation.

We welcome the contribution of the ILO and its close cooperation with the Government of Myanmar. We also welcome the development with the social partners of a new plan of action to create a national mechanism for complaints. All of these measures, taken together, have already had a positive effect in our view. The number of cases of forced labour have been reduced and are continuing to fall. We hope that this trend continues.

We call on the ILO and the national community as a whole to continue its cooperation with the Government of Myanmar to ensure full fulfilment of the obligations of the country under this Convention.

Government representative – We have listened to all interventions very carefully. The Myanmar delegation will be taking those views, advice and concerns back to Myanmar for due consideration, with a view to achieving better compliance with the Convention. I would like to state again that the establishment of the National Complaints Mechanism under the Decent Work Country Programme is at the final stage for approval. The consent of all ministries, including the Ministry of Defence, for the establishment has already been secured. We also have the interim procedures for continuously receiving complaints made by any individual and any organization. We will continue close cooperation with the ILO in this regard.

As we mentioned in our introductory remarks, we indeed need a Constitution which is in line with the democratic norms. The Joint Parliamentary Committee was formed in order to amend the Constitution. The Committee has met almost 20 times so far since its inception in February this year. As we mentioned earlier, constitutional constraints are among the challenges we are facing, therefore, the current Government set amending the Constitution as the highest priority for the country. We are making our effort to transform the country into a democratic federal union. As the State Counsellor has stressed, we will pursue in an evolutionary way, not a revolutionary way. Everyone in Myanmar agreed that we want to live in a democratic federal union, not under an authoritarian regime. The constructive cooperation from the international community is indeed needed for keeping Myanmar on the right track on its democratization. Therefore, we take all allegations of violations of forced labour seriously. We are willing and able to address such issues. The Government is fully committed to take legal action against perpetrators if there is credible evidence of any human rights violation, including forced labour.

Some speakers made reference to the report of the HRC fact-finding mission. With regard to the fact-finding mission, our position is clear. Myanmar has categorically objected to the fact-finding mission since its establishment. We also reject its narrative-based report. However, we take all allegations, including those contained in the fact-finding mission report seriously. The Government of Myanmar has repeatedly stated that it will not condone human rights violations and will take action against perpetrators according to the law if the allegations are supported by sufficient evidence. Therefore, the Government of Myanmar has established an independent commission of inquiry to investigate all allegations of human rights violations following the ARSA terrorist attack in August 2017 in northern Rakhine. The mandate of the commission is to seek accountability and reconciliation. The commission is carrying out its mandate with independence, impartiality and objectivity. The independent commission of inquiry will investigate allegations of human rights violations based on hard evidence. Therefore, it will gather all information and analyse evidence by setting up a subcommittee. It is seeking technical support of external experts in such areas as information and communication, legal, forensics and criminal investigation. Each member of the commission will also appoint their own supporting staff and experts. The commission has publicly invited submissions on the allegations of human rights violations. The commission has received over 40 submissions concerning allegations of human rights abuses. The commission is also requesting access to the refugee camps in Cox's Bazar in Bangladesh. We urge the Government of Bangladesh to facilitate the commission's visit to the camps to meet with the alleged victims of abuse. The commission's work will be evidence based. Therefore,

the international community should support the work of the commission. Our doors are open for all constructive complaints. Complaints can be made in many channels, through existing ones, social media, the national human rights commission, the President's Office and Parliament, to name a few. We would like to reconfirm our commitment for the elimination of forced labour. In this regard, we will continue our cooperation with the ILO and partners. Therefore, we would like to request all our partners to extend assistance and constructive cooperation to the Government's efforts for the elimination of forced labour.

Worker members – Regrettably, it appears that the international community was too quick to claim a victory in the eradication of forced labour in Myanmar. While steps have been taken, the still pervasive nature of forced labour remains a serious cause for concern, especially given the involvement of state actors. This case merits rigorous follow-up by the ILO and the international community. We again express our deep concern regarding the lapse of the Supplementary Understanding while there is no other credible mechanism in its place. Now is not the time to lose all independent oversight over the exaction of forced labour in the country.

With regard to the situation of the Rohingya, this matter requires urgent attention and genuine leadership. Forced labour will continue so long as such a large population remains in a highly vulnerable situation – as undocumented citizens in their own country. Over 700,000 now live over the border in Bangladesh in squalid camps with no short-term prospects of a return home under conditions that guarantee their safety and security. Their forcible eviction from Myanmar has created a human rights crisis, including extreme vulnerability to human trafficking given their desperate situation. Those who are internally displaced also face a high risk of gross exploitation by the army and human traffickers, particularly in natural resource extraction.

Of course, our concerns with regard to forced labour do not end there. As we have heard, many others, including workers in other ethnic areas, face forced labour by the military or private individuals, including in agriculture, fishing and mining. Indeed, the reports of forced labour and other human rights violations in the mining of precious gems is particularly bleak, including addicting workers to powerful opiates in order to prevent them from leaving their exploitation.

The use of forced labour as punishment in prisons, in particular for private gain, is a serious concern and must be stopped immediately. Imprisoning of dissidents for the exercise of the basic freedoms must also end. I would also echo the concerns raised by the Workers' delegate from Myanmar about the poor situation with regard to freedom of association both in law and in practice. As the Committee of Experts has explained, and this Committee has echoed, there is a direct link between the absence of freedom of association and the exaction of forced labour. We are deeply troubled at the direction of the Government with regard to freedom of association, as we explained in this Committee just last year, and worry that the Government's hostility to workers' organizations will expose workers to greater risk for forced labour. And we have also heard that land dispossession has created serious vulnerabilities of exposure to forced labour.

It is our fear that Myanmar may again be a regular case in this Committee if things continue as they are going. We therefore strongly urge the Government of Myanmar to respect the conclusions of this Committee and to implement them as soon as possible. We also believe that a direct contacts mission should be sent to Myanmar to follow up this Committee's conclusions and report back to this Committee next year. We also strongly encourage the ILO secretariat and the Liaison Office to continue to work intensively with the Government to address these very serious violations, and to continue reporting to the Governing Body.

Employer members – I think, and what we have heard also from many governments, is a recognition that Myanmar has come from, going back many, many years, a place of globally acknowledged repression and oppression and in recent years has emerged into what you call a sunlight of democracy, but it is still emerging. If you could use the analogy of a chrysalis turning into a butterfly, we are a long way yet from being the butterfly, but it is hitting in the direction that ultimately I think the world will recognize.

That said, and I do not think that anybody would say otherwise, there are still too many things that are not going right. The instances of, particularly as the Committee of Experts have noted, the instances of recruitment into the armed services, remain the core and most evidenced aspect of the concerns that this Committee has raised, and I note that the Government has said that it will act on matters with credible evidence. I think that at least in the case of the armed services, it is a well-documented set of processes and that pretty much every individual has a set of documents. So that much we ask the Government to acknowledge their own accountability and to continue to do what they say they are already doing.

What remains though, is those areas outside of the military which either are not documented, and we have heard a number of anecdotal, in part, and partially evidently based issues around labour in other areas such as agriculture and the like. I would note that much of what has been there is outside the country, not outside the responsibility of the country but outside the physical boundaries of the country, and of course that has its own set of problems.

So one of the things I think that the Employers would say is that this is not just a problem for Myanmar, because when these issues occur outside, even though they are occurring to the citizens of Myanmar, they are occurring within, and within sight of or within the jurisdictions of others. Therefore I call on everybody, especially those in close proximity to Myanmar, to play their part too in identifying, suppressing or otherwise assisting in the elimination of these sorts of practices. Fishing in the seas outside Myanmar for instance is a lot of other people's responsibility. So everybody has a part to play here and we call upon everybody to play their part.

The other thing in relation to the scope of this exercise, and I mentioned just before that the military appears to be the main forces and certainly the most evidenced, but it comes back down to, as we move forward, is making sure that when these things are addressed and the penalties are being considered, that they are approached in a balanced and fair manner. And we heard little bits of evidence to suggest that, or concerns that the punishment for military members perpetrating the forced labour is at a pretty low level at a disciplinary rather than punitive or penalized level, whereas there is evidence that for instance, civilians involved in the same sorts of activities have suffered penalties including significant terms of imprisonment. There is an evidence based concern about a lack of balance in that, and the Employers would call upon the Government to ensure that whatever regime and institutes for the dissuasive punishment of trafficking and forced labour is balanced and fair across the entire economy without restriction.

The one thing that we think and we have heard is that to address forced labour requires a means for it to be identified in that, the single most effective mechanism that we have heard about is the development of the national complaints mechanism, and I say here too that we talk about it in the singular, but we have heard from the Government that the proposed mechanism is in fact a multifaceted set of doors through which anyone can enter and lay their concerns out.

The creation and completion of that process is of the upmost priority, and we note that the Government has said that the action plan is going before cabinet, the action plan is the vehicle through which the rest of the complaints process will be put forward. That is in our view the highest possible priority. Aligned with that, is the need to ensure that the relevant legislation in the country is also aligned. We heard that the constitution is out of step with some of the other initiatives that are being taken. So that the alignment of internal legislation and the Constitution is part of that priority, but the headline if you like, the face of the priority, is the creation of that complaints mechanism.

To do that, we urge the Government of Myanmar to continue and strengthen its relationship with the likes of the ILO, who, as everyone has admitted, assisted in a very great way over the last few years. The existence of the Liaison Office both in the past and the present, are acknowledged as being hugely beneficial. Those mechanisms can still be further strengthened, as can the internal capacities of the Employers, Workers and Government and organs inside the Government that deal with these issues. So we urge that the cooperative process involved in the ILO and the social partners focus on that as their main issue.

So just with that, we would summarize I guess the sorts of things we would recommend. First, we praise the Government for its progress; we remain concerned at the issues that remain; we acknowledge that those issues are becoming more focused in certain areas, which is evidence that other areas are being managed as time goes on. We urge them to continue that process. We recommend that the Government take immediate actions to reform the national legislative programs including the introduction of the action plan on the alignment with the constitution. We urge the Government to regularly report, not just to the ILO through any of their reporting mechanisms that exist, but to establish transparent reporting mechanisms within its own country, so that all citizens can see that these issues are being made, or complaints are being made, complaints are being dealt with, and then the entire country can see and trust the process, which I think is also an extremely important part of any democracy. And lately we recommend that the Government continues to work in close collaboration with its social partners to establish a permanent and effective national complaints mechanism for handling forced labour complaints in an effective and dissuasive penalty regime.

Conclusions of the Committee

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

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.

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;**
- **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.**

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

Government representative – We take note of the recommendations made by the Committee. I would like to express our appreciation to the International Labour Organization, 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)

Written information provided by the Government

The Government of Reconciliation and National Unity considers it appropriate to provide information to ILO member States concerning the application of and compliance with the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), the ratification of which was published in *Official Gazette* No. 111 of Saturday, 23 May 1981.

Through the National Human Development Programme covering the 2014–18 period, the Government of Nicaragua has implemented public policies through socio-economic projects whose advances reflect the spirit of Convention No. 117. For this reason, we do not agree with the reasons for our presence before the honourable Committee on the Application of Standards.

Nicaragua continues to work and to fulfil the commitment to make progress in the reduction of poverty and the elimination of extreme poverty by:

- Developing programmes and projects that ensure access to information and technical and vocational guidance for women, for people in rural areas and for persons working on their own account.
- Implementing the labour policy for the restoration and protection of men and women workers' labour rights by continuing to strengthen tripartism, trade union freedoms, dialogue, partnership and consensus between the Government, workers and employers.
- Continuing to ensure labour stability in the different economic sectors of the country.
- Establishing a model of family and community health that guarantees free universal health coverage with quality and warmth.
- Continuing to ensure free education at all levels with fairness, quality and development of values in accordance with the implementation of the Education Plan 2017–21.
- Ensuring the social security of affiliated workers through the Nicaraguan Social Security Institute, providing financial benefits in relation to invalidity, old age, death and occupational risks, and providing health services.

- Continuing to make progress in reinforcing public safety at the national, regional and international levels, taking account of the fact that Nicaragua is recognized as the safest country in the Central American region and a benchmark in terms of security in Latin America, being its third least violent country. It has a sovereign and public security strategy and a national policy interlinked with the social fabric as regards solving problems of community safety.
- Providing access to electrical power for the most vulnerable sections of the population in rural and urban areas of the country.
- Moving ahead with the development of infrastructure for land and sea links (bridges, roads and ports).
- The Government has ensured the fair and universal provision of drinking water and sanitation services in urban and rural areas of the country.
- The Government of Nicaragua, through the Department for Migration and Foreign Nationals at the Ministry of the Interior, has compiled statistical data disaggregated by sex and age on the number of Nicaraguan workers who have gone abroad for work purposes and the number of workers of other nationalities who have entered Nicaragua to work. Between 2014 and 2018, a total of 794,160 workers (247,694 women and 546,466 men) left the country to work abroad.
- The Ministry of the Economy for Families, Communities, Cooperatives and Associations (MEFCCA), as the state entity responsible for keeping the National Registry of Cooperatives, has registered 524 cooperatives that provide financial intermediation (credit and/or savings) services for their associates, which comprise a total of 123,862 members, including 52,588 women.

These organizations have the autonomy to design their own lending policies and the services that they provide to their associates, which, in turn, adopt intermediation regulations through their cooperative governance and management structures.

Work on women's integration continues through gender mainstreaming in public policies, plans, programmes and projects that guarantee the restitution of rights and the full and active participation of women in decision-making forums.

Nicaragua has risen four places to occupy sixth position in the global gender equality index, while being ranked highest for gender equality in the Americas. It is also the country with the fifth highest rate of women's participation in parliament and the highest number of women in public office.

Discussion by the Committee

Government representative – Nicaragua is a land of love, common well-being and fraternity, blessed by God with the re-establishment of peace and harmony between families. The State of Nicaragua, present at this Conference, is making use of this forum to provide information on the progress and achievements that the Government has attained through social programmes and projects for the welfare and development of the population, despite the attempted coup d'état provoked by minority groups opposed to the development of the country.

The public policies implemented are having a positive impact on the reduction of poverty in general and the eradication of extreme poverty, as acknowledged by international organizations such as the United Nations Food and Agriculture Organization (FAO), the World Food Programme (WFP), the International Monetary Fund (IMF) and the World Bank, among others.

In 2018, several economic sectors contracted by 3.8 per cent as a result of the coup against the economy, peace and labour. Nevertheless, the country's economic development has not been halted. During the period 2014–18, with the development of programmes and projects, access was guaranteed to information and vocational guidance for groups of women, rural workers and own-account workers, through the provision of:

- technical assistance and support for 205,979 men and women producers through the special support plan for small-scale producers;
- the provision of capital to 30,655 mixed-race, indigenous and Afro-descendent families on the Nicaraguan Caribbean coast, through the "Support project to increase productivity, food and nutritional security on the Nicaraguan Caribbean coast";
- 14,273 families producing coffee and cacao received training and technical support through the "Support project for adaptation to change in markets and the effects of climate change";
- capital was provided to 920 families through the "**Programme** for the adaptation of agriculture to climate change";
- capital was provided to 545 producers of animal fodder and business plans developed, and 5,650 men and women small-scale producers were provided with training for added value in milk production;
- 106,641 producers were provided with training and technical support to develop the capacity for the production and marketing of basic grain crops.

In accordance with the labour policy for the restitution and supervision of the labour rights of women and men workers, progress has been made in strengthening tripartism, trade union freedoms, dialogue, collaboration and consensus, of which the most noteworthy results during the period 2007–18 were:

- the minimum wages of 380,000 women and men workers in the various economic sectors have been adjusted continuously twice a year through tripartite negotiation, with a percentage increase of 276 per cent;
- 1,489 new trade unions registered and 13,621 trade union boards renewed;
- 773 new collective agreements negotiated and concluded in the public and private sectors with clauses in favour of women;
- supervision of the labour rights and occupational safety and health of 3,342,700 men and women workers through inspection processes;
- 14,101 special child labour inspections, through which 2,373 boys and girls under 14 years of age were removed from work and the labour rights were supervised of 24,646 young men and women workers;
- advice provided to 1,082,540 persons on their labour duties and rights;
- the translation and publication of the Labour Code in Misquita;
- ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Domestic Workers Convention, 2011 (No. 189), and the Maritime Labour Convention, 2006 (MLC, 2006).

The State of Nicaragua implements a family and community health model which guarantees universal free health coverage, including:

- the establishment of 178 new maternity clinics;
- 1,520 health-care establishments, including 41 specialist hospitals;
- 66 mobile clinics providing care for 2,820,982 persons;
- 83 houses built for persons with special needs, i.e. chronic illnesses;
- the number of specialist doctors was increased from 5,566 to 6,318 and the number of health workers from 31,124 to 35,841;

- the maternal mortality rate fell from 37 to 34 per 100,000 live births;
- through the "Programme of love for the very young", support was provided for 680,741 families with children under 6 years of age, promoting an upbringing based on values for living well, and building a society free of violence;
- 138,540 persons with disabilities were provided with assistance through the "Programme for a voice for all", with the delivery of 53,202 auxiliary measures;
- 48,525 cards have been certified and provided to persons with disabilities to ensure their medical care;
- the number of hemodialysis machines was increased from 155 to 406;
- 2,860 persons with HIV and AIDS received anti-retroviral therapy;
- 2,632 persons were diagnosed with and treated for tuberculosis;
- 752,052 men and women workers registered with the social security system;
- 34,371 employers registered with the social security system.

The human right of free and equitable, high-quality and welcoming education is continuing to be ensured. The Education Plan 2018–21 was developed with the strategic objectives of continuing the improvement in the quality of education and comprehensive training, increasing educational coverage with emphasis on indigenous and Afro-descendent communities.

Between 2014 and 2018, the following were provided: 2,772,631 packets of school materials; 1,995,806 pairs of school shoes; 20,000 bicycles; 11,541,635 schoolbooks; 5,370,168 students are constantly provided with school food; 1,748 schools were improved and work was undertaken on 2,132 classrooms and auxiliary rooms; 116,607 new desks provided; 765 schools provided with information and communication technology; 169 mobile digital classrooms, and access to Internet in 429 schools; training on educational technology provided to 293,454 persons; 37,008 men and women education workers provided with training, thereby reducing the percentage of untrained teaching staff in primary and secondary education; 77,161 boys and girls were included in communicative English courses from the first grade of primary school. The plan of education subjects included "Growing up with values" and "Learning, engaging in entrepreneurship and prospering". The system for school registration was placed online and the school bulletin established. Advisory services are provided for educational communities based on 160,000 volunteers with the participation of 460,828 mothers and fathers; 522 remote secondary centres are functional in rural areas; and 32,078 initial, special, primary and secondary teachers provided with training in strategic methodologies.

For boys, girls and young persons, the "State Policy for the strengthening of the Nicaraguan family and the prevention of violence" was approved and implemented, with the development of strategies to promote care and support for the growth of boys and girls from pregnancy, such as: the welfare programme for children in extreme poverty; the social welfare project; the programme to support the implementation of the national policy for infants; and 270 active child development centres for girls and boys. The early warning system for the prevention of violence in colleges was implemented; 2,913 public employees in the national social welfare system were trained in subjects related to special protection and prevention; 1,169,979 loving care booklets provided for the very young for the care and support of children from pregnancy until 6 years of age; 160,978 house-to-house visits to promote new styles of bringing up children, such as parental competence and the development of skills in families. A total of 75 courts specialized in the family, violence and juveniles were created.

With regard to the elderly, Act No. 900 on the reduced old-age pension for insured persons was adopted. The right to health care was restored for 100,224 elderly pensioners, and 97,070 cases of ophthalmological surgery were carried out on elderly persons.

With reference to women, priority was given to gender-based inclusion in public policies, plans, programmes and projects to ensure the restoration of their rights and the full and active participation of women in decision-making bodies.

Nicaragua rose four places to reach the sixth position in the equality index at the global level, meaning that it is the country with the greatest gender equity in the Americas. It is also in fifth position for the participation of women in Parliament and in first place for the number of women holding public office, with the following figures: 59.7 per cent in the judicial authorities; 56 per cent in the executive authorities; 45.7 per cent in Parliament; 44 per cent of women mayors, 55.5 per cent of women deputy mayors and 50 per cent of women councillors.

Act No. 779 and its amendments were adopted as the Comprehensive Act to combat violence against women with 78,295 women being strengthened as community leaders through productive economic initiatives.

The Government ensured the universal and equitable provision of drinking water and sanitation, with the following results: in urban areas, 575,541 persons benefited from 104,627 connections to drinking water, 460,065 persons benefited from 85,840 connections to sewers; and in rural areas, 53 wells were built, 93,106 persons benefited from 10,159 new connections and 2010 rehabilitated connections to drinking water, while 73,223 persons benefited from 10,001 sanitation units and 1,308 new sanitary connections.

Access to electricity was provided for the most vulnerable categories of the population in rural areas. The rate of coverage of electricity rose from 80.4 per cent in 2014 to 95.31 per cent in October 2018, and we have now made further progress through the implementation of 4,338 projects with 559,820 houses connected to the electricity system, benefiting 2.9 million inhabitants. Some 60 per cent of the electricity consumed is generated from renewable sources. In relation to infrastructure, six important commercial maritime ports were constructed. Roads were built connecting two departments and two regions on the Caribbean coast, benefiting 3.5 million inhabitants. A total of 71 bridges were built. Studies and designs were completed for the port of Bluefields, on the south Caribbean Coast, which will have an impact on all sectors of the national economy. Studies and designs were completed for the road from Sasha to Puerto Cabeza, including the bridge over the river Wawa. Work was carried out to increase the capacity of access roads to the city of Managua. The right to housing was restored to Nicaraguan families, and particularly the poorest, under the shared responsibility model, with the construction of 57,859 new and improved houses, benefiting 236,165 persons, while 138,737 property titles were delivered to the benefit of 542,333 persons.

The Political Constitution of Nicaragua recognizes the existence of the collective right to their lands of indigenous peoples in the autonomous regions of the North and South Caribbean coast and 29 community titles were delivered, benefiting 92 indigenous communities, and 81 cays in 23 territories, benefiting 17,257 families.

In conclusion, the Government observes with great concern the criteria adopted for this urgent appeal to appear before this honourable Committee in a context in which social programmes and projects have been adopted in compliance with the spirit of the Convention, which refers to social policy, as a clear result of the good management of

the Government of Reconciliation and National Unity. Those policies logically ensure the welfare of Nicaraguan families, in the context of our commitment which we have been developing and will continue to implement, ensure and develop with working people, women and men workers, and the families of Nicaragua.

I wish to convey a warm invitation from the Government of Reconciliation and National Unity to the ILO, as we did on previous occasions, including when we held a meeting with them in my country, to visit us again, whenever they consider it appropriate, and to verify at first hand the content of this report relating to progress and the social policies that the Government of Nicaragua has been developing as one of its principal objectives to ensure the common good of the Nicaraguan family and to continue reducing poverty in general. Logically, this is in compliance with the common objective, which is to eradicate the scourge of poverty in general.

Worker members – This is the first time that the application of the Convention by Nicaragua has been discussed in this Committee. The case has been double footnoted by the Committee of Experts, which observed with deep concern that the political and social crisis that broke out in April 2018 has had a serious impact on the living conditions of the population as well as their enjoyment of human rights.

The protests resulted in a high number of victims. It is estimated that, up to February 2019, a total of 325 people lost their lives during the protests and 2,000 were injured.

In addition to these personal injuries, the crisis has had obvious consequences in a country that we know to be characterized by a high rate of poverty and significant levels of migration.

According to the World Bank, Nicaragua is the fourth poorest country in the Americas. Before the protests began, 36 per cent of the total population of 6.3 million people lived on less than US$5.50 a day. The situation of many Nicaraguans has significantly deteriorated, as 215,000 persons lost their jobs and 131,000 have fallen below the poverty line since 28 June 2018.

We would like to point out that, by ratifying the Convention, the Government of Nicaragua undertook to improve the standards of living of the population and foster social progress through economic development. In that regard, we note that Nicaragua has registered significant rates of GDP growth in recent years through the implementation of human development programmes aimed at improving employment and reducing inequality and poverty.

Based on the National Human Development Plan 2012–16, the Government of Nicaragua adopted the basic components of the National Human Development Programme 2018–21 in December 2017. More recently, in February 2018, the Country Partnership Framework for Nicaragua was adopted with the World Bank for 2018–22. One of the main goals of the Framework is to invest in people, particularly for vulnerable groups, and to encourage private investment for employment creation.

Nevertheless, we also note that, in the last few years, economic growth slowed by 4.7 per cent in 2016 and 4.5 per cent in 2017 and that the forecast is for it to contract by an additional 3.8 per cent in 2018.

In a country where the formal sector represents scarcely 20 per cent of the economy and the average legal minimum wage barely covers 35 per cent of the basic food basket for a worker and his or her family, this economic slowdown will have serious repercussions on the living conditions of Nicaraguans and the State's capacity to guarantee the well-being of the population through targeted and duly funded national policies.

In addition, some international observers have estimated the economic impact of this crisis in Nicaragua to be US$1,200 million in a country with a GDP of around US$14,000 million. Numerous sectors have been disproportionately affected, especially agriculture and tourism, the main economic sectors of the country. Investments in the country have been paralysed since April 2018. This could have a considerable impact on food security, as thousands of hectares of productive land have been occupied and destroyed, and more Nicaraguan workers could be under pressure to emigrate to neighbouring countries in search of work.

We refer to the concern expressed in October 2016 by the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) with respect to the significant number of border and seasonal workers who head, in particular, to Costa Rica and, increasingly, to Honduras, El Salvador and Panama. The CMW also observed that this migration is largely driven by poverty, inequality and social exclusion, which could place Nicaraguan migrant workers and members of their families in precarious or insecure situations.

For these reasons, appropriate national measures, and we have heard about some, must be taken to ensure that labour migration is really a choice and that Nicaraguans are not obliged to look for work in neighbouring countries for economic reasons because of the lack of sustainable opportunities in Nicaragua.

The Workers therefore call on the Government of Nicaragua to adopt and implement measures, in consultation with the social partners, to promote the economic development of the country so that all Nicaraguans are able to support themselves and their families and improve their standards of living. Measures should also be adopted to guarantee that the working conditions of migrant workers take into account their family needs, as provided for in Article 6 of the Convention.

Moreover, and without prejudice to the efforts made by the Government to encourage voluntary forms of savings, through the 277 registered savings and credit cooperatives in which around 107,615 salaried employees and independent producers are participating, we note with concern the lack of measures to support access to loans from financial institutions and to promote better knowledge of financing, particularly among women.

For this reason, we call on the Government to take measures to encourage voluntary forms of savings and facilities for seeking loans to protect wage earners and independent producers against usury, in particular by action aiming at reducing the rates of interest on loans, and to promote better knowledge of financing, particularly among women, as provided for in Article 13 of the Convention.

We wish to emphasize the importance of providing health services to all those injured during the protests and demonstrations that took place. The Government must initiate investigations into all allegations regarding the withholding of medical attention and ensure that health professionals suffer no ill consequences for having carried out their professional duties.

Finally, noting that the Government of Nicaragua still faces enormous challenges in improving the living conditions of the population and guaranteeing access to quality basic services for all, we note the recent adoption by the National Assembly of a law that cuts public expenditure by almost US$185 million, which represents approximately 7 per cent of the annual budget. This cut can and will affect Government plans in the health, housing, justice and education sectors, including in infrastructure and public works, and we warn that it could jeopardize the enjoyment of the right to work, health, education and food of the majority of the population.

The Workers urge the Government of Nicaragua to continue adopting policies and programmes for economic and social development in consultation with the social partners

and giving priority to the urgent need to improve the standards of living of the population.

In these processes, any budgetary cuts must be carefully reassessed, taking duly into account their impact on the State's ability to comply with its obligations with regard to the well-being and development of the population, as set out in Article 1 of the Convention.

Employer members – The Employers' group wishes to thank the Government representative and the Workers for their comments and the information that has been shared. The Government of Nicaragua ratified the Convention in 1981. The Convention contains provisions which focus on the objective of improving standards of living, the conditions of work of migrant workers, remuneration, non-discrimination and vocational training. The Convention has 33 ratifications and is covered by the initial part of the programme of the Standards Review Mechanism. Its predecessor, the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), only received four ratifications.

Nicaragua was a Member of the ILO from 1919 to 1938 and from 1957 up to now. It has ratified 62 Conventions, including the eight fundamental Conventions of the ILO. For Nicaragua, this is not a new issue, and this Convention has already been the subject of comments to the Government by the Committee of Experts. In its 2013 comments, the Committee of Experts sent a direct request seeking information on the results achieved by the National Human Development Plan and other initiatives adopted with a view to improving the standards of living of the population.

On this occasion, the report of the Committee of Experts identifies serious violations of human rights in the context of the social protests that began on 18 April 2018, which is of particular concern to the Employers' group. In addition to the loss of human life and the violation of the most basic rights, the aggravation of the situation of impoverishment faced by Nicaragua has its roots in this situation.

The present case is being discussed as a double-footnoted case, for which the Committee of Experts has requested the Government to supply full particulars to this Conference and to reply in full to the comments made.

Turning to the substance, with reference to the first issue that arises, that is the improvement of standards of living, the report of the Committee of Experts draws attention to the impact of the social and political crisis experienced by Nicaragua, which has had a serious impact on the living conditions of the population. In its previous comments, the Committee of Experts requested the Government to provide information on the results achieved by the Plan referred to above and other initiatives adopted with a view to ensuring the improvement of the standards of living of the population.

In this respect, the report reviews the information provided by the Government concerning the Country Partnership Framework for Nicaragua for 2018–22 with the World Bank to reduce poverty and promote prosperity for more Nicaraguans. The Framework is focused on investing in human resources, particularly for groups in a vulnerable situation, such as women, young people, small-scale producers who practise subsistence agriculture and indigenous communities and communities of African descent in rural areas.

While the Employers' group notes this Framework, which recognizes that 80 per cent of the population is vulnerable or poor, as well as the challenge of the rising demand for employment, it regrets that the Government has failed to provide the results of the National Human Development Plan, as requested by the Committee of Experts.

In contrast, alarming information is contained in the report of the United Nations Office of the High Commissioner for Human Rights (OHCHR), entitled *Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018*, which describes the serious human rights crisis in Nicaragua since the beginning of the social protests on 18 April 2018, which has been characterized by multiple forms of repression and other types of violence, resulting in thousands of victims, including around 300 deaths and 2,000 persons injured.

In this regard, the Employers' group urges the Government to take immediate action to ensure full respect for human rights and a conducive environment for employment generation.

As indicated by the OHCHR, the repression and violence are the result of the systematic erosion of human rights over the years and reveal the general fragility of institutions and the rule of law. It adds that the current crisis has deepened the polarization of Nicaraguan society. The Committee of Experts notes the view expressed by the Nicaraguan Foundation for Economic and Social Development (FUNIDES) that the situation that prevails in the country has resulted in the loss of 215,000 jobs since the beginning of the crisis, leaving 131,000 persons below the poverty line. It also reports the wave of illegal occupations of private land by pro-Government groups which, according to the estimates of the Union of Nicaraguan Agricultural Producers (UPANIC), as of 10 April 2019, resulted in the occupation of 3,291 hectares, without the Government giving any indication of safeguarding the rights of the owners. This is giving rise to a serious lack of legal certainty, without which it is not possible to implement any social policy.

The report also draws attention to other serious violations of human rights, including unlawful and unconstitutional acts of intimidation, threats, repression, de facto confiscations and unjustified delays in the clearance of imported goods, which have been denounced by the Higher Council of Private Enterprises (COSEP), the most representative employers' organization in the country.

In this regard, the Employers' group urges the Government to take measures to ensure the improvement of the standards of living of Nicaraguan nationals through the generation of decent and productive employment while also guaranteeing a conducive environment for enterprise sustainability. Another important aspect of the report of the Committee of Experts is related to the exercise of the right to health, which has apparently been seriously affected.

The Employers' group notes with concern the denunciation by the Nicaragua Medical Association concerning the manipulation of the public health system to refuse health care to persons injured during the protests, and the closure of hospitals by the authorities. We also note with concern the dismissal of medical personnel for treating those injured during the protests.

Turning to economic issues, the Committee of Experts notes that, according to official information from the Central Bank of Nicaragua, economic growth slowed down by 4.6 per cent in 2016 and 4.7 per cent in 2017, and contracted by 3.8 per cent in 2018.

The Employers' group endorses the request made by the Committee of Experts for the Government to provide detailed information, including statistics disaggregated by sex and age, on the results achieved by the National Human Development Plan, the Country Partnership Framework for Nicaragua and on all other measures intended to ensure the improvement of the standards of living of the Nicaraguan population. It also requests the Government to explain the extent to which the National Human Development Plan and the Country Partnership Framework are contributing to the creation of a conducive environment for sustainable enterprises.

With regard to the second issue, that is the situation of migrant workers, the report notes the information provided by the Government concerning the situation of migrant

workers. In this regard, the Employers' group notes the information provided by the Government concerning the agreement concluded with Costa Rica, which has permitted the regulated and orderly migration to that country of 28,452 Nicaraguan workers. Nevertheless, we express concern with regard to the concluding observations of the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families of 11 October 2016, which indicates that migration from Nicaragua is largely driven by poverty, inequality and social exclusion, resulting in Nicaraguan migrant workers and their family members being in a precarious and insecure situation.

The report on the situation by FUNIDES, referred to above, indicates that, since the beginning of the crisis, over 60,000 Nicaraguans have emigrated from the country. According to the data of th FUNIDES, around 52,000 Nicaraguans entered Costa Rica and established themselves there between January and September 2018. Moreover, it is estimated that around 5,000 Nicaraguans established themselves in the United States between March and July 2018. Other destinations chosen by Nicaraguan migrants include Panama and Spain, although information is not available on the numbers of persons who have migrated to these countries in recent months.

In light of the above, the Employers' group urges the Government of Nicaragua to take measures to guarantee the protection of migrant workers and their families, taking advantage of the technical assistance that can be provided by the Office.

In brief, for the proper application of the Convention, and so that the policies adopted are sustainable in the long term, as a minimum, good faith has to be shown by the Government in their design, consultation and implementation. The serious acts of violence referred to above give us grounds for questioning whether this is the attitude of the Government of Nicaragua, that is whether it is in compliance with these requirements.

Other facts also give rise to doubts, such as the appointment for this Conference as representatives of employers of persons who are not members of the most representative employers' organization in Nicaragua, COSEP, which is a member of the International Organisation of Employers (IOE). This issue is being examined by the Credentials Committee.

Similarly, the adoption of the Amnesty Act guaranteeing the impunity of those who have committed serious violations of fundamental human rights, and primarily of life, as indicated by the Committee of Experts, casts further doubt on the intentions of the Government in this respect.

Worker member, Nicaragua – I am addressing the members of this Committee surprised by the fact that our country appears on the list of double-footnoted cases on the basis of events that are far removed from the provisions of the Convention in question, ratified by the Nicaraguan State in 1981. The case refers to events that took place in 2018, treating the statements of third parties as absolute truth.

In reality, the Nicaraguan Government and people suffered and endured an attempted coup d'état to depose a Government legitimately elected in elections that were in compliance with our legislation and the will of our people.

The violence, which was fostered and supported by external forces and encouraged by the political right, business leaders and sectors of the Episcopal Conference of the Catholic Church, led to destruction, kidnappings and the death of 198 Nicaraguans. This attempted coup d'état was halted by the decisive determination of the Government, with the support of the population, to maintain peace and avoid conflict between brothers, as was the wish of the coup perpetrators and their protectors.

The sustained growth of the Nicaraguan economy, which has been recognized by specialist economic bodies, was significantly affected. Almost US$1.2 billion were lost during the three months of chaos and destruction resulting from the coup. The destruction, looting and burning of public and private buildings, installations and equipment resulted in substantial material losses and delays in construction projects and public investment.

The use of social networks, fake news, media linked to the interests of the Creole Right and international media at the service of fascists and imperial interests, were some of the tools used to peddle a chaotic image of our country and create the conception of a dictatorship and human rights violations in order to justify intervention through international bodies and institutions. Some governments took to judging our country without having the moral authority to do so.

In the report, reference is made to the organizations that fostered and carried out the attempted coup d'état. The leading business organization, COSEP, which is mentioned in the report, using blackmail and industrial pressure forced their men and women workers to participate in action instigated by the coup organizers and, subsequently, as they were hit by the economic crisis resulting from their political action, dismissed more than 125,000 men and women workers from their businesses, while in the public sector jobs were not lost and there were no delays or reductions in wages.

The other organization mentioned in the report, FUNIDES, is a non-governmental organization funded with resources sent from foreign agencies. It is made up of ex-officials from the neoliberal governments and linked to anti-Sandinista officials in other countries.

Regrettably, the report does not mention the economic blockade and suffocation measures imposed by external powers. These measures directly impact and limit social programmes and public investment and are a new way of intervening in the internal affairs of our country, since in the past troops were sent to violate our sovereignty and were defeated by patriots, such as General Sandino.

We regret that bodies claiming to uphold human rights have been biased in their action and have not reported or condemned the destructive actions of vandals and hooligans. On the contrary, they defend and protect the perpetrators of destruction and murderers, and they can read their own notes to verify this. They have distorted their role in relation to the situation in our country and dance to the tune of the empire, closing their eyes to the violence against men and women workers and social movements encouraged by Governments. They say that the marches were peaceful, but, for those of us who lived through this bitter time, it was not so. The so-called "roadblocks of death", supported by some bishops in the Catholic Church, business leaders and even bodies that claim to defend human rights, were centres for torture, rape, murder and the burning of human bodies. How can the actions of those who use violence to attain what the people have denied them be considered peaceful?

Just to give an idea of what we endured during those three months of terror and coup debauchery, I would like to inform you of the murder by the coup perpetrators of the leaders of the National Workers' Front (FNT): Wilder Reyes Hernández, Marvin Meléndez, Carolina Collado, Jorge Gastón Vargas, Marlon Medina Toval, Yader Castillo and Bismark Martínez. Bismark Martínez was kidnapped, viciously tortured and disappeared until three weeks ago. It has been confirmed that a body found in a ditch near a roadblock in the city of Jinotepe belonged to our leader. Those close to him and his work colleagues found no mention of these events in the complaint lodged with the Human Rights Council.

The buildings of the state radio station *Radio Nicaragua* and *Nueva Radio Ya* were burned down. Twenty-one workers were inside the latter and the perpetrators of the coup tried to prevent them from leaving the building while it burned. Amnesty International did not denounce these acts of vandalism, arguing that its role is only to monitor governments and that crimes committed by individuals must be tried by national courts. However, when giving effect to the law, the authorities of our country referred to kidnapping and political prisoners.

Two teachers were murdered, Alfredo Urroz Girón and Marvin Ugarte Campos, the Education Confederation building in the city of Masaya was set on fire and the trade union buildings in the cities of Jinotepe and San Carlos were looted and damaged. Fourteen teachers were kidnapped and tortured for not supporting the attempted coup and for guaranteeing the right to education of Nicaraguan children. Two public universities were used as command posts and torture centres by the coup perpetrators. The National University was looted and some of its facilities were destroyed.

Military weapons were used to murder 22 police officers; police stations were set on fire and members of the police force, brought together by order of the President at the request of the bishops and business leaders, were besieged. The homes of the trade union leaders of the union for the health sector were set on fire; ambulances and mobile clinics were set on fire; and surgical instruments and medicines were looted and stolen from medical centres.

Order has been restored and we are rebuilding peace in Nicaragua. Following the good example of tripartism in practice in Uruguay, we are maintaining the model of tripartism with more than 15,000 micro-, small and medium-sized enterprises, which are ultimately the largest sources of employment. We maintain forums for collective bargaining and the negotiation of minimum wages.

As a trade union movement united in diversity, we have condemned this attempted coup d'état and reject the blockades and economic sanctions instigated by those who consider themselves to be masters of the world. We are subject to the Nicaraguan Investment Conditionality Act (Nica Act), which conditions our access to credit in international organizations. These measures only harm our people and limit investment, affecting sources of employment for workers.

The difficult economic situation that our country is facing as a result of this attempted coup has not prevented access to the right to free education and public health from being guaranteed. Social programmes and investment in the construction of the infrastructure required for access to energy, health care, drinking water, mobility on the roads and communications are being maintained. Government institutions are ensuring assistance to the production sectors and self-employed workers through programmes of access to credit.

We support the forum for negotiation proposed by the Government and condemn the blackmailing and irresponsible attitude of the political Right and business leaders who turn to foreign governments asking and begging for the application of economic sanctions against our country.

We reiterate our position that organizations in the United Nations system, such as the ILO, should not be used for the interests of transnational corporations or the governments that consider themselves to be the masters and the owners of this world, which encourage wars to destroy developing countries and then persecute and condemn those who emigrate as a result of these acts of war.

The practice of social dialogue, with effective results, has enabled workers to be active in economic and social transformations. Accordingly, within the framework of the provisions of the Convention, the social policies promoted by the Government of Reconciliation and National Unity have made it easier for workers to address economic difficulties and eradicate poverty in our country.

Nicaragua wants peace and work; Nicaraguans want tranquillity and to build, adapted to our own situation, social consensus based on respect and tolerance.

Even though several of our trade union leaders and workers were killed in the attempted coup d'état last year, we support government efforts to seek peace through legislation, such as the Amnesty Act, and programmes to care for victims and their families.

The men and women workers whom we represent in this Committee, based on reasoning and their experiences, call on this Committee not to issue any recommendations against our country, as this report is not in compliance with the provisions of the Convention.

Employer member, Nicaragua – I am here as a representative of the private sector, which is the employer for most areas of production, construction, transport, trade and services. In response to the allegations made, I was invited by the Government of Nicaragua as president of the association that I lead and which, together with the Nicaraguan Board of Micro-, Small and Medium-Sized Enterprises (CONIMIPYME), represents over 60 per cent of entrepreneurial capacity. There is another organization that is functioning, which has been heard and which has losses as great as ours, resulting from all the issues arising out of the violent actions that have occurred since April last year. Through our presence here, we are showing the interest of employers in achieving better labour relations between workers and employers, including the government authorities, taking account of the progress already noted by the ILO in labour matters and the progress that can result from this important Conference.

I would like to position our country, Nicaragua, in the context of labour relations, its achievements and aspirations, with reference to the following aspects. At the level of the Constitution (the supreme law of the country), a relationship was established between the Government and the private sector, in which the focus was placed on all stakeholders and all associations of private employers, and we have been working for several years in which we have achieved ongoing growth, as has already been mentioned. It has been an example of openness and of excellent relations, and we have been visited by various countries to discover our experience so that they could seek to do something similar in their countries. There is agreement between enterprises, the Government and workers, through the establishment of the tripartite commission with its approach based on the holding of meetings and discussions with the aim of adopting conclusions and agreements. In the past, we achieved growth in the national economy ranging from 4.6 per cent to 5.1 per cent, as recognized by the World Bank, for a number of consecutive years, and by FUNIDES, an organization that is resourced, financed and works for other interests to the detriment of the national interest. We achieved growth in the volume of production and the volume of exports of the main goods that we produce. We had excellent public security, which was recognized in the region, not only in Central America, but also in the countries of Latin America, which also gave rise to visits to see the functioning of the national police. Before the problems, there was an improvement in the police, in protection, and we had the best level of security in the region. With this policy, there was a reduction in poverty, including extreme poverty, as a result of the creation of more jobs by enterprises and the implementation of government policies. There are various other relevant aspects that created a very positive climate for the overall growth of our country.

That said, we regret the consequences of the lack of consensus that interrupted a tripartite dynamic which, until that

time, had been effective and achieved great results, as recognized by the international community. The crisis that developed could have been prevented earlier, if the political parties had shown the maturity to hold an honest, sincere and transparent dialogue. Hence, as the most acute part of the crisis is over, it is time once again to appeal to all parties to engage in dialogue for a genuine economic, social and political compromise through a dialogue mechanism to find a peaceful solution to this situation.

In light of the above, we had been working and growing in our businesses until we were interrupted in 2018 by acts of violence, looting and attacks on public safety and the right to work through obstacles in the streets and highways, roadblocks by armed persons, disrupting the flow of goods, which had a major impact on the whole business sector in Nicaragua.

We were surprised by all of this, which created a pernicious situation overnight, resulting in the destruction of commercial zones, government buildings, installations and construction equipment, which directly affected our enterprises, with the consequent loss of sources of employment, the reduction of national and foreign investment, a fall to minimum levels of tourism, which had been growing and in full development. It is not my place here to highlight those responsible for such acts of destruction. These acts, which affected the national economy, had a direct impact on all large, medium-sized and small enterprises. It was only logical for our private enterprises to be forced to suspend workers. Worse still, the national bank stopped all financing, blocking any investment in all areas of the economy and limiting the financial guarantee service for all enterprises. As a result, quite apart from all the destruction, it is the financial blockage that is limiting the development of most economic activity.

Despite all that, during all the events and the crisis, our enterprise capacity continued, maintained trade and, to a certain level, ensured the availability of work for workers, showing care for the population and keeping enterprises open despite the calls for national stoppages, which seriously affect the economy. It should be emphasized that many of these calls were accompanied by threats to enterprises to oblige us to close. At the time of reporting, the security of citizens and economic activity have been recuperated, within the financial limitations and the threat of sanctions that would affect the investments that are so necessary for the development of my country. All of this is limiting the access of the population to mobility, services and job vacancies. In this respect, I would like to emphasize the role of the ILO in reporting the real situation, which is very different from the situation described in biased reports, or by persons who do not know the situation, who have not even been near our country, and the sources of information that have distorted the situation experienced by our enterprises, which is imperilling the work of our labour force.

All of the above has resulted in great losses for our enterprises, for employment and in other areas, giving rise to a negative image which we, as entrepreneurs, refute. We call on the ILO to maintain its profile with the underlying objective of protecting labour, and not to let itself become a pawn for political interests that are opposed to its valued work.

As entrepreneurs, we have become embroiled in a political situation that is foreign to our nature. Nevertheless, we have held firm and have organized ourselves to protect our interests. We reaffirm our commitment as entrepreneurs to economic well-being. Our impartiality is our unique vision of maintaining the production that cost us so much to develop. We reaffirm our social and entrepreneurial commitment not to let spurious political considerations become associated with and lead to a deterioration in the image of our country and its productivity with a view to continuing to improve the life of Nicaraguans.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The candidate countries Republic of North Macedonia, Montenegro and Albania, the European Free Trade Association (EFTA) country Norway, member of the European Economic Area (EEA), as well as Georgia align themselves with this statement. We attach great importance to human rights and recognize the important role played by the ILO in developing, promoting and supervising international labour standards. The European Union and its Member States firmly believe that compliance with ILO Conventions is essential for social and economic stability in any country and that an environment conductive to dialogue and trust between employers, workers and governments contributes to the creation of a basis for solid and sustainable growth and inclusive societies.

The European Union and Nicaragua have established a close relationship, based on the Association Agreement between the EU and Central America, which includes three main pillars: political dialogue, cooperation and trade. An overarching objective of the Association Agreement is to contribute to inclusive and sustainable economic development, full and productive employment and decent work.

We express deep concern over the very serious political, economic and social crisis affecting the country since April 2018. The situation with regard to violations of human rights, including social and labour rights, is also very worrying. At the Human Rights Council in March, we requested the Government to stop repression and ensure justice, dialogue and democracy, which are the only way out of the crisis. We also called on the Government of Nicaragua to cooperate constructively with the Inter-American Commission on Human Rights and to allow the return of the Office of the United Nations Commissioner for Human Rights.

With regard to the specific case before us, related to the Convention, we would like to recall that all policies shall be primarily directed to the well-being and development of the population, and that the improvement of standards of living shall be regarded as the principal objective in the planning of economic development. As mentioned in the report, 80 per cent of the population is vulnerable or poor in Nicaragua.

We express deep concern about the very high unemployment rate, the high number of workers who have lost their jobs or even fallen into poverty as a consequence of the crisis in Nicaragua and the politically motivated dismissals of public officials, notably in the health sector, and business closures ordered by Government as retaliation against dissenters. Furthermore inequality, poverty, social exclusion, violence, insecurity, repression and persecution in Nicaragua are driving an increasing number of people to neighbouring countries.

We therefore urge the Government to take the necessary measures to improve the standards of living of the population, starting with the respect of fundamental rights. These measures should aim at addressing basic needs related to food, housing, clothing, medical care and education in the short term, as well as implementing inclusive economic and social policies aimed at the eradication of poverty in the mid- and long-term. We are concerned by the cuts in public spending approved by the National Assembly in August 2018 and we stress the need for the Government to ensure adequate budget allocation to social policies in order to compensate for the impact of the crisis on the Nicaraguan population.

We welcome the Partnership strategy adopted with the World Bank for the period 2018–22 and would be interested to know what are the measures undertaken within this framework to reduce poverty and enhance living standards,

in particular for those in situations of vulnerability: women, children, young people, subsistence farmers, persons with disabilities, indigenous people and people of African descent. We also encourage the Government to avail itself of ILO technical assistance to this end.

We would also like to express our strong concern about the reported wave of illegal occupations of private land by pro-Government groups, as well as other violations of rights, including attacks against enterprises and unjustified delays in the clearance of imported goods.

We would like to recall also that access to finance is an essential enabling condition for economic growth. Microfinance in particular is key to helping the poor to sustain day-to-day living, create income-generation opportunities, provide for education for their children and care for the sick and elderly. In this context, we concur with the experts' recommendations that the Government should encourage further voluntary forms of thrift and protect wage earners and independent producers against usury, as well as promote financial literacy, with specific focus on women.

The EU will continue to monitor the situation closely and underlines its readiness to use all its policy instruments to contribute to a peaceful negotiated way out of the current crisis and prevent further deterioration of human rights and living standards in Nicaragua.

Worker member, Colombia – On behalf of the workers of Colombia, we express solidarity with workers in Nicaragua, as we understand the challenge that peace-building entails for a nation, for civil society and for the workers, especially in Latin America. Nicaragua was included on the list of countries to be examined by the Conference Committee on the basis of the special comments indicating "deep concern" by the Committee of Experts. The Colombian workers also hope that "deep concern" will be expressed in the next report of the Committee of Experts in response to the massive increase in murders of social and trade union leaders in our country.

Nicaragua is a country fighting to rebuild its social fabric, reverse inequity, regenerate employment and guarantee labour rights, which all deserve international attention, but not interventionism or judgement of its processes. It is a question of supporting its democratic institutions in solidarity with its endeavour to achieve social inclusion and improvements in the standards of living of the population, and to contribute to the implementation of optimum social standards. Doing the opposite is tantamount to inciting those who do not really want progress or the well-being of the Nicaraguan people, who deserve now more than ever full enjoyment of their sovereignty to resolve internal matters, like many others on the American continent, who are today victims of those who think they are entitled to violate the free right of self-determination of peoples. The Colombian people have also been victims of the loss of sovereignty.

For Nicaraguan workers, in the same way as Colombians, we believe that it is possible to overcome the causes of the conflicts and establish a lasting and stable peace, despite the constant attempts to destabilize peace or to return to earlier situations that are affecting both countries instigated from outside or by internal minorities who do not want peace and who promote internal disorder, claiming a false defence of democracy, thereby discrediting national institutions. The path of violence and conflict to destabilize progressive internal processes will always endanger guarantees of workers' rights and productivity.

The disturbances, which prompted the report of the Committee of Experts and this invitation to Nicaragua to appear before the Committee, have endangered the life, safety and well-being of the population. We believe that they are caused by opposition to the current national Government, whose policies may be prejudicial to their specific interests.

In Nicaragua, as in Colombia, social and trade union leaders continue to give their lives to fight for human rights, more and better jobs, higher income for the majority of the population, to defend production and national development, and to call for the consolidation of peace, which is the only means of guaranteeing the progress and well-being of peoples. Let us allow the Nicaraguan people to build their own future and, in so doing, comply with the requirements of this house.

Government member, United States – We are troubled by the serious political and social crisis in the country stemming from the April 2018 protests. In particular, we are concerned by the serious allegations of violence, stigmatization and interference against employers and workers that are noted in the OHCHR's report on the 2018 protests, specifically by an unprecedented wave of illegal occupations of private land by pro-Government groups, reports of attacks against enterprises, reprisals against public sector workers, including the dismissal of physicians, nurses and administrative staff for treating individuals injured during the protest as well as dismissals of professors and teachers for participating in these protests. We note that there is currently little information available about these reported instances. For example, what steps have been taken to address these allegations and reprisals? What are the future efforts to prevent similar violations? We urge the Government to take all necessary measures to comply with international labour standards, including through close cooperation with the ILO and social partners. To that end, we strongly encourage the Government to avail itself of ILO technical assistance.

Worker member, Panama – We must first express our regret at the events that occurred in our sister Republic of Nicaragua in April last year. The Dantean scenes of people being burned alive must never be repeated. There can be no doubt that there are persons responsible for these acts, and we understand that the courts have begun to call on them to answer for their barbaric acts.

In ILO bodies, such as this one, we realize that we must call for peace for the Nicaraguan people, and for a way out of last year's general crisis. Social dialogue is being painstakingly developed and has at least led to some significant progress at this stage, notably the process for rebuilding peace and reconciliation among Nicaraguans since the terrible acts referred to above. This dialogue between the parties has also been supported by international bodies, as a result of which 1,500 peace committees have been established, and it is hoped that 5,000 will be set up in each region to address the different problems that are afflicting the country, including the situation that arose last year.

The process of recovering economic and social stability is emerging and is undoubtedly now showing important signs of progress. Just this month, the Amnesty Act was adopted for all the parties to the conflict that broke out last year. This should undoubtedly help dialogue to progress.

Dialogue is covering the development of social policies and employment creation, housing, health, drinking water, education and state reform.

In the short term, the agreements reached in the peace commission will enable the parties to continue developing all the policies required for peace in Nicaragua for the Nicaraguan people.

Observer, Public Services International (PSI) – We are taking the floor in an atypical case for this Committee, as we are analysing the compliance by Nicaragua with the provisions of the Convention in a context of political and social crisis and the aftermath of that crisis. We emphasize this because it is a key point, because it has occurred before and will occur again in the Americas, Asia, Africa, as well as in developed countries.

This is a country that, for various political, economic, structural or topical circumstances, for reasons linked to its

domestic policies, or resulting from its foreign policy, for regional reasons, or even as an effect of international economic crises, can suffer major internal upheaval, with grave repercussions for its economy and immediate impacts on its public budget and, as a result, on the level of coverage of its social policies.

In such a situation, the international community cannot be indifferent. International bodies and social stakeholders cannot remain indifferent. We must be involved, that much is clear. The way in which we are involved must reflect absolute respect for the independence of peoples and an appreciation for their sovereign decisions.

This is why we are asking ourselves in this debate: What should the role be of the international community and the ILO? To judge the facts? To impose penalties? To take sides with one party or another? To influence national policies?

The answer is an emphatic "no". The role of the international community must be to work together to seek peace, mediate consensus, provide practical support by offering solutions, and also, taking our analysis a step further, we consider that the international community should contribute with specific economic resources and development financing to the sustainable operation of the public and private sectors, working together to ensure compliance with social policy standards for the benefit of those who have the least and who have no hope.

In April 2018, a crisis broke out in Nicaragua that caused a painful toll of fatalities, on the one hand, and antagonistic positions, on the other, with knock-on effects on the economy. We saw universities being broken into and looted, their property destroyed, and it was impossible to hold classes.

The labour movement wants peace in Nicaragua, as well as respect for its independence and the democratically expressed will of the people. Let us help Nicaragua, right now, with more resources and fewer speeches, more emphasis on agreement than divergence, focusing on the needs of people, who urgently require guarantees of their rights, as enshrined in ILO standards on social policy. Let us not use the problems of Nicaragua, or any other country, as a camouflage for ideological debates. It is not helpful for peace and social protection to block foreign investment in Nicaragua, impose conditions on its foreign trade and antagonize the Government. Nor is it helpful to wag an accusatory finger from comfortable armchairs in developed countries.

Many things changed in the world between 1919 and 2019, but one thing that has not changed, as stated in the Philadelphia Declaration, is that "poverty anywhere constitutes a danger to prosperity everywhere" and that "lasting peace can be established only if it is based on social justice".

Government member, Bolivarian Republic of Venezuela – The Government of the Bolivarian Republic of Venezuela welcomes the presentation made by the Government representative in relation to compliance with Convention No. 117. We have heard that the Government of Reconciliation and National Unity is giving full effect to the policy of food security and sovereignty with a view to achieving the objectives and aims of the National Human Development Programme, the Millenium Development Goals and the Sustainable Development Goals (SDGs). We appreciate the progress made by the Government of Nicaragua in eradicating general and extreme poverty, as well as the implementation of policies and laws which promote and guarantee labour rights. It should be emphasized that new trade unions have been registered which are participating actively in collective bargaining in the public and private sectors. We welcome the fact that the labour inspectorate is actively supervising the protection of workers, preventing any type of discrimination, protecting children, young persons, persons with disabilities, women and indigenous peoples and that the provision of free education is guaranteed.

We consider that this Committee should take into account the positive aspects noted in the explanations provided by the Government of Nicaragua. The Government of the Bolivarian Republic of Venezuela hopes that this Committee's conclusions, resulting from this debate, will be objective and balanced, and unconnected with the political interests opposed to the Government of Nicaragua.

Government member, Canada – Canada thanks the Government of Nicaragua for the detailed information provided. Canada also acknowledges the important progress Nicaragua has made over the last several years in improving the standard of living in the country. However, much of that progress is now at risk of being undone due to the deteriorating situation of human rights since April 2018 and the impact on the country's economy. Canada remains deeply concerned by the difficult social and political situation. We also echo the concerns of the Committee of Experts regarding Nicaragua's adherence to the Convention, whose primary goal is to ensure the well-being of a population.

In particular, Canada takes note of the reported recent loss of over 17 per cent of jobs in the formal economy; significant losses within the informal economy; the increasing number of people falling below the poverty line; reports of attacks on enterprises; cuts to social spending on health, housing, justice and education; the denial of medical care for persons involved in protests in 2018 and the dismissal of persons who offered to provide such care; the large migration of workers due to poverty, inequality and social exclusion; and the alleged lack of measures to support access to financial institutions and promote financial literacy, particularly among women. All have a serious negative impact on social and living conditions of a population.

Canada fears that if the situation continues along its current trajectory, there will be serious, long-term impacts on the socio-economic development, security and stability of Nicaragua.

In that regard, and recalling Canada's recommendations on Nicaragua earlier this year in the context of the Universal Period Review, Canada calls on the Government of Nicaragua to, without delay:

- continue to implement measures aimed at improving the well-being and standard of living of all Nicaraguans, and particularly those of populations in vulnerable situations, by taking into account essential needs such as food, clothing, housing, healthcare and education;
- ensure decent working conditions for all workers, and especially migrant workers required to live away from their homes;
- protect wage earners and independent producers by supporting access to financial institutions, including savings and credit cooperatives, and promoting financial literacy; and
- avail itself of technical assistance of the ILO in the furtherance of these goals.

Canada has long worked with the Nicaraguan people to help increase economic development, reduce poverty and increase security and remains committed to doing so, including by supporting Nicaragua's endeavour in implementing and respecting the principles of the Convention.

Employer member, Honduras – We view with concern the social and political crisis faced by Nicaragua provoked by the policies adopted by the Government. The crisis has endangered the economic and social rights of citizens, such as the right to work, health, education, food and entrepreneurship, resulting in an economic recession that is discouraging and diverting investment and leaving Nicaraguan citizens without opportunities, to the detriment of the

standards of living of the population, especially the most vulnerable categories.

On the basis of FUNIDES data, by the end of 2019, some 9 per cent of Nicaraguans will be suffering from extreme poverty, 21 per cent from general but not extreme poverty and 21 per cent will be vulnerable. In other words, if the social and political crisis that is affecting the country continues, half of the population will be at risk of poverty.

These worrying indicators, which are prejudicial to the social and economic rights of persons and of enterprises, have their origin in a series of measures adopted by the Government, including the increase in the price of energy, the reform of social security, the fiscal reforms, the lack of financing and the rise in the interest rates for the credit that is available, the increase in exchange costs, the rise in the price of fuel, the migration of workers, the reduced supply of labour in production zones, the low international prices for agricultural products and livestock and climate uncertainty in the agricultural and livestock sector. All of the above points to a clear violation of the general principles of the Convention. Article 1 provides that all policies shall be primarily directed to the well-being and development of the population and to the promotion of its desire for social progress. The issue in relation to this technical Convention is because the Government of Nicaragua has stopped implementing social policies which promote the best social action in any country, which is employment.

We also condemn all unlawful acts, including intimidation, threats, repression and unjustified confiscations when clearing imported goods, as denounced by COSEP, the representative body of employers in Nicaragua.

We urge the Government of Nicaragua to take the necessary action on an urgent basis to create decent living conditions for Nicaraguan citizens and to guarantee the right to free enterprise in Nicaragua.

Government member, Cuba – My delegation wishes to place emphasis on the information provided by the Government of Nicaragua. The fact that sustained economic growth has resulted in a fall in the inequality rate and the reduction of poverty shows the commitment of Nicaragua to social justice.

We recognize that the Government has allocated resources to the extension of social infrastructure and the restoration of the right to work and social security, health and education, and that subsidies have been provided for basic services to the population. It is also positive that laws have been adopted which recognize, protect and guarantee labour rights, such as the rights of persons with disabilities and other population groups. Various social programmes are also being implemented for the protection of the population and the improvement of their standards of living.

All of the economic and social progress achieved by the Government of Nicaragua, as reported to the Committee, has been achieved despite the aggressions of various types suffered by the Government. In this respect, my delegation opposes any punitive approach, selective practices and the political manipulation of the Organization's supervisory bodies, and we warn that such action could result in a lack of credibility of the Committee and of the spirit of cooperation.

Worker member, Cuba – The arguments put forward against the Republic of Nicaragua once again show that external aggression, the promotion of internal disorder, political motivation based on outside and individual interests only lead to the suffering of peoples, their destabilization and the loss of social and labour progress, among other ill effects.

Cuba and the Bolivarian Republic of Venezuela, among other countries, have also been the victims of such attacks. Economic, financial and commercial blockades have been imposed upon us to slow down the social and development policies in our countries, and to discourage workers in their efforts to construct our countries, and to stimulate the exodus of the labour force.

This is clearly a case in which the accompanying political elements totally minimize the technical issues that may arise and any failure to comply with the Convention.

For over 40 years, Nicaragua has endeavoured to implement social development projects through national plans and regional integration to help raise the standards of living of its population and promote social and labour inclusion.

Many of the issues taken up as elements of this discussion lie within the competence of the Human Rights Council, and not this Committee. We fully agree with the indications made by the Worker member of Nicaragua and we hope that the Committee will take them into consideration in the conclusions for the case, for which we see no pressing reason for inclusion in the list of 24 cases for discussion.

Government member, Honduras – The delegation of Honduras expresses its support for the sister Republic of Nicaragua. We note the action taken by the Government of Nicaragua in accordance with the Convention for the implementation of public policies through socio-economic projects for women and rural populations, in conformity with the National Human Development Programme 2014–18. We welcome the fact that this Programme also envisages fundamental rights, such as free education at all levels and coverage by a model of family and community health, as well as the guarantee of social security. We note positively the efforts and scope of the action in Nicaragua to promote gender equity and the enjoyment by women of broad guarantees and participation. With regard to labour migration, we refer to the importance of the protection and promotion of the labour rights of migrant workers as the pillars for the implementation of programmes for orderly and temporary labour migration. Finally, Honduras encourages the Government of Nicaragua to continue promoting the development of institutional mechanisms, in accordance with the spirit of the Convention, and particularly in a context of social dialogue and tripartite consensus.

Worker member, Bolivarian Republic of Venezuela – The Worker delegation of the Bolivarian Republic of Venezuela fully supports the efforts made by the Government of Nicaragua in the Country Partnership Framework for Nicaragua 2018–22 with a view to reducing poverty and promoting the prosperity of Nicaraguans in its clear and specific effort to give effect to Convention No. 117.

Nicaragua, in the same way as the Bolivarian Republic of Venezuela, agrees on the national agenda to seek to meet the basic needs of the population through policies which allow the just social distribution of the wealth created by public and private enterprises, the creation of more and better jobs, the satisfaction of the basic needs of the population, the creation of social security programmes, and particularly action for vulnerable social groups, such as indigenous peoples, Afro-descendent youth and rural workers.

We do not understand how countries such as Nicaragua are placed on the list of cases to be examined by the Committee, as Nicaragua is very far from being a Government that is in violation of ILO Conventions. In our Latin American continent, we are faced with blatant interference by imperialism, which has its own name, is very precisely located in geographical terms and which, in alliance with the Employers, is not ashamed to admit publicly to the world that its goal is to appropriate the wealth and economic growth and development potential of our countries. We do not forget that Nicaragua is the potential host of an inter-ocean canal of strategic importance for the whole of trade and all the peoples of the world. For this reason, the empire is engaging in blockades and the commercial boycott of our countries to subdue the peoples and promote acts of violence, such as those that have been widely reported in this forum.

The Employers are endeavouring to use this tripartite international forum as an instrument of interference. The Employers are seeking to make the Office's action ever more political to confront revolutionary governments which defend workers and which religiously apply standards and Conventions. In the same way as with Nicaragua, Employers are attacking the Boliviarian Republic of Venezuela, which is currently the subject of a Commission of Inquiry at the request of the Employers and a group of Latin American countries, despite the ridiculous paradox that these Employers do not recognize the Government of Venezuela, but are trying to make the ILO impose dialogue on a Government that they do not recognize.

We are alerting the Office to these underhand intentions of the Employers in collaboration with the imperial government and other governments in the subregion. Nicaragua, in the same way as the Bolivarian Republic of Venezuela, is building a just and peace-loving society. It is bitterly regrettable that on the Centenary of the ILO, an attempt is being made to apply sad procedures to penalize governments that are working for the well-being of men and women workers.

Government member, Mexico – On behalf of the Government of Mexico, we give thanks for the presentation of the report on the measures adopted by Nicaragua in response to the comments made by the Committee of Experts. In the view of Mexico, the objective of an effective social policy is to achieve the well-being of persons and cohesion in societies. Such well-being requires the decisive presence of the State for the development of strategies guided by a concept of development that combats inequality and social injustice and promotes sustained economic growth through the improvement of public health and social security, food, housing, education, employment opportunities, working conditions and wage rises.

With regard to the present case, Mexico recognizes the willingness of the Government of Nicaragua to provide further information on the comments of the Committee of Experts on the measures taken to improve the standards of living of the population of Nicaragua, and particularly for vulnerable groups, including women, young persons, persons with disabilities, small producers engaged in subsistence farming, and indigenous and Afro-descendent communities.

The Government of Mexico also emphasizes the announcement that Nicaragua is adopting measures to ensure that account is taken in the conditions of work of migrant workers of their family needs. The development of a framework for labour migration based on a human rights and decent work approach is a fundamental step in guaranteeing the full respect of rights in this sector. We therefore welcome any progress made in such an important area for our region.

Finally, the Government of Mexico notes the announcement by the Government of Nicaragua that it is seeking effective methods of collaboration with the ILO to give appropriate follow-up to this case. We encourage the Government of Nicaragua to continue its collaboration with the Organization for the implementation of inclusive social policies for the benefit of the fraternal people of Nicaragua.

Government member, Myanmar – As we recognize Nicaragua's efforts for economic and social development of its people, Myanmar welcomes the implementation of the model of alliance between the central Government and the private sector together with the workers. We are encouraged by the commitment and step-up measures of the Government of Nicaragua to restore the rights of women to participate at decision-making levels. We also recognize Nicaragua's efforts to promote universal access to health care and strengthen the right to health through a Family and Community Health Model. We welcome Nicaragua's Education Plan 2017–2021 which guarantees education for all without any cost. In addition, we also welcome the efforts of the Nicaraguan Government to promote and protect labour rights by making efforts to strengthen tripartism, trade union freedoms, and alliance among Government, workers and employers. In light of these positive developments, especially in the areas of education, health, women's rights and labour rights, we expect that the case of Nicaragua would be a case of progress if it were discussed next time.

Government member, Russian Federation – We would like to thank the representative of the Government of Nicaragua for the information on the measures that have been taken to comply with the provisions of the Convention and outlining the objectives in the area of social policy. It is clear that the efforts of the Government to fight poverty and improve the economy are taking place, and it is necessary to continue on this path to resolve the difficult social problems which Nicaragua is currently facing. This success here depends upon the Government's capacity to fully abide by the provisions of the Convention. Ultimately, social stability in that country depends on that as well.

We welcome the set of measures that the Government has been applying in the area of labour relations and the National Programme to Protect Families and Women. The improvement of the National Education Programme has already brought positive results and these positive efforts have gone hand-in-hand with reforms of the legislation, as well as improvements in the administration and the courts. We highly value the technical contribution of the ILO to this process and hope that it will continue.

Government member, Belarus – Belarus would like to thank the delegation of Nicaragua for the report that it has provided. The improvement of living conditions is a key part of efforts in the country and these efforts cannot be limited in time, especially under difficult economic conditions. We welcome the accompanying measures, therefore, of the Government of Nicaragua to achieve social development especially for vulnerable segments of the population. We would emphasize the openness to constructive cooperation with the ILO, including an invitation for the Organization to visit the country and we call upon the Organization to support the country through social dialogue in full respect of the principles of the UN Charter. We recognize the need for partnership with Nicaragua in the broad context of the achievement of the SDGs.

Government member, Plurinational State of Bolivia – The Plurinational State of Bolivia welcomes the statistics provided, as well as the detailed information supplied by the Government of Nicaragua on the efforts made and progress achieved through its social policy.

We welcome the reduction in poverty and the average economic growth that is higher than the global average economic growth. We also acknowledge the fall in maternal mortality as a result of the model of family and community health. In the field of education, we welcome the efforts made by the Government of Nicaragua to guarantee the human right of free education for all, while also taking into account the cosmovision and languages of indigenous and Afro-descendent peoples.

We therefore encourage the Government of Nicaragua to continue furthering its social policies for vulnerable groups.

Government representative – Nicaragua takes very seriously its foreign policy and the international community, its international commitments and those acquired under the various ILO Conventions that we have ratified. In this respect, I would like to emphasize that the Government of Nicaragua is acting with objectivity concerning the events that occurred on 18 April, as shown by the fact that in recent days the Government of Reconciliation and National Unity has complied with all the agreements reached through the dialogue forum, including the release of citi-

zens who were detained for undermining economic, political and legal stability and prejudicing the psychological stability of Nicaraguan families. The releases are in compliance with the entry into force of Act No. 996, the Amnesty Act, which, following its publication in the *Official Gazette*, which grants, as is right, a pardon for all acts by all citizens who participated in the events that occurred on the national territory as from 18 April 2018.

It should also be noted that 1,594 reconciliation, justice and peace commissions have been established throughout Nicaragua and that they are operating at the departmental, national and municipal levels, and in the north and south Caribbean Coast. The operation of the commissions is based on the identification of the persons, families and communities who were victims of the failed attempted coup d'état. The commissions have held community working sessions to examine, analyse and achieve the adaptation of the work plan of the Government of Reconciliation and National Unity for the consolidation of stability and peace in Nicaragua, in coordination with government institutions and religious leaders, which are planning support action to help overcome resentment, grief and feelings of loss and pain. For that reason, the commissions are taking action to help strengthen the culture of Christian brotherhood, dialogue and understanding. What is most important is that those who are participating in the commissions, during their establishment and functioning, include families, educators, health, social, community and religious leaders, young persons, faith delegates, male and female deacons and pastors.

With regard to migrant workers, the movement was facilitated through national and binational coordination of 28,452 Nicaraguan migrant workers who moved to Costa Rica in a regular and orderly manner (although not solely in the context of 18 April, as migration occurred before that date for reasons of employment or on other grounds) during the various agricultural cycles between 2006 and 2018, with many workers engaging in general agricultural work and construction. These measures have been taken under the coordination of the institutions involved in migration issues, which logically include the General Directorate of Migration and Foreign Nationals and the Ministries of Labour of both countries, as well as the General Consular Department of the Ministry of Foreign Affairs of Nicaragua. Most of the workers who emigrate under binational procedures are men, as the work offered by the various enterprises is in the agricultural sector in sugar cane, melon and pineapple production. But it should be pointed out that Nicaragua has never been of the view that its nationals should migrate to other countries.

Nicaragua has stood out in maintaining higher levels of economic growth than the average for Latin America and the Caribbean.

The Government has made every effort to ensure that the tax reform is as equitable, technical and harmonious as possible, and that it is closely adapted to or will be adapted to the national situation of the country. In this regard, it should be noted that the proposed measures intended to cover social issues are totally untouchable and are guaranteed in their totality, and that this has been the case since we took office in 2007.

I also wish to emphasize that the Government is running one of its emblematic programmes, as reference has been made here to the lack of credit for small enterprises, namely the Zero Usury programme, which covers the whole country, and all women in general. Through the programme, considerable amounts of credit have been provided for work and the development of production and trade to 2,691 beneficiaries in 820 interest groups in 86 municipalities throughout the country during the course of 2019.

In May this year, the Government presented, through the Ministry of Agriculture, the National Production Plan, which covers 13 policy areas, including the promotion of investment, water resources, phytosanitary systems and policies for the promotion of productive activities. Specific support has also been provided to 70,000 families for production, focusing on the beginning of the 2019–20 agricultural cycle to increase production, and of course productivity, at the national level. Production has continued to increase, as planned, growing by 76 per cent in absolute terms, both in terms of livestock and agricultural crops. We have achieved levels of provision for national consumption which guarantee the food security of the Nicaraguan family.

The Ministry of Education is undertaking a nutritional and school census, with data collected up to now on 176,702 boys and girls who have been weighed and measured, with the objective of 1,600,000 boys and girls, representing an increase of 11 per cent. We are continuing to work to supplement the census within the established deadline.

In relation to the comments on the alleged serious human rights situation in my country, Nicaragua, last month the State of Nicaragua submitted its third universal periodic review to the Human Rights Council, and I therefore urge those interested to take note of, read and analyse the review, which will be submitted to the 42nd Session of the Human Rights Council.

With regard to the comments concerning land, it would be essential to provide proof. We heard "occupation of lands", but no type of the necessary evidence was provided in support of this apparent affirmation.

Moreover, I consider it very important to indicate, concerning the dismissal of employees in certain enterprises, that the State of Nicaragua, and the public administration of Nicaragua, has worked unceasingly every day of 2018 and up to now and that no man or woman worker has been dismissed for political reasons.

I would like to make it very clear that there have indeed been cases of suspension from work. Of course there have. However, certain Employer representatives have been saying that there have been dismissals. But it is private enterprises that have been cutting and dismissing workers, not the Government. It is necessary to examine the history of what happened, the roots of what happened, as from 18 April.

Our Government is making every effort to make progress each day in reducing unemployment and ensuring greater employment stability. We said so in the agreements concluded recently in the dialogue forum, which are designed to ensure the participation of men and women workers in managing the active development of enterprises. And for this reason, our Government in Nicaragua maintains that its nationals should not migrate for any specific reason. And the agreements include a plan, which is already being implemented, for the voluntary return of Nicaraguans abroad, who left in the context of the violence that occurred as from 2018, in collaboration with the International Organization for Migration (IOM). The plan guarantees all constitutional rights and security, because Nicaragua continues to be one of the safest, if not the safest, country in Central America, with a view to the due reintegration of those who left in the context of the violence that has occurred since 18 April.

I am of the view, as I consider it to be of great relevance to us, that the strengthening of collaboration with workers is of great importance. For this reason, we have made considerable progress in ensuring and reinforcing tripartite collaboration, with the presence of workers, the Government and employers' representatives.

In conclusion, we confirm our determination to eradicate any acts of violence as a further step in reinforcing peace,

which is the common objective to guarantee labour and the eradication of poverty in the Nicaraguan family.

I reiterate once again the invitation to the ILO to visit Nicaragua to confirm the situation of tranquillity and peace that has returned. We are all working in peace, all working to organize ourselves to produce more and achieve greater productivity, to ensure that education is not denied and that the health of the families of workers continues to improve. Recently we purchased equipment that we did not have for the detection of cancer. We are progressing in the development of social policies in our countries, which means going forward and providing guarantees to the family, and to all families, without any discrimination, so that they can live, work and develop in peace.

I want it to be very clear that, although it has been said here, as I noted down, the most representative organization of employers is not present. Representative employers' organizations are indeed here. Nicaragua has organizations which cover 76, and almost 80 per cent, including micro-, small and medium-sized enterprises, as we can rightly say.

There are 19 chambers in the CONIMIPYME, with 30 enterprises affiliated to the chambers of the CONIMIPYME, as well as 545 others, as indicated previously.

Employer members – All or most of us in this room are very familiar with the principle of the supremacy of reality in labour law, as a basic principle for us to be able to understand, assess and eventually resolve a situation. The least we can do is keep to the facts as they happened.

It appears to us that the reality as described by the Government is not the one portrayed in reports. It is not the reality that our sister organization in Nicaragua, COSEP, is reporting. While there can be different views, it is more difficult to accept different figures. It seems to us that denying or ignoring the content of reports, such as those of the Committee of Experts and the OHCHR, makes little or no contribution to resolving the situation. And the present case is occurring against a background in which the Government of Nicaragua is setting itself major objectives and needs to meet them urgently. The increase in poverty in Nicaragua is an issue that merits our full attention and which takes on special relevance in relation to the objectives set out in the Convention that we are examining, as well as the Goals and targets of the 2030 Sustainable Development Agenda.

The issue that we have addressed today is directly related to SDG 1, No poverty, SDG 8, Decent work and economic growth, and SDG 10, Reduced inequality. In this respect, the Government of Nicaragua will have to implement and reinforce as a matter of urgency at the national, provincial and local levels, appropriate systems and measures to eradicate extreme poverty and build the resilience of the poor and of those in vulnerable situations. The Government of Nicaragua must guarantee urgently the creation of a solid legislative framework in consultation with the most representative, free and independent social partners, based on pro-poor development strategies, in support of accelerated investment in poverty eradication measures. For this purpose, the Government of Nicaragua will also have to work in close social dialogue with these partners to achieve the targets of SDG 8, Decent work and economic growth. The achievement of economic growth, full and productive employment and decent work for all women and men, including young people and persons with disabilities, are targets that are crucial to combat poverty. And this is taking on greater relevance as, based on the data referred to during these discussions, if the social and political crisis affecting the country were to be prolonged, half of the country would be at risk of poverty by the end of 2019.

A strategy and policies to achieve these objectives rapidly will only be possible, firstly, by guaranteeing the fundamental rights of all citizens and the involvement of the most representative, free and independent social partners, as relevant actors for employment generation. In this respect, we emphasize that both economic growth and full and productive employment and decent work as a source of prosperity will only be achievable if an environment is guaranteed that is conducive to sustainable enterprise. We therefore call on the Government of Nicaragua to request ILO technical assistance and to work with the most representative, free and independent organizations of employers and workers for the strengthening of the necessary pillars to guarantee a conducive environment for the creation of sustainable enterprises, the promotion of entrepreneurship and capacity development to give full effect to the provisions of the Convention. Similarly, SDG 10, Reduced inequality, calls on us to guarantee equality of opportunity and to reduce inequalities of outcome by promoting appropriate laws, policies and practices in this regard.

Moreover, in the context of migration for reasons of poverty faced by Nicaragua, it is important to recall target 10.7 of the SDGs, which calls upon us to facilitate orderly, regular and responsible migration. We encourage the Government of Nicaragua to continue to develop bilateral and regional cooperation plans to guarantee decent working conditions for migrant workers and their families. While we recognize the efforts made by the Government of Nicaragua in this respect, it is necessary to renew these efforts and strengthen collaboration with the most representative employers' and workers' organizations in order to address the issue of migration effectively. With ILO technical assistance and the support of the international community, we trust that the Government of Nicaragua will be able to give effect to the recommendations of the Committee of Experts and make progress in promoting the welfare of the people of Nicaragua and improving their standards of living.

Worker members – The Workers' group notes the measures adopted by the Government with a view to giving effect to the Convention and promoting social progress through sustained economic development.

In recent years, the various programmes and strategies that have been implemented by the Government of Nicaragua have achieved significant results with record growth rates. Nevertheless, we believe that these programmes must be strengthened so that these results are translated into a reduction of inequality and poverty in the country. Around 80 per cent of the population, as recalled here, is vulnerable or poor and there are still important shortcomings in the design and implementation of policies, which can be corrected as soon as possible.

Moreover, the situation of the Nicaraguan population has also been aggravated by the recent social and political crisis which broke out in April 2018.

We recognize the efforts made by the Government through the convening of negotiation forums to seek understanding and peace in Nicaragua. However, Nicaraguans continue to suffer from the social and economic effects of the crisis. We therefore encourage the Government of Nicaragua to continue to engage in dialogue with a view to the most rapid and peaceful resolution of this social and political crisis. We urge the Government of Nicaragua to review its human development policies and strategies, taking into account the pressing need to improve the standards of living of the population. We hope that the process will be carried out on the basis of sustained and meaningful consultations with the social partners and all the stakeholders, with the objective of the adoption of measures to promote the social and economic development of the population, in accordance with the general principles set out in the Convention.

While we note with satisfaction and we hear from the Minister that the social budget will not be reduced, we urge the Government of Nicaragua to carefully reassess any re-

duction in public expenditure, taking into account its impact on the capacity of the State to comply with its obligations in relation to the well-being and development of the population.

Finally, we invite the Government to promote voluntary forms of savings and facilities for the provision of loans, as we indicated in our opening statement, and to promote the acquisition of financial knowledge among employees and independent producers.

We request the Government of Nicaragua to keep the Committee of Experts informed of any progress that is made in ensuring rapid and sustainable progress in the achievement of the principles set out in the Convention.

Conclusions of the Committee

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

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.**

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.

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.

PHILIPPINES (ratification: 1953)

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

Written information provided by the Government

Civil liberties and trade union rights

1. *Ongoing investigation by the Commission on Human Rights of a case of alleged harassment of several union officials and the Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE) union activists*

In a report dated 19 March 2019, the Commission on Human Rights [1] – National Capital Region (CHR-NCR) stated that three (3) cases [2] involving COURAGE have been resolved while the rest are still pending investigation. The three (3) cases resolved by the CHR-NCR contain the same disposition upon finding that the rights of the complainants to life, privacy, security and organization, have been violated. However, resolved cases are similar in the sense that the real identity of the persons behind the harassment could not be established for lack of direct evidence. Having no conclusive evidence linking the suspects to state forces, the CHR-NCR ruled that the cases be closed without prejudice to their reopening when new evidence surfaces.

2. *Assassination of two trade union leaders in 2016, one of whom was gunned down in front of the National Labor Relations Commission (NLRC) in Quezon City*

Edilberto Miralles, 65 years old, National President of Kaisahan ng mga Drivers sa R&E Union of Filipino Workers (KADRE-UFW), a local union of R&E Transport, was shot dead by unidentified motorcycle riding criminals on 23 September 2016 in front of the NLRC Building in Quezon City. The PNP Anti-Cyber Crime Group released the result of video enhancement of the forensic digital examination conducted on the submitted CCTV footage that captured the crime scene. However, it appears that the suspects could not be clearly identified for the reason that they were wearing a face mask, ball cap and helmet, respectively.

On 12 April 2019, the Investigator-on-Case PSSg Jerome Dollente proceeded to the place of incident for ocular investigation, but as per report, there is none who could give any relevant information about the incident. Nevertheless, the Philippine National Police – Directorate for Investigation and Detective Management (PNP-DIDM) directed the National Capital Region Police Office to conduct a case review for the possible identification of suspects, and to proceed with continuous conduct of investigation to locate witnesses and identify the suspects.

During the Regional Tripartite Monitoring Body – National Capital Region (RTMB-NCR) on 9 May 2019, the PNP representative reported that the investigation is still ongoing and they have focused first on the technical aspect of the investigation (i.e. ballistic examination). It was also reported that the result of the ballistic and crossmatching examination on the recovered evidence, one (1) piece fired cartridge case of caliber 45 is not yet available.

Orlando Abangan, 35 years old, former organizer of Partido ng Manggagawa, was killed on 17 September 2016 at Sitio Lawis, Brgy. Maghaway, Talisay City, Cebu. In a report submitted by the PNP-DIDM on 3 April 2019, it was stated that Police Regional Office No. 7 was directed by the PNP headquarters to conduct a case review for possible filing of case, to convince the parents of minor witnesses and victim's relatives to testify, and to conduct background investigation or profiling of alleged suspect Julian Bonghanoy, Jr. Concurrently, the case was docketed in the Commission of Human Rights – Region VII (CHR-VII) as CHR-VII-2016-0784 (CEB) for Violation of the Right to Life. In its resolution, CHR-VII stated that in the conduct of investigation, it was found that the killing of Orlando Abangan is not related to his being a labour leader as the same is anchored on a personal grudge. It was discovered that the victim got the ire of Julian Bonghanoy, Jr., a private individual, when the former kept wearing a face mask and passing by the spot check of the latter in September 2016.

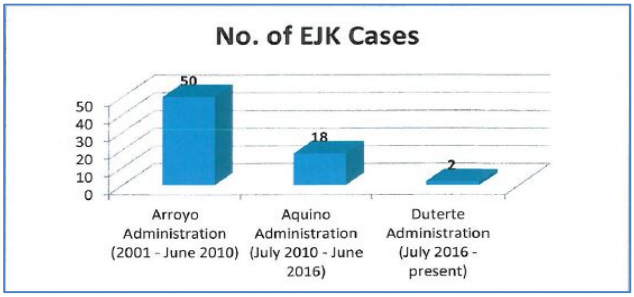
There is insufficient evidence on record to conclude that the death of Orlando Abangan constitutes an extrajudicial killing (EJK) pursuant to the criteria provided under A.O. 35. There is likewise no evidence that the killing is drug-

[1] The Commission on Human Rights (CHR) is an independent national human rights institution created under the 1987 Philippine Constitution, established on 5 May 1987 by virtue of Executive Order No. 163, mandated to conduct investigations on human rights violations against marginalized and vulnerable sectors of the society, involving civil and political rights.

[2] The three (3) resolved cases are those involving: (1) Romeo C. Manilag, COURAGE staff and organizer; (2) Juan Alexander A. Reyes, COURAGE national organizer; and, (3) Roman M. Sanchez and Santiago Y. Dasmariñas, Jr., National Food Authority Employees Association (NFAEA) officers.

related. Hence, CHR-VII ruled that his killing falls outside the jurisdiction of the CHR, as it is an ordinary crime falling under the criminal investigation of the police. Verily, CHR-VII recommends that the investigation of the case be finally closed and terminated at the level of the CHR, and that assistance is extended to the law enforcement in the identification and prosecution of the killers of Orlando Abangan.

Out of the 70 cases inventoried and monitored by the National Tripartite lndustrial Peace Council – Monitoring Body through its regional structures, 50 transpired under the nine-year Arroyo Administration, while 18 cases transpired under the Aquino Administration. The two (2) new cases of extrajudicial killings involving Edilberto Miralles and Orlando Abangan were recorded under the present administration.



The considerable decline in reported cases of EJK is attributed to the valuable efforts toward strengthening partnership between and among social partners. Social partnership and collaborative efforts have come a long way since the high-level mission in 2009. The Government, in cooperation with our social partners, remains steadfast in its commitment to promote and protect the workers' constitutionally guaranteed and fundamental rights and welfare, and all its efforts are consistently geared towards strengthened and improved application of core labour standards.

3. *ITUC's concern that the recently declared war by the Armed Forces of the Philippines (AFP) against so-called "reds" is reminiscent of earlier years when union and labour organizers were harassed, arrested, jailed, abducted and murdered after being tagged as "reds" by the military*

In our previous reply to the International Centre for Trade Union Rights (ICTUR), it was emphasized that in a DOLE (Department of Labor and Employment) Regional Tripartite Monitoring Body (RTMB) meeting on 12 March 2018, the information gathered from the representatives of the Armed Forces of the Philippines – Human Rights Office (AFP-HRO) revealed that the activities conducted in Compostela Valley, Mindanao were actually barangay visitations under the Community Support Program (CSP) of the AFP. The CSP is a community-oriented and issue-oriented operational concept employed in conflict-affected areas and conflict-prone areas. It is a multi-stakeholder, community-based, and people-oriented peace and development effort aimed to establish, develop and protect conflict-resilient communities.

The visitations under the CSP were conducted by the AFP as third-party facilitators together with barangay officials and other government agencies, to determine the gaps in the barangay's needs (i.e. health and education services). Furthermore, the AFP-HRO clarified that union members were not being discriminated or singled-out during these activities since all residents were included in the visitations.

Moreover, the DOLE, in multiple communications, has called on the AFP and PNP to ensure the observance of the Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, AFP and PNP Relative to the Exercise of Workers' Rights and Activities, which was developed and signed by the representatives and principals of the concerned government agencies, along with labour and employers' representatives. This was done to ensure that operations on the ground are conducted in accordance with the Guidelines.

Issued on 7 May 2012, the Guidelines aim to ensure the effective exercise of trade union rights and the prevention of violations of workers' rights, in a climate free from violence, pressure, fear and duress of any kind from any organization, and to resolve the issues of violence and impunity ensuing from the intervention of security and peacekeeping forces, particularly of the military, police, local chief executives and company security personnel during the exercise of workers' rights.

The Guidelines specifically state that labour disputes shall be under the primary and sole jurisdiction of DOLE and/or its appropriate agencies. Members of the AFP, PNP and other law enforcement agencies, including Barangay Tanod/BPSO and company security personnel/security guards shall not intervene in labour disputes.

The Guidelines also provided that the AFP may intervene only in the following cases:

(a) expressly requested in writing either through mail, email, fax or any similar means by the DOLE, through its regional offices; or
(b) a criminal act has been committed, is being committed, or is about to be committed through overt acts in accordance with Rule 113 of the Revised Criminal Procedures whether or not it arises out of the labour dispute; or
(c) in cases of actual violence arising out of a labour dispute.

Under the Guidelines, "Actual Violence refers to an ongoing and intentional use of physical force or power, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death or destruction of or damage of property".

The Guidelines further provide that AFP units/personnel must not engage in labelling/tagging/red-baiting personalities/organizations unless these are based on accurate, verified, validated and confirmed reports and/or documentary evidence.

Consequently, the AFP-HRO issued directives and guidelines to all military units under the 10th Infantry Division (10ID) relative to the Labor Code and rights of workers. The 10ID likewise distributed to its ranks the Guidelines to serve as guide to AFP personnel during engagements with labour unions.

As part of the commitment of the AFP and PNP in integrating the Labor Code and the Guidelines to their education programme, two (2) activities were already conducted in coordination with DOLE Regional Office XI and DOLE Compostela Valley Field Office, to wit:

(a) Lecture/orientation on Labor Code, labour unions' rights and other relevant topics concerning employment at the headquarters of the 10ID, Brgy. Tuboran, Mawab, Compostela Valley Province on 1 February 2019, with 97 participants from AFP and PNP PRO 11 and 12.
(b) Lecture/orientation on freedom of association and trade unionism at Datu Dalunto Hall, headquarters of 10ID, Brgy. Tuboran, Mawab, Compostela Valley Province on 7 May 2019, with participants from PNP PRO 11 and 12, Deputy Commanders of Infantry Brigades, CSP Officers, Commanders and S3 of 10CMOBn, Division TRIAD Staff and ADC, 10ID.

4. Progress made by the Tripartite Validating Teams, the NTIPC-MB and other relevant bodies in ensuring the collection of the necessary information to bring the pending cases of violence to the courts and the outcome in this regard

Albeit the approval on the funding and the designation of labour and employers' representatives who will compose the said Tripartite Validating Teams, this initiative has yet to sail in view of the risks involved, particularly with the team members' security during operations. The designated sectoral representatives reconsidered the gravity of the functions and the dangers attending the conduct of field interviews, investigation, and first-hand data gathering.

Nevertheless, with the issuance of the previously mentioned Administrative Order No. 32, series of 2018, on the RTMB Operational Guidelines, the creation of Tripartite Validating Teams has been further institutionalized and strengthened. Security concerns of members were likewise addressed through the provision that the Tripartite Validating Team may request security assistance from the PNP and the AFP if so warranted.

Furthermore, the Government strictly reiterates that the cases are progressing under regular criminal procedures with the constant efforts of the tripartite partners. The availability of reports relies heavily on police investigations and regular court proceedings, the progress of which may be affected by lack of material witnesses. The Government, in cooperation with its social partners, continues to monitor and fast-track all cases, in line with upholding the constitutional rights to speedy trial and due process. These extensive efforts are evidenced by all the previous reports and replies by the Government to ail requests forwarded by both international and domestic bodies/organizations.

5. Reforms towards providing sufficient witness protection and building the capacity of prosecutors, enforcers and other relevant actors, especially in the conduct of forensic investigations

Part of the DOLE–ILO–EU GSP+ Project are activities and initiatives that aim to enhance the knowledge and capacities of concerned state actors, including the police, military, and local chief executives, as well as the social partners on the principles and application of ILO Conventions Nos 87 and 98.

On 14–16 November 2018, a Multisectoral Trainers' Training on Freedom of Association and Collective Bargaining was held at Quest Hotel in Clark, Pampanga. The said activity, which was attended by 32 representatives from different government agencies (i.e. Philippine Economic Zone Authority, Department of Interior and Local Government, Department of National Defense, Department of Justice, Armed Forces of the Philippines, Philippine National Police, and Commission on Human Rights) and from the labour and management sectors, aimed to inculcate among the various stakeholders and social partners common understanding and interpretation on international labour standards, specifically on the right to freedom of association and collective bargaining, as well as on the roles, functions and mechanisms that need to be observed relative to the exercise of workers' rights and activities (i.e. Joint DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards and Similar Personnel During Labor Disputes; and the Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, AFP and PNP Relative to the Exercise of Workers' Rights and Activities).

The capacitated social partners and stakeholders may now be tapped as resource persons and advocates of freedom of association (FOA) and collective bargaining (CB), delivering lectures and/or learning sessions particularly on existing Guidelines governing the engagement of various social partners and stakeholders during labour disputes vis-à-vis the principles of FOA and CB, as it may be applied in their respective organizations.

Parallel with this undertaking is the development of sector-specific tools: (a) a *"Workers Training Manual on Freedom of Association"* which is intended to enhance capacities of workers' representatives to participate in existing monitoring mechanisms on violations on workers' civil liberties and trade union rights to organize; and (b) a *"Diagnostics of Compliance with Labor Standards: A Checklist for Smal1Enterprises"* which is an employers' tool for diagnosing the level of compliance to labour standards among small enterprises and for providing concrete remedies to address compliance issues.

On the other hand, the DILG, together with the Local Government Academy, is now working with the ILO Country Office and the DOLE to explore the possible incorporation of international labour standards, particularly freedom of association and collective bargaining, and the Guidelines in the regular orientations and/or trainings of local chief executives. The Commission on Human Rights (CHR), with the help of a consultant engaged by the ILO Country Office, is also in the process of formulating and finalizing its own FOA training module.

Apart from these agency and sector-specific tools and modules, an FOA e-learning module is now being finalized as part of the DOLE's Labor and Employment Education Services (LEES). Building upon existing documents and materials from previous FOA and CB initiatives, the e-learning module includes topics on:

- international labour standards and labour rights;
- international labour standards;
- ILO principles on freedom of association and collective bargaining;
- the Philippine context: right to self-organization;
- tripartite monitoring bodies on the application of international labour standards and other related investigative and monitoring mechanisms;
- Guidelines relative to the exercise of workers' rights, particularly the right to freedom of association and collective bargaining.

The Guidelines governing the conduct that must be observed during the exercise of workers' rights and activities are also being reviewed for amendments and/or updating.

6. Progress on the cases of Rolando Pango, Florencio "Bong" Romano and Victoriano Embang

On the case of Rolando Pango, the Philippine National Police – Directorate for Investigation and Detective Management (PNP-DIDM) finds that the incident is related to agrarian issue/dispute. There are no existing trade union campaigns, rallies, pickets or demonstrations at the time of the incident. Nevertheless, the PNP-DIDM directed Police Regional Office No. 6 to conduct case review for the possible refiling of the case.

On the case of Florencio "Bong" Romano, a follow-up team went to the house of Benny Dimailig in Brgy. Lodlod, Lipa City to conduct interview, but failed to gather information on the incident. The PNP-DIDM directed the Police Regional Office No. 4A to conduct case review for the possible identification of the suspects and refiling of the case, and to exert more efforts in the investigation to locate the witnesses. A035 IAC is yet to deliberate on the Romano case considering that the committee has not yet reconvened. The release of the family's claims with SSS have already been facilitated through the RTMB in Region 4-A.

As to the case of Victoriano Embang, based on the foregoing investigation and with the cooperation of some witnesses and result of examinations on the evidence recov-

ered, a case of murder was filed against the suspects Ramoncito lsona alias "Ramon" and Ryan Yana alias "Ryan" docketed under CC No. 4480 with no bail recommended. Moreover, a warrant of arrest has already been issued. The Criminal Investigation and Detection Group (CIDG) was directed to create a tracker team for the manhunt operation against the at-large suspects and for the coordination with BID for the watch list/wanted list of the suspects.

As was stated in previous reports, the Government herein reiterates that all of the aforesaid cases are currently being handled and investigated through the regular process of criminal investigation and prosecution. Hence, the availability of reports relies heavily on police investigations and regular court proceedings, the progress of which may be affected by a number of circumstances, such as the lack of material witnesses.

The burden of proof required to support conviction in a criminal case is proof beyond reasonable doubt. Hence, criminal prosecutions rely heavily upon proving beyond reasonable doubt the existence of the elements of the crime charged. Evidence must be established to support criminal prosecution and conviction, as required by the constitutional precept on due process of law.

7. Progress of the legislative agenda

The Government, in coordination with its social partners, has been consistent in its efforts to address emerging labour, economic and social concerns affecting workers' rights and exercise thereof, amidst the emerging forms of evolving employment relationships brought by globalization and trade liberalization. Significantly, the Government's initiatives to promote freedom of association and collective bargaining are anchored on the thrust towards securing employment and addressing various issues and concerns brought about by the increasing forms of non-standard work arrangements and the huge diversity of workers whose jobs are outside the standard employment relationship.

Standard employment relationship is described as: (a) full-time work; (b) under a contract of employment for unlimited duration; (c) with a single employer; and (d) protected against unjustified dismissal. This leads to a precarious work formula incorporating any or all of the following elements: (a) work of no guaranteed/specified/regular hours; (b) fixed, limited duration of contract; (c) multiple or disguised employers; and (d) no protection against dismissal. Precarious work does not involve stability and security in the workplace.

Hence, numerous reforms were pursued based on a clear understanding that "secured employment is the best enabling environment for freedom of association".

The following initiatives and reforms are products of tripartite efforts – labour, management, and government – and are geared towards the attainment and sustainment of decent work and industrial peace based on the principles of inclusive growth and social justice.

(a) Security of Tenure Bill. The Security of Tenure Bill has been approved by the House of Representatives on 29 January 2018 and has been transmitted to and received by the Senate on 31 January 2018. The President of the Philippines certified the bill as urgent on 21 September 2018, and is now nearing passage after it has passed Third Reading in the Senate on 22 May 2019. The Bill is now set for a bicameral conference between the House and the Senate. lt could be noted that the provisions of the Bill are in harmony with the thrust of the Executive Order No. 51, and that it is among the Legislative-Executive Development Advisory Council (LEDAC) priority measures as its passage is expected to have a positive impact to the exercise of workers' rights particularly of freedom of association and collective bargaining.

(b) Executive Order No. 51, series of 2018. The President signed on 1 May 2018 the Executive Order No. 51, series of 2018, implementing article 106 of the Labor Code of the Philippines, as amended, to Protect the Right to Security of Tenure of Ali Workers based on Social Justice in the 1987 Philippine Constitution. EO 51 expressly declares that contracting or subcontracting, when undertaken to circumvent the workers' right to security of tenure, self-organization and collective bargaining, and peaceful concerted activities pursuant to the 1987 Philippine Constitution, is strictly prohibited.
The EO further states that the Secretary of Labor and Employment may, by appropriate issuances, in consultation with the National Tripartite Industrial Peace Council under article 290(c) of the Labor Code, as amended, declare activities which may be contracted out.

(c) DOLE Department Order No. 174, series of 2017. DOLE issued on 16 March 2017 Department Order No. 174, series of 2017, which is the new implementing rules and regulations of the Labor Code provisions governing contracting or subcontracting in the Philippines. It was published last 18 March 2017, and took effect on 3 April 2017.
DO 174-17 is a product of comprehensive and inclusive area-wide consultations involving all sectors (i.e. formal, informal, public, migrant, women and youth). There had been five (5) focus group discussions, three (3) area-wide labour summits, and 17 sectoral meetings. Also, this had been discussed by the National Tripartite Industrial Peace Council which convened on 7 March 2017.

The continuous engagements and intensive consultations with the concerned sectors that are being conducted facilitate the formulation of responsive policies and measures that will ensure full respect of labour standards and the fundamental principles and rights at work, in view of the prevalence of short-term or fixed-term work arrangements which have posed challenges undermining the workers' right to security of tenure. As the Government now sets the place for genuine reforms on flexibility and job security, it simultaneously fosters a climate conducive to the unhampered exercise of workers' rights to freedom of association and collective bargaining.

Updates on proposed legislative measures aimed to ensure that any individual residing in the territory of a State, whether or not they have a residence or a working permit, benefit from the trade union rights provided by the Convention

House Bill No. 4448, "An Act Allowing Aliens to Exercise their Right to Self-Organization and Withdrawing Regulation of Foreign Assistance to Trade Unions, amending for the purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed before the 17th Congress on 16 November 2016. This bill: (a) extends the right to self-organization to aliens in the Philippines; and (b) withdraws the prohibition of foreign trade union organizations to engage in trade union activities and the regulation of foreign assistance to Philippine trade unions.

House Bill No. 1354, "An Act Allowing Foreign Individuals or Organizations to Engage in Trade Union Activities and to Provide Assistance to Labor Organizations or Groups of Workers, amending for the purpose articles 269 and 270 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 11 July 2016. This bill proposes to amend the Labor Code by: (a) allowing foreign individuals and foreign

organizations to engage in trade union activities in the Philippines; and (b) allowing the extension of foreign assistance to labour organizations and workers' groups.

With the closing of the 17th Congress, these bills are expected to be refiled in the 18th Congress.

Measures taken to ensure that all workers, without distinction whatsoever, are able to form and join the organizations of their own choosing

House Bill No. 8767, "An Act Strengthening the Constitutional Rights of Government Employees to Self-Organization, Collective Negotiation and Peaceful Concerted Activities and Use of Voluntary Modes of Dispute Settlement" was filed on 11 December 2018. It was with the Committee on Civil Service and Professional Regulation since 12 December 2018. This proposed measure is intended to address the gaps in public sector labour relations particularly on the protection of the right to organize, facilities to be afforded to public sector employees' organizations, procedures for determining the terms and conditions of employment, civil and political rights, and settlement of disputes arising or in connection with the determination of terms and conditions of employment. This provides that ail public sector employees, including those under different forms of public service work arrangements such as job order, contract of service, on memorandum of understanding, or casual, are eligible to join or assist an employees' organization in the organizational unit.

House Bill Nos 4553 and 5477, "An Act Establishing a Civil Service Code of the Philippines and For Other Purposes" are pending with the House Committee on Civil Service and Professional Regulation. On the other hand, Senate Bill No. 641, "An Act Establishing the Philippine Civil Service Reform Code and For Other Purposes" is pending with the Senate Committee on Civil Service, Government Reorganization and Professional Regulation. These Bills seek to codify all laws and relevant issuances governing the civil service into a single, comprehensive statute, and to address relevant concerns which include among others government employees' rights to self-organization and security of tenure.

With the closing of the 17th Congress, these Bills are expected to be refiled in the 18th Congress.

Updates on the proposed legislative measures aimed to reduce the minimum membership requirements or to lower excessively high requirements for registration

House Bill No. 1355, "An Act Reducing the Minimum Membership Requirement for Registration of Unions or Federations and Streamlining the Process of Registration, amending for this purpose Articles 234, 235, 236 and 237 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 11 July 2016. This bill seeks to modify the restrictions imposed on the process of union formation by introducing amendments to the Labor Code, as follows: (a) lower the minimum membership requirement from 20 per cent to 10 per cent; (b) reduce the number of affiliated local chapters required for purposes of registration as a federation from ten (10) to five (5); and, (c) develop a system of online union registration of unions.

House Bill No. 4446, "An Act Establishing an Efficient System to Strengthen Workers' Right to Self-Organization and Collective Bargaining, amending for the purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 16 November 2016. This Bill aims to: (a) remove the requirements for the registration of local chapters, upholding the principle that the registration of unions is only ministerial on the part of the Department of Labor and Employment (DOLE); (b) promote "employee free choice" by making it easier for workers to join and/or establish unions through "majority signup"; (c) strengthen enforcement through an injunctive relief provision which levels the playing field with management by giving employees equal access to such measure, and imposition of fine and criminal liability of employer charged with unfair labour practice; and (d) prevent management intervention and refusal to bargain through "first contract mediation and arbitration".

Senate Bill No. 1169, "An Act Further Strengthening Workers' Right to Self-Organization by amending for this purpose Articles 240[234](C), 242[235], 243[236], 244[237] and 285 [270] of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended" was filed on 22 September 2016. This bill aims to ease the minimum membership requirements for registration of independent unions from 20 per cent to 5 per cent, and for federations from 10 to 5 duly recognized bargaining agent/local chapters. lt also seeks to institutionalize online registration, decentralization or registration process to DOLE Provincial or Field Offices and the one-day process cycle time. Moreover, the Bill aims to remove the "prior authority" requirement on foreign assistance to local trade union activities.

With the closing of the 17th Congress, these Bills are expected to be refiled in the l8th Congress.

Updates on proposed legislative measures aimed to ensure that government intervention leading to compulsory arbitration is limited to essential service in the strict sense of the term

House Bill No. 175, 711 and 1908, "An Act Rationalizing Government Interventions in Labor Disputes by Adopting the Essential Services Criteria in the Exercise of the Assumption or Certification Power of the Secretary of Labor and Employment, and Decriminalizing Violations Thereof, Amending for this purpose Articles 263, 264 and 272 of Presidential Decree 442, otherwise known as the Labor Code of the Philippines, as amended and For Other Purposes" were filed on 30 June 2016. As the title suggests, these bills seek to rationalize government interventions in labour disputes by adopting the Essential Services Criteria in the exercise of the assumption or certification power of the Secretary of Labor and Employment, providing conditions in its exercise, and to decriminalize violations thereof. The counterpart of these bills in the Senate is Senate Bill No. 1221, "An Act Rationalizing Government Interventions in Labor Disputes by Adopting the Essential Services Criteria in the Exercise of the Assumption or Certification Power of the Secretary of Labor and Employment, and Decriminalizing Violations Thereof, amending for this purpose Articles 278[263], 279[264] and 287[272] of Presidential Decree 442, otherwise known as the Labor Code of the Philippines, as amended and For Other Purposes" which was filed on 25 October 2016.

House Bill No. 4447, "An Act Strengthening the Workers' Right to Strike, Amending for the purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 16 November 2016. This Bill seeks to modify the penalty for violation of orders, prohibitions or injunctions issued by the Secretary of Labor and direct participation in illegal strike, from dismissal or imprisonment, to disciplinary measure of payment of fine.

With the closing of the 17th Congress, these Bills are expected to be refiled in the 18th Congress.

Updates on proposed legislative measures aimed to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if non-compliant with bargaining or notice requirements

This concern is likewise addressed by the afore-cited proposed measures namely, House Bill Nos 175, 711, 1908

and 4447. With the closing of the 17th Congress, these bills are expected to be refiled in the 18th Congress.

Updates on proposed legislative amendments removing the need for government permission for foreign assistance to trade unions

House Bill No. 4448, "An Act Allowing Aliens to Exercise their Right to Self-Organization and Withdrawing Regulation of Foreign Assistance to Trade Unions, amending for the purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 16 November 2016. This bill: (a) extends the right to self-organization to aliens in the Philippines; and (b) withdraws the prohibition of foreign trade union organizations to engage in trade union activities and the regulation of foreign assistance to Philippine trade unions.

House Bill No. 1354, "An Act Allowing Foreign lndividuals or Organizations to Engage in Trade Union Activities and to Provide Assistance to Labor Organizations or Groups of Workers, amending for the purpose articles 269 and 270 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines" was filed on 11 July 2016. This Bill proposes to amend the Labor Code by: (a) allowing foreign individuals and foreign organizations to engage in trade union activities in the Philippines; and (b) allowing the extension of foreign assistance to labour organizations and workers' groups.

With the closing of the 17th Congress, these Bills are expected to be refiled in the 18th Congress.

8. Review and updating of the operational guidelines of the investigating and monitoring bodies in order to further strengthen and improve their operationalization as well as coordination and interplay

Previously reported was the Development Cooperation Project of the DOLE, the ILO and the EU Generalized System of Preferences Plus (EU GSP+) that aims to improve the capacity of labour, employers and the Government towards better implementation and application of the right to freedom of association and collective bargaining. One of the Project's concrete outputs is the review of the existing mechanisms in addressing cases of violations on workers' civil liberties and trade union rights. The study reviews the operational guidelines and process structures of the three investigative, prosecutorial, and/or monitoring mechanisms addressing cases of violations on freedom of association principles in the Philippines – the DOLE-led NTIPC-Monitoring Body and Regional Tripartite Monitoring Bodies (RTMB); the DOJ-led A035 Inter-Agency Committee; and the CHR-led National Monitoring Mechanisms.

After reviewing existing policies and guidelines, and gathering insights and views from key people (i.e. members of public and private sector unions, focal persons from concerned agencies/organizations, etc.), gaps and issues in the operationalization of these mechanisms have been identified, as well as problem areas encountered by investigative agencies such as the Philippine National Police (PNP), Commission on Human Rights (CHR), and to some extent, the Armed Forces of the Philippines – Human Rights Office (AFP-HRO). Recommendations were then enumerated to help address the gaps or blockades in obtaining substantial progress specific to labour-related cases of extrajudicial killings or violations of ILO Conventions Nos 87 and 98, taking note of the findings and recommendations raised by the ILO direct contacts mission to the Philippines back in 2017. These recommendations shall be taken up by concerned agencies/organizations for consideration and possible implementation.

Discussion by the Committee

Government representative – This invitation is a great opportunity to report to the Committee on what our country had done in the recent past, what we have been doing in the present, and what we intend to do in the near future to further advance the freedom of association in the Philippines.

In pursuance of the recommendations of the 2017 direct contacts mission, the Philippine Government and its social partners adopted the National Action Plan on the Freedom of Association and Collective Bargaining with the support from the ILO Manila and European Union Generalized Scheme of Preference (GSP+). We are of the belief that the most appropriate enabling environment for the free and full exercise of the freedom of association is a secured employment in safe and healthy working conditions in all places of work free from violence and harassment. The 2019 Philippine Workers' and Trade Union Report on the Sustainable Development Goals even notes that the rampant contractualization and informalization of formal work is one of the causes of union decline. This scheme impairs the workers' inherent rights to freedom of association and collective bargaining. Job insecurity compounded by the low labour standard compliance, unsafe working conditions and inadequate social protection is a creeping grave threat to the freedom of association.

Given this consideration, the Philippine Government has intensified its inspection since 2016. Inspection already covers matters involving unions and collective bargaining agreements and more importantly issue on security of tenure. From 2016–18, we have inspected more than 180,000 establishments covering more than 12 million workers and resulting to the regularization of more than 400,000 workers. This intensified inspection has created a wider democratic space for freedom of association. This has never been done before. The Philippine Government have an additional 136 labour inspectors as of December 2018, and another 500 more labour inspectors this year. All inspectors were trained and capacitated with the assistance of ILO Manila and support from the United States Department of Labor. In the spirit of social dialogue and tripartite engagement, the Philippine Government has enlisted trade unions' and employers' representatives as deputized labour inspectors. They can now join labour inspectors in the conduct of inspection of establishments. As of January 2019, we have 241 deputized social partners.

Last year, our President promulgated Executive Order No. 51, which sets the underlying policy of the present Government in dealing with the issue of job security which to our mind is an indispensable component of the freedom of association. To ensure full and free exercise of this right however and given the inherent limitation on the executive power in a working democracy, this policy has to be pursued through legislation. Speaking of legislation, let me first share with the Committee major legislative reforms in labour and employment. Recently, the Philippine Government enacted the Expanded Maternity Law, the Telecommuting Act, the Social Security Reform Act, the Occupational Safety and Health Standards, the Universal Health Law and the Magna Carta of the Poor. These measures which will further enable more workers in the formal and informal sectors to exercise their freedom of association, are all in accord with the 2030 Sustainable Development Goals.

As this representation earlier stated, the most appropriate enabling environment for the free and full exercise of the freedom of association in our country is a secured employment in safe and healthy working conditions in all places of work free from violence and harassment. The proposed Security of Tenure Act has now passed the Philippine Congress. It is now awaiting endorsement to the President for his appropriate action. Job insecurity, low labour standard

compliance, unsafe working conditions and inadequate social protection are the common proximate causes of labour disputes in the Philippines which disputes led sometimes unfortunately to reported cases of violence and harassment. On this note, let me assure the Committee that the institutionalized National Tripartite Industrial Peace Council–Monitoring Body (NTIPC-MB) continues to effectively function with the issuance of Administrative Order No. 32 defining the functional relationship of the NTIPC-MB and the Regional Tripartite Monitoring Bodies. There are 16 Regional Tripartite Monitoring Bodies across the country ready to be mobilized anytime and anywhere when needed. The Tripartite Validating Team whose volunteer members are assured of security assistance and funding may be engaged, if warranted. Mobilizing the concerned Regional Tripartite Monitoring Bodies at the regional level brings about immediate response and concrete appropriate function. Most recently, the concerned Regional Tripartite Monitoring Body in coordination with the concerned Philippine National Police has been immediately mobilized to investigate and monitor one reported case in Southern Luzon.

It is worthy to note that in view of the strengthened partnership between social partners and the functioning monitoring mechanism, we observe a marked decline in reported cases of killings. There were 50 reported cases from January 2001 to June 2010, 16 cases from July 2010 to June 2016 and three cases from July 2016 to December 2018. As we have previously indicated, of the 66 cases from 2001 to June 2016, 11 were considered Administrative Order 35 (AO35) cases. With specific reference to the observation in the report, the case of Miralles in 2016 is being investigated. The forensic digital examination conducted by the Philippine National Police (PNP) Anti-Cyber Crime Group on the submitted CCTV footage did not yield positive results. Investigator-on-Case could not also find any relevant information, thus the Philippine National Police – Directorate for Investigation and Detective Management (PNP-DIDM) continues to conduct case review for the possible identification of suspects. Now focusing on the technical aspect of the investigation, ballistic and cross-matching examination on the recovered evidence has been undertaken. Also referred in the report, the case of Abangan in 2016 has been investigated not only by the PNP but also independently of the Commission on Human Rights. The PNP continues to profile the alleged suspect, and to convince the parents of minor witnesses and victim's relatives to testify. In a separate resolution, the Commission on Human Rights, an independent body, found that the incident is a private concern. Serious efforts to build a good case against the perpetrator continue. These two particular cases mentioned in the report are being continuously monitored by the Regional Tripartite Monitoring Bodies of the National Capital Region and Region VII. The cases of Embang in 2012, Pango in 2014 and Romano in 2015 are subject to further investigation. Like other previous cases, however, the lack or insufficiency of evidence hinders the successful investigation and prosecution. The new, yet fewer, reported cases are very unfortunate and by all parameters are condemnable in the strongest possible terms. These cases and all others were timely acted upon by the appropriate agencies to appropriate investigation, case build-up, prosecution and trial. These are now being closely monitored by the concerned Regional Tripartite Monitoring Bodies in the regions including the AO35 Inter-Agency Committee which will soon reconvene after the strategic planning conducted last March of 2019 regarding the inclusion of the Department through this representation in the Inter-Agency Committee and the provision of adequate assistance and protection to witnesses under the Witness Protection Program.

Consistent with the tripartite-agreed National Action Plan (2017–22), the Philippine Government has continuously conducted capacity-building trainings of social partners, prosecutors, enforcers and relevant actors, especially in criminal investigations last November of 2018 in Pampanga, 15 January 2019 in Cebu, 25 January 2019 in Davao and 4 February 2019 in Manila. We are now finalizing the "Training Manual on Freedom of Association" for workers, the "Diagnostics of Compliance with Labor Standards" for employers, the Freedom of Association (FOA) Training Module for the Commission on Human Rights and the FOA e-Learning Module on International Standards and Labour Rights for everyone. We already had exploratory meeting and workshop on 17 December 2018 and 7 March 2019, respectively, with the concerned Department, particularly, the Local Government Academy for the incorporation of international labour standards, specifically, freedom of association, and the Guidelines in the regular orientations and training of local chief executives, and another meeting in January and August 2018 with PNP and Armed Forces of the Philippines (AFP) on the inclusion of the same subjects in their curriculum and trainings.

At this point, and again with reference to the Report, we wish to clarify that the activities conducted by the Armed Forces of the Philippines-Human Rights Office in Mindanao, were actually barangay visitations under the Community Support Program of the Armed Forces of the Philippines. It is a community-oriented and issue-oriented operational concept employed in conflict affected areas. This was not meant to decimate trade unions. AFP has re-affirmed its commitment to the Guidelines. It even issued directives to all military units to respect the rights of workers. It likewise redistributed the Guidelines to personnel to guide them in their engagements. Recently, lectures and orientations on Freedom of Association and Trade Unionism, were held on 1 February 2019 and 7 May 2019 attended by AFP and PNP personnel.

Our work is not yet done. In the spirit of social dialogue, I call on our social partners, given our national conditions and circumstances, to work and continue to work on and further pursue significant reforms at the national level for the realization of our social contract as embodied in the National Action Plan. This representation so requests, and with the usual support of our social partners, to be given the sufficient reasonable opportunity to complete and accomplish the activities and programmes in the National Action Plan within the tripartite-agreed specific time-bound deadlines. While it is true that trade unions and employers' groups are not part of Government, we are all partners in governance.

To conclude, the Philippine Government continues to affirm its strong and unwavering commitment to obtain substantial progress in compliance with the Convention, in law and practice, and to ensure a better enabling environment for the free and full exercise of the Freedom of Association in the Philippines. *Maraming Salamat, Ginoong Tagapangulo.*

Worker members – We recall that in 2016, the Committee examined the Government's application of the Convention. This resulted in a direct contact mission in 2017 with urgent recommendations regarding civil liberties, trade union rights and the promotion of a climate conducive to freedom of association. However, since then the protection of civil liberties and rights have further deteriorated and the Government has still not made any progress in amending its national legislation after it has repeatedly announced to the supervisory bodies its efforts.

The rising number of extrajudicial killings is simply shocking. The Committee of Experts noted with regret that there remain numerous cases of trade union murders and other acts of violence for which the perpetrators have yet to be identified and punished. Moreover, the Committee of

Experts note with deep concern the new and grave allegations of the assassination of two trade union leaders. Indeed, just two weeks ago, Leonides Dennis Sequeña, a veteran trade union organizer was assassinated while meeting a group of workers. He was shot by a gunman who arrived riding on a motorcycle. Before his assassination, Mr Sequeña had been working on several petitions for certification elections in three companies inside the Cavite Export Processing Zone (EPZ) in Rosario. The politically charged atmosphere created by the military's war on the so-called "reds" is a recipe for violence and reminiscent of the years when unionists were targeted, harassed, arrested, jailed, abducted and murdered after being tagged falsely as "reds".

We call on the Government, as well as the military, to refrain from using language that may stigmatize trade unionists or condone any retaliatory acts against them for the views they defend. We also note with deep concern the military's intervention in industrial disputes. We recall that between 26 May and 2 June 2017 armed soldiers threatened striking workers of a tropical fruit company and broke up a picket. These military interventions in trade union affairs occur with approval of the Government which on several occasions threatened striking workers with military and police action. As the Committee and other parts of the supervisory system have repeatedly highlighted, a climate of violence and murder of trade union leaders constitutes a serious obstacle to the exercise of trade union rights and a grave violation of the principles of freedom of association. The Government's consistent failure to protect workers and their leaders from such acts creates an atmosphere of impunity that reinforces the climate of fear and uncertainty and harms the exercise of trade union rights.

The extrajudicial killings and the violence perpetrated against workers is now at the level of a humanitarian crisis. Yet, the Government continues to refrain from putting effective monitoring mechanisms into place to address this impunity and ensure accountability. We note that the Inter-Agency Committee (IAC) on extra-legal killings, enforced disappearances, torture and other grave violations of the right of life, liberty and security of persons (AO35) has yet to reconvene due to pending staff changes in the Department of Justice. We note that the NTIPC-MB is a non-judicial or investigative body monitoring matters of industrial peace. It is alarming that the NTIPC submitted 65 cases of extrajudicial killings affecting trade unionists but only 11 were verified by the IAC. The cases of Florencio "Bong" Romano, discussed by the Committee in 2016, and of Victoriano Embang, murdered in 2014, are still under police investigation. The IAC must be given resources to investigate and prosecute all complaints of extrajudicial killings of trade unionists. The NTIPC must also be resourced to monitor the climate of justice and security for trade unionists. We call on the Government to provide all necessary resources for the speedy and effective investigation of the serious allegations of killings of trade union leaders and guarantee the security of witnesses.

We deeply regret that over many years, various aspects of the legislation of Philippines that are non-compliant with the Convention remain intact and are applied in practice. There appears to be an absence of good faith by the Government to work expeditiously to adopt the necessary measures that would bring its legislation into compliance with the Convention. For a number of years now, the Government has been referring to several bills that are still pending. For example, sections 284 and 287(b) of the Labor Code restrict foreigners from joining unions contrary to Article 2 of the Convention. The Government has pointed to House Bills No. 1354 and No. 4488 that allegedly, when passed, will permit foreign individuals to engage in trade union activities including self-organization. As noted by the Committee of Experts, these bills are still pending in spite of various sessions of the House of Representatives where they could have been adopted.

Numerous categories of workers are excluded from the right to form or join trade unions. They include workers in managerial positions or with access to confidential information; firefighters; prison guards and other public sector workers; temporary or outsourced workers; and workers without an employment contract. These exclusions stand in clear contradiction with Article 2, which affords the right to freedom of association to all workers without distinction. The Government has referred to House Bills Nos 4533 and 5477 and Senate Bill No. 641, which it claims will address these violations. However, it must also take necessary steps in good faith to ensure that these bills are finally passed into law with the full involvement of the social partners.

Moreover, there are aspects of the legislation that restrict the right to establish trade unions without previous authorization. Under section 240(c) of the Labor Code, independent unions must meet a membership threshold of 20 per cent in order to organize. The Committee of Experts have repeatedly made it clear that the minimum membership requirement was excessive and therefore constituted an obstacle to freely form workers' organizations. The Government is pointing again at pending Bills that aim to reduce minimum threshold without providing a credible explanation concerning the delay in the adoption of the amendments that are necessary.

Furthermore, we are deeply concerned that Article 3 protections of non-interference and protection against interventions that impair the exercise of these freedoms are continuously undermined. Under section 278(g) the Government has the power to unilaterally intervene in labour disputes affecting essential services and to order compulsory arbitration. We note the Government's issuance of Order No. 40-H-13 to align the list of industries of national interest with the Convention's essential services. However, the Government retains an expansive instead of strict and limited definition of essential services contemplated by the Convention. The designation of essential services must correspond to those services whose interruption would directly endanger the life, personal safety or health of the whole or part of the population. The House of Representatives have been going through four bills to address these concerns under Bill Nos 175, 711, 1908 and 4447 and Senate Bill No. 1221. We stress the need for the Government to take urgent steps to ensure that a definition of essential services compliant with the Convention is adopted in consultation with social partners. In this context, it is also deeply troubling that sections 279 and 287 of the Labor Code impose penal sanctions against workers for participating in or carrying out a peaceful strike. This is undoubtedly a breach of Articles 3 and 8 of the Convention. And regrettably, the House Bills Nos 175, 711, 1908 and 4447, which aim to address this issue, are still pending in the House of Representatives. We regret that these Bills have been pending for several years now. The Government must take immediate and time-bound steps to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike irrespective of the agreed procedure. Equally, we note that the requirement of section 285 of the Labor Code, for prior approval from the Secretary of Labour before trade unions can receive foreign assistance, violates Article 3 of the Convention. The Government has introduced House Bill No. 1354 and No. 4448 to withdraw the prohibition and regulate other aspects of foreign assistance to Philippine trade unions. Again, this has been pending for a while in the House of Representatives.

Finally, the Government has not given full effect to Article 5 of the Convention. Section 244 of the Labor Code sets an excessively high threshold of organizing ten union locals or chapters duly recognized as collective bargaining

agents in order to register a federation or national union. Again, the Government has indicated that House Bill No. 1355, which reduces the minimum membership requirement, is pending, along with Senate Bill No. 1169. We are also deeply concerned about excessive use of short-term contracts and its negative impact on freedom of association. Legislative processes have been pending for too long without any concrete steps undertaken. We reiterate that supervisory bodies have noted the vital importance of social dialogue and tripartite consultation on matters of labour-related legislation and policy. We call on the Government to pursue full, frank and meaningful consultations on these Bills. It is our expectation that all necessary steps to ensure the amendments are adopted will be taken without further delay.

Employer members – We thank the Government for its comments, and also to the workers, because there was a lot of useful detail in the comments that have just been made. As we know, the Convention is a fundamental Convention ratified by the Philippines in 1953. The Philippines has ratified 37 Conventions, including all eight fundamental Conventions, and that is noteworthy because it means that they take the principles of these fundamentals seriously, or should do. This case has been examined by the Committee before, in 2007, 2009 and 2016, and there have been 15 observations from the Committee of Experts since 1995, including seven in the last ten years and that is again noteworthy. Countries that are commented on frequently, have issues that need to be dealt with more importantly. It is a long standing case, as we heard from the workers, it has got multiple features, and it is also a case involving the Convention, over which as we all know, from interminable comments, that there are issues, the employers have issues with. Just to recap, the employers disagree with the views of the Committee of Experts concerning the right to strike under the Convention and we hold the view that there are no ILO standards on strikes, and therefore, that the scope and conditions of the exercise of the right to strike should be regulated at the national level. So, insofar as the right of workers in the Philippines to take strike action is concerned, we would simply reflect that it is for the Government to regulate this matter.

On its face, this case is a case of systemic discrimination by the state against workers' organizations and their members. I say on its face advisedly, as closer examination of the issues suggests that the case of the Philippines is actually not one story but two. The first is the specifics of the complaints of workers and unions, and the second is the Government's responses, and the context of those responses. So, looking at each of those stories in turn.

In relation to the complaints of the unions and workers – over many years the Committee has received complaints of violations of trade union rights and worse, including the alleged killing of trade union leaders, arrests, and false criminal charges filed against trade union leaders, and physical assaults on striking workers. There are too many to detail here in the time available. Once again, the observations concern serious allegations of human rights violations, including: the killings and attempted assassination of trade union officials; the violent suppression of strikes and other collective actions by the police and the armed forces and; the harassment of unionists and prevention of people from joining trade unions in EPZs. Let me be clear, the employers in no way denigrate the seriousness of the issues brought to the attention of the Committee. However, it is important to note that these are not just issues of freedom of association, which is the subject of this case. They also include issues of human rights and by definition there are also cases of law and order. Cases such as these cannot go unchallenged, but, we have to be careful that we challenge them here in the context of freedom of association. We have no jurisdiction in the matters of law and order in particular, nor arguably human rights, although there are inevitable overlaps. Much of the detail of this year's case is the same as last time it was discussed. The murders referred to in 2016 have been discussed before. So, we need to examine not just the details, but also whether the situation is getting better or worse and which bits are better or worse. This year it seems there are just as many, if not more issues, but also that the Government has a long way to go in dealing with them.

In relation to the Government's response – the second story relates to the Government's responses to the various allegations leveled against it. Over several years, its response has been multifaceted and on its face comprehensive. Regrettably however, it dates back several years and little seems to have changed in the interim. To recap, the Government for several years now, has provided information about its work on reforming its labour laws in conformity with the Convention. Two critically important elements of this activity have been what was called: (i) The National Monitoring Mechanism, which has a mandate to monitor the nation's progress on the resolution of human rights violations, prioritizing, in the short term, cases of extrajudicial killings, enforced disappearances and torture, and to provide legal and other services. We do acknowledge that several convictions for unlawful killings have resulted as a result of this, but there are many, many, unsolved issues, some of which have yet to even be investigated. (ii) The IAC on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons, which was created in November 2012 and also charged with the investigation of cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations perpetrated by the state and non-state forces and to prioritize unsolved cases, and to create special investigation teams. We welcomed it at the time it was set up, but we note with regret, that it appears to have fallen to abeyance since this case was last discussed. This is a serious concern and the employers urge the Government to promptly resume the previous activities and address the growing back log of cases. We also echo the call of the Committee of Experts for the Government to report on progress made in ensuring the collection and processing of information that will bring cases of violence to the courts, and to report on the outcome of those cases. It is not sufficient, we believe, to have as we heard from the Government, 16 regional tripartite bodies that can be called upon when needed to investigate issues – when needed, is now and they should be active now.

While investigations into the allegations of acts against union members and officials are serious issues in their own right, so too is the context in which the Government must investigate these allegations. This makes the Philippines' Human Security Act perhaps the heart of the second story. This Act reflects the Government's commitment to preserve the security of its citizens against a long-standing background of political and civil instability, including armed insurrection. It is this background that the employers believe has not been given sufficient weight in the consideration of this case, both now and in the past. This is important because the IAC operational guidelines define extrajudicial killings so as to include cases where the victim was a member of, or was affiliated with, a labour organization, or was apparently mistaken or identified to be so, and the victim was targeted and hurt or killed because of the actual or perceived membership. Not every human rights violation is a breach of labour rights, this is especially true if this person against whom the violation was committed, was in fact committing an unlawful or criminal act at the time. It is therefore, vital to consideration of cases that it be made clear, what law was being transgressed and whether

that law conforms to international standards. This is not always clear and any lack of clarity can only inhibit a fair consideration of the case. In the context of freedom of association, it is important to distinguish between cases where union members were specific targets because of their union membership or activities, or simply became victims, alongside other victims and other citizens, of more generally directed violence. We have a mandate in the first respect but we do not in the second. Unions have expressed concerns that the Human Security Act can be misused to suppress legitimate trade union activities. For its part, the Government has stated that this Act cannot be used against the exercise of trade union rights, especially legitimate trade union activities, and that guidelines exist to ensure that the armed forces and the police may only intervene in trade union activities if expressly requested to do so by the authorities. The evidence that we see in front of us, and that we heard is that, that may be more words than real. In terms of monitoring and investigation, employers welcomed the establishment of the National Monitoring Mechanism and the IAC, at the time. The trouble is that, while initially active, they seem to have fallen into disuse. We do understand that there has been a change of regime, and a number of activities have been interrupted in recent times. However while that is a fact, it is not an excuse. We urge the Government to "get back on track" as soon as possible.

The Government has previously indicated that it has engaged in cooperation with the ILO Manila, a technical cooperation programme on training and capacity building of all relevant stakeholders on international labour standards, including freedom of association and collective bargaining. We request that the Government provide an update on the status of this work and any results that have been achieved.

With respect to the Labor Code, we note government proposals to make changes to ensure greater consistency with international labour standards, particularly with the Convention and that a tripartite labour code review team was a partner in the drafting process. However, once again, this is a change that has been in train for a long time, it is a welcome change, but once again, it does need to be finished.

With respect to Article 2 of the Convention, which is the Right of workers to establish and join organizations. We note that Bill 5886, while allowing non-citizens to participate in trade union activities, only assigns the right to aliens with a valid working permit. Nor does it deal with concerns over the exclusion of trade union rights for certain public servants, the likes of firefighters, prison guards, and the like, public sector employees in policymaking positions or with access to confidential information.

We welcome the news that the Philippines has ratified the Labour Relations (Public Service) Convention, 1978 (No. 151). However this is still a step short of reality. It is the domestic laws that will give effect to these Conventions that now need to be expedited and we again urge the Government to act quickly to bring these laws to fruition.

The Employers recall that, while it is possible under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which deals with the right to bargain collectively to exclude certain public servants from collective bargaining, this is not a matter contemplated by the Convention, which deals with the right to organize. Accordingly, the employers hope that the proposed legislative amendments and any other relevant legislative measures will be in accordance with the above-mentioned principles, to ensure that all workers, including those excluded from collective bargaining have the right to organize. Employers request the Government to provide information on all developments in this regard.

With respect to Article 3 of the Convention, concerning the right of organizations to organize their administration and activities and to formulate programs without interference, we note the Government's indication that the proposed changes will harmonize the list of industries, essential industries, indispensable to the national interest. As in previous years, we welcome this initiative to limit the Government's intervention leading to compulsory arbitration. However, once again we want to see the legislation enacted, we have heard about it for too long, we need to see it done. We also once again, welcome news that the thresholds to establish unions will be lowered so that the exercise of freedom of association in terms of establishing organizations is as free as possible. In relation to the Committee of Experts' remarks about the principle according to which no penal sanctions should be imposed against workers for having carried out peaceful strikes we do have concerns. Given how my previous remarks about the Convention, given that there is no consensus about the existence of a right to strike, the Committee of Experts' remarks can only be construed as a reference to the extent to which national law provides for penalties to be imposed in instances of unlawful strikes. We can only hope that the Government will adopt a balanced and fair approach to these matters.

In conclusion, the things that we need to see, or the one thing we need to see, is action. We would like to see the rejuvenation of the work of the IAC and what was the, National Monitoring Mechanism. We would like to see the amendments to the Labor Code brought into full conformity with the Convention, including permitting all workers and employers without distinction to form and operate organizations of their choosing. We want to Government to ensure that workers are not penalized exercising lawful rights under national law and we want to see an update as soon as possible on the status of the technical cooperation project established with the ILO, we hope that all of these matters will be expedited as soon as possible.

Employer member, Philippines – The Employer members are in full accord with the report of the Government representative in the significant improvements with respect to the application in law and practice of freedom of association under the Convention. They also support the 2017 National Action Plan on the Freedom of Association and Collective Bargaining and its concomitant action points in respect of civil rights and trade union rights. In the legislative issues, in response to the recommendations and comments from the ILO supervisory bodies, there are indeed several remarkable and consequential reforms on labour and employment as heretofore narrated before by our Government representative. The Employer members wish to add a landmark but albeit, controversial law, that gave more flesh and meaning to the right of workers to organize and conduct collective bargaining, rights guaranteed under our Constitution and our law. We said it is controversial as there are provisions that raised serious concerns by business. This law relaxes and lessens the once too strict and complex prerequisites for union recognition. It hastens local enterprise union organizing by simply letting a federation or national union issue a charter certificate as its local chapter. While the issuance of a chapter certificate gives the local chapter legal personality only for purposes of filing a petition for certification election, there are features in the law that raise hackles from the business community, among which are the following: (i) In a petition for certification election, the employer is considered merely as a by-stander. The employer's role in such proceedings shall be limited to being notified or informed of the petition and to submit the list of employees during the pre-election conference. It creates a sad spectacle of the Government and the union talking about the future of the company while its social partner, the employer, is being left out from the conference; (ii) the rank and file union and the supervisors' union operating within the same establishment may join the same federa-

tion or national union. This gave rise to concerns from employers on the issue of conflict of interest. Would this not affect the objectivity of the supervisor when he or she is being called to investigate an erring rank and file employee? In the event of a strike of one, would the other maintain its independence and not sympathize with the other?

Be that as it may, the Employer members accept this law as a stark reality. *Dura lex, sed lex.* The law may be hard, but it is the law. As responsible social partners, subscribing to the Convention and Convention No. 98, the employers will respect and obey the law. Employer members welcomed the visits of the high-level mission of 2007, the Direct Contact of 2017 regarding complaints on alleged violations of the Convention and Convention No. 98. With due deference, however, the Employers are concerned that most of these complaints have proven to be untrue after a true investigation. While we condemned in the strongest terms the shooting of a union organizer on the second day of this month while meeting with a group of UN members, which we hope that the culprits will be put behind bars soon, it is worthwhile noting that of the 71 reported extrajudicial killings and attempted murders, 27, or 38 per cent, from 2001 up until present year, are classified as suspected to be labour related. Of these 27, only two are pending in court, another two happened due to personal grudges such as traffic altercation, etc. The remaining 23 were dismissed, or under investigation still, or shelved due to lack of direct evidence. Against this background, the Employer members humbly and respectfully suggest to the Committee of Experts to exercise some due diligence in assiduously verifying and validating any complaint of alleged violation of the Convention and Convention No. 98 to determine if there is indeed a probable cause to entertain such complaint. In closing, the Employer members assure the Committee of their continued support and cooperation in the performance of its functions.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The Candidate Countries Montenegro and Albania and the EFTA country Norway, Member of the European Economic Area, align themselves with this statement. We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights. We call on all countries to protect, promote and respect all human and labour rights and we attach great importance to freedom of association and the right to organize. Compliance with the Convention and Convention No. 98 is essential in this respect.

We wish to recall the commitments made by the Philippines within the framework of the GSP+ Agreement and the Framework Agreement on partnership and cooperation with the EU and its Member States, in particular commitment to ratify and effectively implement international Conventions on human and labour rights. In support of this, the EU is implementing a joint project with the Philippines on strengthening the capacity of public administrations to apply the eight fundamental ILO Conventions with a specific focus on freedom of association and collective bargaining.

Despite some progresses in overall promotion of the social and labour rights agenda and the commitments by the authorities to address the issues of concern, we deeply regret that this case is again on the list of the Committee, after its discussion in 2016. We thank the Government for good engagement and the detailed information additionally provided. However, we note with serious concern that after several years, numerous cases of violations of freedom of association remain unresolved, including trade-union murders, anti-union violence and police violence during peaceful strike action. We are also concerned by the lack of proper investigations and prosecutions of serious cases. We reiterate that impunity cannot and should not be tolerated in any society. We welcome the steps taken in recent years to establish monitoring bodies and institutions, including the IAC entrusted with the duty to investigate extrajudicial killings, enforced disappearances and torture, the NTIPC-MB and the Regional Tripartite Monitoring Bodies. However, we regret that the IAC is yet to reconvene. We note that provisions have been made to set up Tripartite Validating Teams to support the work of the regional monitoring bodies. We call on the Government to take prompt measures to reiterate the proper functioning of the IAC and we expect the established bodies to appropriately investigate all cases, punish the perpetrators and prevent the repetition of similar events. Recognizing the seriousness of the allegations and the complexity of the cases, we are cooperating with the Government in the area of witness protection and capacity-building of prosecutors, enforcers and other relevant actors. We also urge the Government to take further steps to strengthen the functioning of the national and regional tripartite bodies.

We join the Committee of Experts in welcoming the ratification of Convention No. 151 in 2017 by the Philippines. However we would like to raise our concerns over the persisting legislative aspects of the case which the ILO supervisory bodies have been raising for years. We note with concern the lack of progress in the adoption of several legislative proposals to bring national legislation into conformity with Convention No. 87, despite repeated commitments and assurances to do so in recent years. We urge the authorities in the Philippines to adopt the legislative amendments, in particular concerning: granting trade union rights to all workers and categories of workers in the country; reducing the excessively high minimum requirements for forming trade unions; lowering the excessively high requirement for registration of trade union federations; limiting government intervention in labour disputes; ensuring that no penal sanctions are imposed against the worker for having carried out a peaceful strike; removing the need for government permission for foreign assistance to trade unions; and reducing the excessively high requirement for local unions in order to register at the federal or national level.

Lastly, tripartite consultations and meaningful and effective social dialogue are essential elements of the application of fundamental principles and rights at work, particularly the fundamental ILO Convention. Therefore, we strongly encourage the Philippines to step up its efforts to strengthen cooperation with the workers and employers to ensure the effective implementation of the Convention and respect for freedom of association. In conclusion, we would like to reiterate our strong commitment to continue our intensive cooperation with the Government of the Philippines, in its effort to address challenges and secure the respect of human and labour rights in the country.

Government member, Thailand – Thailand delivers this statement on behalf of the Association of Southeast Asian Nations (ASEAN). ASEAN recognizes that as a signatory to the Convention way back in 1953, the Philippines, with the collaborative efforts of its social partners, have shown substantial progressive improvements in terms of the application in law and practice, the principles of the Freedom of Association since the High Level Mission in 2009, and the direct contacts mission in 2017 after its examination before the Committee during the 105th International Labour Conference in 2016.

ASEAN notes the information and report on the progress so far realized, taking into account the national circumstances, in the observance of the freedom of association in the Philippines through the National Action Plan on the Freedom of Association and Collective Bargaining (2017–22), adopted in 2017 by the Philippine tripartite partners with the support of the ILO Country Office in Manila and

the European Union Generalized Scheme of Preference (GSP+). To fully implement the National Action Plan in 2022, ASEAN expects the tripartite partners in the Philippines to continue the laudable works they had started. The Philippines, together with its social partners, shall be given the opportunity to complete and accomplish the activities and programmes embodied in the National Action Plan within the tripartite-agreed timelines. ASEAN, therefore, urges the Philippines to remain committed to its obligations under the Convention, and to continue its healthy and constructive engagement with all social partners.

Finally, ASEAN calls on the ILO and its supervisory bodies to provide the needed technical assistance and guidance to resolve pending issues and ensure a better enabling environment for the effective implementation of the Convention in the Philippines.

Observer, Federation of Free Workers (FFW) – I am speaking on behalf of the Federation of Free Workers and Nagkaisa Labor Coalition of the Philippines. Philippines is signatory to the Convention as early as 1953. As we can recall, in 2016, the Committee of Experts designated the Philippines on the Convention as a double-footnoted case. The choice was in our view an appropriate reaction to the ongoing violence against trade unionists and the lack of prosecutions for extrajudicial killings, despite the establishment of various national mechanisms to monitor and investigate these crimes. Of course, anti-union violence was not only our concern in 2016. The avoidance of unions through non-regular employment schemes, the defects in existing laws and the failure of the Government to enforce even these defective laws have led to a climate in which freedom of association is very difficult, if not nearly impossible to exercise.

Since the Duterte Administration came to power, 43 trade unionists have been assassinated. The first murdered trade union leader was Orlando Abangan, a SENTRO organizer based in Cebu. He was gunned down in September 2016. The most recent is Dennis Sequeña, a veteran trade union organizer, who was gunned down in Tanza, Cavite on 2 June 2019, in the middle of conducting a basic orientation on trade unionism with EPZ workers. The local police have not even formally filed a case. During the prior government of Gloria Macapagal Arroyo, 68 trade unionists were murdered. The Government is simply not serious about holding anyone responsible for these murders. However troubling, the violence is not only our concern in the Philippines, while the workers in the Philippines led by the Nagkaisa Labor Coalition succeeded in convincing the Government of the Republic of the Philippines to ratify Convention No. 151, the first ever in the whole of Asia two years ago, until the present, however, there is still no enabling law passed to implement the spirit and intent of the said Convention. This situation keeps the more than 628,000 job orders and contract of service employees who are working and performing core functions and frontline services in local government units, national government agencies, state colleges and universities, including government owned and controlled corporations, remained outside the scope of collective bargaining in the public sector and were consequently deprived of the benefits therefrom. Government should walk the talk.

The Committee of Experts again notes several other legislative matters, including obstacles to registration, among others and that in fact recently there were a lot of labour and employment legislative reforms that have been enacted including the Occupational Safety and Health, Telecommuting Act, Social Security Reform Act, providing for an unemployment benefit among others, Expanded Maternity Leave Law. However, these measures are far from realizing the right of the workers to fully enjoy their freedom of association.

Government member, Brazil –Brazil thanks the Government of the Philippines for the detailed information provided to the Committee. Brazil reiterates its unease with a wide range of aspects of the supervisory system. This Committee is far from conforming to best practices in the multilateral system. A strong, effective and legitimate ILO, adapted to the contemporary challenges is of interest to all – governments, workers and employers. Looking forward to a future with prosperity, decent work and more jobs, the ILO should increase cooperation and international partnerships, while reviewing its standards supervisory system towards transparency, objectivity, impartiality and true tripartism.

We take good note of the information provided by the Government as to its commitment to ensuring freedom of association and the rights of workers as a whole. In this regard, we highlight the report on the improvements in the observance of freedom of association in the Philippines through the adoption in 2017 of the National Action Plan on the Freedom of Association and Collective Bargaining 2017–22 by the Philippine tripartite partners with the support of the ILO Country Office-Manila and the European Union. For the consequent implementation of the National Action Plan, we encourage the tripartite partners of the Philippines to continue the efforts they have started. We trust that through social dialogue and tripartism, the Philippines can foster an enabling environment for freedom of association including collective bargaining. Finally, we call on the ILO and its supervisory bodies to provide, if requested by the Government, technical assistance to resolve pending issues and further advance freedom of association in the Philippines.

Worker member, Philippines – On behalf of the Nagkaisa Labour Coalition, let me add to what the worker member from the Philippines has said. Moreover, the situation for workers in EPZs remains just as bad as ever. Union organizers are banned from entering EPZs. Management harass workers as soon as there is word of union organizing, and workers suspected of being involved are arbitrarily transferred to isolate them or are fired. When tribunals order reinstatement, employers routinely ignore these orders with impunity. In some cases, management will work with the PNP to arrest union leaders on trumped up criminal charges just days before the certification elections. These fake charges include arson, drug trafficking and murder. Even if the union wins certification election, factory management will sometimes nevertheless recognize a management-dominated union and bargaining with them. Some have even shut down and shifted its production to a sister company operating in the same EPZ. Of course, workers and union have no effective recourse when their rights are violated.

We are very troubled that despite the regular observations and the recommendations and conclusions of the high-level mission, the situation is worsening. We see no other option but to call for a high level tripartite mission, in the hope that this will help to move some of these issues closer to resolution. This would include, but is not limited to, the Government conducting competent investigations into anti-union violence and prosecuting and punishing those responsible. The High-Level Monitoring Body must also be strengthened by providing it with the resources and capacity to validate reports of trade union killings and coordinate with the IAC on extrajudicial killings. Those in the armed forces who stigmatize trade unionists must be punished appropriately. The Government must also finally resolve the legislative issues we have been raising for many years to ensure that all workers are able to exercise freely, their right to associate. Further, the Government should amend the Special Economic Zone Act of 1995 to include labour standards compliance as a requirement for a company's continued access to all the incentives provided by

the Philippine Economic Zone Authority (PEZA). Tripartite councils should be convened regularly by PEZA, in all the EPZs, to review grievances and recommend remedies. Government and employers must also publicly express their commitment to respect freedom of association and collective bargaining in EPZs.

Thus, the workers of the Philippines hope that their demands herein made will be heard, and be implemented soonest. We want to highlight, that the Security of Tenure Bill, recently passed in Congress, will not end contractualization nor fixed-term employment. This is not the promise of President Rodrigo Roa Duterte. In furtherance herewith, the ILO and its supervisory bodies are hereby requested to provide the needed technical assistance to ensure an enabling environment for the workers' enjoyment of their freedom of association. If workers back home are not regular, they cannot fully enjoy their rights to freedom of association.

Government member, India – We welcome the delegation of the Government of the Philippines and thank them for providing the latest comprehensive update on this issue. We welcome the commitment of the Government of the Philippines to fulfil its international labour obligations including those related to the Convention both in law and practice. We take positive note of the significant improvements made in the observance of the freedom of association in the Philippines within two years since the adoption of the national action plan on the freedom of association and collective bargaining 2017–22 by the Philippines tripartite partners with the support of the ILO. We encourage the tripartite partners of the Philippines to cooperate and collaborate with each other in the true spirit of social partnership to create the necessary enabling conditions for the full implementation of the national action plan by 2022.

We appreciate the steps being taken by the Government of the Philippines, in cooperation with its social dialogue partners, which are resulting in a considerable decline in the reported cases of harassment and killings, helping bring the pending cases of violence to the courts and for monitoring and fast-tracking the process in line with the constitutionally guaranteed right to speedy trial and due process, providing sufficient witness protection and for the building of capacities of prosecutors, enforcers and other relevant actors. Further, the consistent efforts of the Government of the Philippines to address emerging labour issues and its various initiatives to promote freedom of association and collective bargaining, anchored in the understanding that secured employment is the best enabling environment for freedom of association, as part of its progressive legislative agenda are noteworthy. In fulfilling its labour related obligations, we urge ILO and its constituents to fully support the Government of the Philippines and provide any technical assistance that it may seek in this regard. Lastly, we take this opportunity to wish the Government of the Philippines all success in its endeavours.

Observer, International Trade Union Confederation (ITUC) – I stand with our courageous workers in the Philippines and indeed I thank the Employers and the Governments who have urged the Philippines to act in line with the recommendations of the direct contacts mission and the Committee on Freedom of Association.

Today I will launch the ITUC's Global Rights Index and sadly, one of the ten worst countries in the world for workers remains the Philippines. It was there 2017, 2018, 2019 for violence and murder, brutal repression of public protests and repressive laws. You have heard that ten trade unionists were assassinated among other extrajudicial killings just last year and two already this year. I can tell you first hand, the culture of fear is palpable in the country as the culture of impunity grows. You have heard that the IAC is not functioning, with an inconceivable record of just one case proceeding to conviction. And indeed, when you have national and regional tripartite industrial peace councils that lack investigative and prosecution authorities this is not working.

With the interference of the army and the police into industrial relations, military presence in workplaces, strikes, door to door searches of union leaders, abduction, harassment of villagers to quit the union, manufacturing charges against union leaders that I have heard myself, this is not a country that respects fundamental rights for workers and even for employers. The wave of new strike action, the sit-down strikes, the deadlocked negotiations, the mass layoffs in 2018 is a response from us to oppression and the failure of the President's claim of regularization of illegal and oppressive contractualization. The current security of tenure bill will not fix the problem of exploitative short-term contracts; it is not what the President promised which was the end to insecure and dehumanizing work arrangements that go with this practice.

I have walked the supply chains and I want Governments and Employers to understand the dehumanizing exploitation of the supply chains of workplaces where workers work through small to medium enterprises for some of the richest multinationals in the world. There is no due diligence here, I can tell you, and there is no sanctioning of practice by Government. When you have a woman who is frightened for her 12-year-old son; she does not have family support; she is forced to do overtime with a few minutes' notice and she can be at work until 10, 12 or 2 in the morning without even food with a voucher for a canteen that opens at 6 a.m., that is an impact on her and her family's circumstances, that is frightening. And indeed, when I have been in the homes of workers who have been sacked for trying to stand up and collectively organize for minimum wage increases so they could live with dignity by some of our richest multinationals, then I can tell you when one-day's wages equals one week's baby formula for one child, two-day's wages, two children, this is not a country that is respecting workers' rights.

And I cannot leave this room in conclusion without drawing attention to the actions of a country exploiting migrants and calling for migrant workers' rights in other countries, to actually continue to exclude categories of foreign workers and others from freedom of association it is an act of hypocrisy. We can only say please act with the support of the ILO, please act to the Government of the Philippines to actually regularize laws and end the culture of fear and impunity.

Observer, Building and Wood Workers' International (BWI) – The BWI expresses its concern about the rampant violations of workers' rights in the Philippines. This international foundations of labour rights continue to be violated with impunity in both subtle managerial and governmental actions through the violence whose perpetrators have never been brought to justice. Murder has no place in industrial relations, workers' lives should never be sacrificed in the exercise of their rights. This is our primary message to the Committee. The latest victim of this murderous attacks against trade unions was Dennis Sequeña who was conducting a basic trade union seminar for workers. Dennis Sequeña is not the only trade union leader – he is also a husband and a father. Dennis Sequeña is not only one name. Nonoy Palma, a farmer in Southern Philippines was killed at his house. Orlando, local organizer in Cebu, was killed while conducting a union seminar. Ryan, Nelly, Villegas, Angelipe, Peter, Dodong, Morena, Dumaguit, Bingbing, Jomarie. There are at least 43 trade unionists and labour rights defenders assassinated under the Duterte Administration. I want you to remember these names as workers and committed trade unionists like many of us here in this room. They are not statistics to be recounted year after year. They are individuals who believed in working and

fighting for a better world for themselves and their families. The killings must stop. Enough is enough.

There have been numerous public outcry and condemnations both within the Philippines and globally on the extrajudicial killings of ordinary citizens. At least 33 people are killed every day in the Philippines. The United Nations Commission on Human Rights estimates that at least 20,000 people may have been killed in the context of the government's campaign on illegal drugs since mid-2016. This is a war on the poor. This is a war on the workers. We have the moral responsibility. How many more committee meetings do we need before we start to address this issue? How many more tripartite meetings do we convene before we take action to stop these killings? How many more speeches do we deliver before we truly listen to the voices of the families asking for justice? We can express our deep concerns on the statements and reports but I believe that the moral force of ILO should now be truly a force of justice. Building a future of decent work will never be achieved if the numerous violations and attacks on the trade unionists remain case files. Enough is enough. It is time to act.

Observer, International Transport Workers' Federation (ITF) – The IAC established pursuant to AO35 has verified only 11 cases of extrajudicial killings of trade unionists out of 65 cases it has investigated. We have some serious concerns about the criteria provided under AO35 to determine extrajudicial killings. Allow me to share an example of an active case to demonstrate this. The Committee has previously heard about the murders of Antonio Petalcorin and Emiliano Rivera – both leaders of the ITF-affiliated Confederation of Transport Unions. On the 28 November 2012, Petalcorin and Rivera filed a complaint with the National Ombudsman against the Director of the Transportation Board, alleging corruption. Just two months later, on the 23 January 2013, Mr Rivera was killed by unknown assailants near the office of the Transportation Board. On the 2 July 2013, Mr Petalcorin was fatally shot three times in the chest while on route to the Transportation Board. It is clear that they were targeted by forces close to the authorities for their trade union activities, which includes attempts to combat corruption. Yet, the IAC found that these two cases did not meet the criteria for extrajudicial killings. Therefore, it is imperative that the Government ensures that the criteria used by the IAC for screening cases should be broader than the judicial criteria used by the courts so as not to unduly exclude possible freedom of association cases and to ensure that trade union activities give rise to an in-depth review of the possible motivation of the crime or murder. We must also underscore the need to rapidly identify the perpetrators of violence against trade unionists and bring them to justice in order to combat impunity even when cases are handled through the regular criminal law. The families of Mr Rivera and Mr Petalcorin have been waiting six years for justice.

I will very quickly speak to a second issue. While the Committee of Experts have discussed the application of sections 279 and 287 of the Labor Code in relation to the criminalization of industrial action, another piece of legislation has also been used recently criminalize strike action. In December 2017, George San Mateo, leader of the ITF-affiliated PISTON union, was arrested under a WWII-era law for supporting the right of transport workers to undertake industrial action. Mr San Mateo was charged with breaching section 20(k) of the Commonwealth Act of 1946 for "knowingly and wilfully instructing members of his union to conduct a nationwide strike." Resorting to arrests in connection with the organization of a peaceful strike is a grave threat to freedom of association. The Government should now review all relevant legislation to ensure that no penal sanctions are imposed against a worker for having organized or carried out a peaceful strike.

Observer, Education International (EI) – I am General Secretary of the Botswana Sectors of Educators Trade Union, and I will be speaking on behalf of EI and the Filipino Alliance of Concerned Teachers (ACT). I wish to denounce the infringements of the labour rights of teachers in public and private schools, and specifically: the illegal collecting of data on union membership of teachers in order to profile members of the teacher union Alliance of Concerned Teachers; and secondly, the red-tagging of ACT as a "terrorist" organization and the harassment and threats against unionists and leaders of ACT. In December 2018, the police started visiting schools to inquire about ACT members, requesting lists of union members and investigating about specific individuals. The leak of "confidential" memoranda from the police provided evidence that the order to collect data on unionists came from the Police Directorate for Intelligence. The collection of data on union membership and profiling of union members have been closely followed by acts of anti-union discrimination. ACT members and leaders at local and national level have been followed, harassed, intimidated and have received threatening text messages and calls. To date, the teacher union documented 45 such cases in ten of the 17 regions in the Philippines, including death threats received by ACT General Secretary, Raymond Basilio, on his mobile phone during an ACT press conference. The General Secretary of ACT cannot spend two consecutive nights in the same location and changes regularly his cell phone. The Government denied ordering the profiling of union members, but at the same time, they admit that intelligence gathering is part of their operations against crime and terrorism. They accuse ACT of being a "front organization" of the Communist Party of the Philippines and of recruiting for the New People's Army. This red-tagging of ACT, which also targets other organizations and individuals critical of the Government, continues until now. This anti-union climate has caused public and private school teachers to fear for their liberty and safety, especially since their unions and organizations are branded, without legal and factual basis, as "rebels", "communists", or "terrorists" – and thus "enemies of the State". These violations cast a chilling effect on teachers' right to form and join trade unions, and the attached rights of negotiation, assembly, and speech. They amount to governmental interference in trade union activities, and also amount to discrimination and repression. I have faith that this commission will adopt supportive recommendations in this case.

Worker member, Finland – I speak on behalf of the Nordic countries. We express our deep concern about the situation in Philippines, where the violation of freedom of association continues to be serious. We are also worried about the violence and harassment against trade union activists, as well as the red-tagging, and assassinations of trade union leaders. It seems that the Government has not done anything to investigate the matters to bring the perpetrators to justice. The Committee has previously requested the Government to continue taking actions to ensure a climate of justice and security for trade unionists in the Philippines. To our regret, the information of new assassinations of trade union leaders – like the recent case of Dennis Sequeña – demonstrates, that the Government's actions have not been enough. If one would use the data of the Center for Trade Union Rights, Dennis Sequeña is the 43rd worker assassinated since the Mr Duterte came to power in 2016. A key issue that makes trade union representatives susceptible to being targeted, is the fact that the AFP continues to identify one particular ideology as the enemy of the state. It is for this reason that red-tagging, in addition to other deployment of violence and harassment, becomes a deadly practice that needs to be stopped.

Article 2 of the Convention states, that workers have the right, without distinction whatsoever, to establish and join

organizations of their own choosing, without previous authorization. As the Committee on Freedom of Association states in many of its decisions, "a climate of violence, coercion and threats of any type aimed at trade union leaders and their families does not encourage the free exercise and full enjoyment of the rights and freedoms set out in Conventions Nos 87 and 98. All States have the undeniable duty to promote and defend a social climate where respect of the law reigns as the only way of guaranteeing respect for and protection of life."

We urge the Government to show the earnest will to take all necessary measures to solve this concerning situation. Work, that all remaining alleged cases of violations of trade union rights and deaths of trade unionists will be subject of appropriate investigations and effective measures to ensure accountability must be taken.

Observer, IndustriALL Global Union – I am speaking in the name of IndustriALL Global Union (representing 50 million workers worldwide), to express our extreme concern following reports from our affiliates in the Philippines, regarding red-tagging and very recent cases of violations of worker and union's rights to exercise simply their freedom of association. Immediately, several cases now:

- Immediately after management and the SPI Workers Union reached a settlement in November 2018, on the issue of illegal closure, the management filed a case against 52 union officers and members of the SMT, accusing these workers of grave coercion, trespassing and malicious mischief. The case was dismissed in April by the Court, but nevertheless, in May 2019, the management appealed. Workers have now submitted their counter affidavit, the case is in process.
- In another company in January 2019, the majority of long-term contractual workers from a manufacturing company, filed for union registration and were accepted. The company then started to harass the workers and illegally dismissed 52 workers for having joined May Day celebrations. On June 3, 2019, 22 more workers, including nine union officers were illegally dismissed.
- In again another company, on April 22, 2019, workers were organizing since 2018, the management forcibly dismissed 27 workers, including all the union leaders. The workers still registered their union on 29 April even though the day before, the management recorded a case of insubordination against 200 workers, to prevent them from attending the Union's General Assembly. Six more workers, with three officers, were preventively suspended last May.
- The Union President, Eugenio Garcia, was arrested based on planted evidence, after the police carried out a search warrant in Garcia's home, on the evening of March 18, 2019. The Pasig police alleges that Garcia was in possession of a 9mm pistol, which was actually planted by policemen in the course of their so-called search. The search warrant issued, and illegal arrest, took place precisely the day that the Union was asserting its Collective Bargaining Agreement.
- The search warrant in the residence of Ricky Garcia, on March 20, 2019, was issued and was carried out by 50 members of the PNP, aboard ten vehicles to search for this leader. Only his wife was there, but just before the search, Chavez had joined his union's protest at the GT Tower in Makati, to commemorate the 18th year of their struggle. Chavez is one of the 233 unionists illegally terminated from the automobile giant's factory in 2001.

In Cavite industrial zone, last week, hundreds marched at the funeral of party member and EPZ union organiser, Ka Dennis Sequeña, shot dead on 6 June, while giving a trade union lecture. Following this assassination, we make ours the statement by Senator Risa Hontiveros, "The right of our workers to organise themselves, to rally for their quality of living, should not come at the cost of their freedom and most importantly, of their lives". We are happy to provide the names of dismissed workers and companies to the Committee, if needed.

Observer, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) – What is widely referred to in the Philippines as "contractualization" is a practice built on the denial of freedom of association and the right to collective bargaining set out in the Convention and Convention No. 98. It is appropriate and necessary that we discuss the issue in these terms at a review meeting of the Committee. The "contractualized", precarious worker is denied her right to a collective bargaining relationship with the company, or the state entity, that organizes the system, yet has no responsibility or legal accountability to the worker. It is a massive denial of rights, built on what the ILO terms as "disguised employment relationship" in the Employment Relationship Recommendation, 2006 (No. 198). The Government of the Philippines is clearly failing to ensure respect for the implementation of Conventions Nos 87 and 98, and the scope of that human rights failure grows as the employers increasingly result to indirect, third-party employment relationships. In the IUF sectors, a telling example is the Government's failure to implement a Department of Labour and Employment order to regularize 6,400 workers at a fast food chain.

The Committee on Freedom of Association, in its 2016 response to our complaint No. 3236 concerning a major dispute in the seafood sector, noted that over four years had elapsed without any meaningful governmental action in response to allegations of mass dismissals in response to workers' efforts to organize and join unions. We note that the Committee's 2016 recommendations have not been acted upon.

The problem of corruption should similarly be examined within the specific rights frameworks of Conventions Nos 87 and 98. Workers and their unions have a right to a fair, transparent, impartial and speedy judicial and administrative process. This right is undermined by the delays and bias clearly rooted in corruption, with the consequence that workers are denied their rights.

Extrajudicial killings, including the killing of trade union members and leaders, and judicial impunity have multiple rights impacts, not least their impact on workers' ability to access their trade union rights. The Committee on Freedom of Association has stated, with some understatement that "A climate of violence, coercion and threats of any type aimed at trade union leaders and their families does not encourage the free exercise and full enjoyment of the rights and freedoms set out in Conventions Nos 87 and 98." Murder is the ultimate threat. The fight against corruption and against impunity is a fight to ensure respect for the Convention and Convention No. 98.

Worker member, Republic of Korea – In 2016, I spoke on behalf of the Korean workers about the chronic infringement of the freedom of association in EPZs with specific examples happened in Korean-owned companies in Cavite and Laguna. Nothing has changed and freedom of association is systematically being violated in the zones until today. Unfortunately PEZA is remiss in safeguarding and promoting the right to organize. Let me give some clear examples. In a Korean-owned garment factory named Dong Seung in the Cavite EPZ, management suspended all 16 union officers for 30 days in mid-2018 on the pretext that they smeared the company by seeking actions from the global garment brand which are its costumer, regarding violation of freedom of association and labour standards. The mass suspension follows on the heels of harassment of workers who joined or are supporting the union. Unionists were deprived of availing loans and transferred to different

production lines to demote from mechanic to sewer. In another Korean-owned factory in Cavite EPZ, workers started forming unions in 2017. Identified union leaders were all transferred to one production line to separate them from the rest of the workers. The company interrupted union certification election by convening a big meeting of workers in the premises of the Cavite EPZ to campaign against voting for the union and the union lost the election. But, to finally bust the union, the company shut down and the workers suspected that the orders are being shifted to its sister companies and the shutdown was meant to harass union members. In the third Korean-owned factory, once management learned that workers were unionizing, it began threatening and harassing union officers and members. Management told workers that the company would close if they vote yes to the union. As a result, the union lost the certification election. In extreme cases, union organizers are assassinated to stop a union organizing drive. The murder of Dennis Sequeña which the Worker spokesperson mentioned, is believed to be linked to three organizing initiatives in the Korean company in the past few months. The premium that Government gives the investors' rights, even at the expense of workers and trade union rights is the root cause of the chronic violation of the freedom of association in EPZs. So the legislation effort should be continued including Amendment of the Special Economic Zones Act of 1995 to include labour standards compliance as a requirement for a company's continued access to the incentives provided by the PEZA.

Worker member, Japan – As the report of the Committee of Experts clearly indicated, there are lack of progress of many pending legislations and amendment of laws which shows weak or lack of willingness of the Government to implement the Convention ratified in 1953. Example of pending legislations are: section 240 (c) of the Labor Code, to reduce requirement of 20 per cent membership for trade unions registration; section 278 (g) of the Labor Code to restrict Government intervention leading to compulsory arbitration to essential services; sections 279 and 287 of the Labor Code to ensure that no penal sanctions are imposed against worker for having carried out a peaceful strike; and sections 284 and 287 of the Labor Code, to grant the right to organize to all workers residing in the Philippines including foreign workers. It is regrettable that in spite of the promises of the Government, it has been no progress on the large number of pending legislations and the lack of enforcement of the Convention which has caused many serious problems on trade unions activities including the killing of trade unionists. Also, I have to mention the issue of contractualization which is a major obstacle to exercise freedom of association in private and public sector. Despite all the hype given by the Department of Labor and Employment over the reforms, none of it made a dent on the prevalence of contractualization in the country. The Government took several legislative measure to reduce contractualization, Department of Labor Order No. 174-17, issued on 16 March 2017, and Executive Order No. 51 on May 2018. Even the Security of Tenure Bill recently passed by the Congress will not end "Endo", which is an abusive labour practice where a worker is hired for up to five months to skirt a labour law granting permanent tenure on the sixth month of service. Endo was so bad that various labour groups denounced in the strongest possible term. Contractualization will continue to be the major reason why the vast majority of workers in the Philippines will not be able to exercise their right to freedom of association and collective bargaining.

Once again, I would like to reiterate to request the Government of the Philippines to take immediate action to amend the Labor Code in compliance with the Convention, especially on strict requirements on union registration and penalization on peaceful strike, just name a few, as well as pass a law that will strengthen security of tenure by prohibiting fixed-term employment for both the public and private sector workers. Many allegations mentioned here are showing how serious the situation in Philippines is. So real, immediate action is needed.

Worker member, Canada – I speak on behalf of the workers from Canada, the United States and Argentina. The Philippines is often described as the "world's call centre capital", with hundreds of American corporations and other multinationals depending on Filipinos for customer care service. The broad sector, known as the Business Process Outsourcing Industry, is the second largest source of income for the country, employing over 1.3 million people and generating over US$22 billion manual revenue, second only to workers remissions from abroad in the contributions to the economy. The Government also offers foreign-based contacts centre operators who begin operations in the Philippines generous multi-year cooperate tax exemptions. It is positive that these workers can find work at home, but that work must be made to comply with the Convention, which the Philippines has ratified. Workers in this sector, so key to the Philippines economy, face challenges in law and practice that effectively deny their freedom of association and right to organize their activities and to formulate their programmes especially in recent years. They have also often faced a hostile climate for exercising of freedom of association through threats against them and the all too common filing of false charges against them for simply announcing the intention to take peaceful and legal strike actions. Threats against workers organizing in this sector, have shown a pattern of harassment both through the legal system and threats of violence that have proven all too real in the Philippines. Major multinational employers know that they are operating in this repressive climate that works to the employers' short-term benefit. In 2018 and this year, one group of workers that legally registered their union in 2015, has repeatedly suffered repression of these rights. In September 2018, these workers filed a notice of strike in response to union busting. As workers attempted to negotiate, several protest actions were held and management retaliated by firing workers and filing false charges against the union and its allies. While some of these charges were dropped in March of this year, to date the charges of liable and grave slander filed by the employer against union leadership are still pending. Though less discussed than those in manufacturing, global supply chains and services must also comply with international standards and support decent work as jobs are moved from countries where workers may have been able to organize and bargain to countries where these rights are difficult to exercise, due to hostile environments, threats and violence in limitations in the law. The Philippines is one such country that it is a major destination for call centre and other business process outsourcing work that can and must be made into decent work.

The actions described above have all been taken against workers trying to exercise their freedom of association at US-based Alorica, the world's third largest call centre company that provides services from the Philippines to major United States, European and Asian multinationals. A country cannot build a sustainable development on the basis of an industry that receives large tax benefits but consistently denies workers' rights.

Government representative – We also appreciate the space given to us to report to the Committee on the works of the Philippine tripartite partners in pursuance of the Recommendation of the 2017 direct contacts mission as provided for under the National Plan on the Freedom of Association and Collective Bargaining (2017–2022).

The Philippines welcomes the comments and views of the Workers and Employers as well as the Governments with the intention to further our implementation in law and practice of the provision of the Convention. We would like,

however, to clarify some points. First, the Philippines is a beautiful place for freedom of association. We do not belong in that list of worst countries for working people. Our office, particularly mine, is even a regular venue for picketing and strikes as well as full, frank and meaningful consultation with workers and employers alike. The assertion on alleged impunity are sweeping and mere general statement that do not reflect through the overall situation in the Philippines. While there may be incidents of violation of standards in workers' rights, they may be considered as isolated cases as they do not mirror the real condition in the country. And to claim that nothing had changed since 2016 is to keep a blind eye on the substantial enjoyment of freedoms by Philippines trade unions and workers the last two years, for the last three years.

Contrary to claims, there are no new 43 reported cases of death of trade unionists in the Philippines under this administration. This representation therefore, respectfully requests the list of the reported 43 cases. We will appreciate if we could have at list so that we will accordingly respond to the same. The Philippine Government condemns the death of Dennis Sequeña. By reason of my position, I know him in person. Their Chairperson is a friend of mine. For the record, this particular case is not part of the report. Hence, we were not in advance required to provide detailed information. But since his case was already mentioned, may we inform the Committee that the existing monitoring and investigation mechanisms have already been mobilized. On the same day of the incident, 2 June 2019, a Sunday, the Secretariat of the NTIPC-MB in coordination with the regional Tripartite Monitoring Body of region 4A, was immediately dispatched to gather information about the incident. The report is now being prepared for consideration of regional Tripartite Monitoring Body before the same is endorsed to the National Tripartite Monitoring Body. In the meantime, criminal investigation has already started. At this juncture, let me reiterate that the most enabling environment for the free and full exercise of freedom in our country is a secured employment, in safe and healthy working condition in all places of work, free from violence and harassment.

On the issue of violence and harassment against trade unionists, let me again state that there is no increasing case of deaths of trade unionists in our country. What we have is a declining number. Conviction, however, has been the recurring and imposing challenge in all cases in view of the lack or insufficiency of evidence, especially against the backdrop that in our jurisdiction, just like perhaps many of yours, the quantum of evidence required to convict the perpetrators of crime is beyond reasonable doubt subject to rigid procedures in view of the right of all accused persons to be presumed innocent as guaranteed under the Universal Declaration of Human Rights. This challenge, however, is not insurmountable. We just need major support on this aspect. It may also be recalled that last year, a Philippine court convicted a retired army general and sentenced him and two others to 40 years of imprisonment. There are other similar convictions showing that when there is sufficient evidence, impunity will never lie. It is very timely to mention that the Philippines takes notice of the *Report on Addressing Impunity: A Review of the Three Monitoring Mechanisms* published last April on 2019 by the ILO Country Office Manila. We take its conclusion and recommendation closely and seriously. We recognized that the three existing monitoring mechanisms have their own strength and weaknesses. Their mandates, structures and internal rules need to be revisited. Interestingly, and in view of the recommendation of the particular report published in April 2019, module development and implementation of advocacy on freedom of association is under way. Prescription of freedom of association modules in the grants under the Workers' Organization Development Programme may be considered. Intensification of the inspection system on compliance with international labour standards, including freedom of association, shall continue. AO 35 needs strengthening by ensuring openness and transparency on the prosecution and movement of extrajudicial killing cases, adopting an inclusive criterion in the screening of these cases, relatedness to the exercise of freedom of association, capacity building on freedom of association and capacity building on the collection of physical and vital forensic evidence to reduce heavy reliance on testimonial evidence.

On the legislative issues, the full use of government resources to expedite the enactment of major labour and employment legislative reform is not a mute indication of our oblivion to pursue the passage of other needed amendments to the Labor Code consistent with the comments and recommendations of the ILO and its supervisory bodies. There were bills filed in the last Congress. These will surely be filed in the next one. Resources will be redirected to this end.

Relatedly, it may be noted that the Philippines has ratified one more instrument, bringing the number of Philippine ratified Conventions to 39 including the eight fundamental Conventions. Prior to this, our last ratification was on Convention No. 151. We observed that there is renewed vibrancy in organizing in the public sector. Public sector unions especially in the local government units have been increasing. I would like to stress that we have an enabling rule, Executive Order No. 180 on the right to self-organize and collective bargaining in the public sector. To the Committee, our disposition to ratify Convention signifies our firm unequivocal commitment and obligation to promote decent work, not for the few but for all.

The Philippines thus trusts that through frank, full and meaningful social dialogue, the tripartite partners shall all rise together rather than pull down one another. We, the Filipinos, shall continue to pursue the National Action Plan on the Freedom of Association and Collective Bargaining (2017–22), with the continuing technical assistance and guidance from the International Labour Organization, its supervisory bodies, including other developmental partners. To end, let us remember that "successful reform is not an event. It is a sustainable process that will build on its own success – a virtuous cycle of change".

Employer members – We thank the Government for its remarks. I think the one thing that sort of stands out through this whole discussion is that this is not a new situation, we are not dealing with recent events, we are dealing with events that have taken place over a long period of time and another characteristic of that is that the progress has been rather slow. With that in mind, we are welcome and we do welcome the Government's statements that it is actively working now in the space of investigating cases and I just go back to my earlier remarks and making sure that we are clear when we are looking at cases that we are dealing with, as in this case, issues of freedom of association because, as I noted, there are situations, for instance, where trade unionists and officials are caught up in the circle of violence but not necessarily because they are trade unionists, or any other form of official, it is simply that perhaps, on some occasions, it may be a coincidence so we need to be careful to distinguish between those issues that are genuinely related to an inhabiting or constraining of freedom of association and those that are simply collateral to wider issues and social issues.

When it comes to dealing with these things, we note and support the Government's use of the tripartite monitoring mechanisms and the IAC. We do regret that these do not seem to have been as active lately as they were in the beginning so we, therefore, urge the Government to reactivate these, not on an "as needed" basis, but on a "continuous"

basis. There is evidently plenty of work to be done and so it does not seem that there is a need to wait.

With relation to some of the more detailed aspects, we note again the Government's commitment to ensuring that unions and employers' associations are completely free to establish themselves and to operate themselves without public interference or governmental interference, but again, the Labor Codes that activate those provisions seem to be still in the process of development and once again, we urge the Government to progress those to fruition, to finality and to give them open and transparent effect. Similarly, in relation to the ability of unions to establish themselves with reasonable thresholds, we again welcome the Government's commitment to lower the thresholds, to allow unions and employers' associations to establish, and also opening up the doors to assistance from outside the country to enable organizations to develop and sustain themselves.

With those few things in mind, I think basically it comes down to a relatively small number of recommendations but they are, once again, a repeat of the recommendations that we have made in previous years. We simply hope that this year, having made the recommendations, we do not have to make them again in the future and those are:

- first of all to avail themselves of the readily available technical assistance from the ILO through the country office in Manila in particular;
- to get the monitoring mechanisms of the IAC back on track and active on a "continuous" basis;
- to complete the amendment of the Labor Codes to be in full conformity with the Convention;
- ensure that workers are not penalized for exercising the rights that are provided to them; and lastly; and
- to ensure that the social dialogue mechanisms that have been talked about themselves are a "continuous" process and not an "as needed" process.

Worker members – We have carefully listened to all interventions and specifically to the information provided by the Government to the Committee. However, there can be no justification or valid explanation for the systematic violence and indeed murders perpetrated against trade union activists. The Government simply has the obligation to stop this violence. Yet instead the absence of effective investigations and punishments of such cases of gross violations creates an atmosphere of impunity and casts doubt on the Government's commitment to secure the rule of law. The Employers' spokesperson highlighted that this case is also about human rights and the rule of law. We agree. However, we cannot agree that these questions fall outside of the scope of our discussion. In this regard, we remind the Employers' group of the 1970 resolution of the International Labour Conference in relation to trade union rights and their relation to civil liberties. The resolution recognizes that the rights conferred upon workers' and employers' organizations must be based on respect for those civil liberties. We have recalled this resolution on many occasions and have adopted relevant conclusions in the Committee, including with regard to complaints brought forward by employers' organizations in this regard. We must urgently see action on the investigation and appropriate punishment of violations of trade union rights, and in particular acts of violence. This must now become a priority for the Government and involves the allocation of sufficient funds and staff in order to effectively carry out this work expeditiously and to avoid a situation of impunity. The establishment of monitoring bodies alone is inadequate. To earn the trust of the social partners and victims, they must be operationalized in an efficient and effective manner and be transparent about the progress achieved. More broadly speaking, the Government must introduce preventative measures to prevent the repetition of crimes against trade unionists, including the institution of protection schemes for trade unionists.

When it comes to the conformity of national legislation with the Convention, it would be an understatement to emphasize that it remains wholly inadequate in guaranteeing the rights afforded under the Convention. The steps undertaken so far in order to bring the labour laws in line with the Convention seem to be stalled endlessly. To demonstrate good faith, the Government must ensure the timely adoption of appropriate legislative acts. I must urgently convene the social partners in order to develop a holistic plan of action to redress the numerous shortcomings of its legislation. This plan of action must include the removal of the requirement of government permission for foreign assistance to trade unions and the reduction of the registration requirement from ten to five duly recognized bargaining agents or local chapters. The excessively high threshold in place for unions seeking to form federations or national unions must be lowered. Moreover, the legislation must ensure that all workers without distinction enjoy the right to freedom of association. Specific attention on measures that would ensure the effective enjoyment of the right of freedom of association by precarious workers have become an urgent need. The Government must also take decisive measures in order to prevent the misuse of short-term contracts and misclassification in order to hinder the free unionization of workers. The definition of essential services must be defined strictly and must be limited to services whose interruption could endanger the life, personal safety or health of the whole or part of the population.

We also call on the Government to take concrete and time-bound steps to ensure that the provisions, which impose penal sanctions against workers for participating in or carrying out a strike action is amended. The right to strike falls under the scope of the Convention and our position on this issue has not changed. The Government must ensure that legislative amendments are compliant with the international legal obligations of the Philippines and is swiftly adopted after full and frank consultation with the social partners. It is our expectation that the Government immediately and fully reports progress made to the Committee of Experts. We conclude, given the gravity of the issues in this case the Workers call for a high level tripartite mission.

Conclusions of the Committee

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

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.

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.

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.**

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.

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. 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. 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.

SERBIA (ratification: 2000)

Labour Inspection Convention, 1947 (No. 81)
Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Discussion by the Committee

Government representative – The Republic of Serbia wishes to inform the Committee that, under the national legal order and the Constitution of the Republic of Serbia, ratified international treaties and Conventions take precedence and prevail over other applicable national laws. The Law on Inspection Oversight of April 2015 is subject to this rule. Article 4, paragraph 4, of this Law prescribes that ratified international treaties and Conventions have precedence over the Law on Inspection Oversight. This includes Conventions Nos 81 and 129. Under article 194, paragraphs 4 and 5 of the Constitution of the Republic of Serbia, it is prescribed that ratified international treaties and other generally accepted rules of international law shall be part of the legal system of the Republic of Serbia.

In this particular case, this means that, if the ratified international treaty or Convention prescribes that an inspection shall be launched without prior notice, it shall be so, in compliance with article 4, paragraph 4, of the Law on Inspection Oversight, and in compliance with the position that ratified international Conventions hold within the constitutional and legal system of the Republic of Serbia. To support the aforesaid, I will provide the Committee with the statistical data clearly demonstrating the number and types of the inspections undertaken by the labour inspectorate in the previous year.

In 2018, there were in total 70,122 inspections of the registered and unregistered employers conducted by the labour inspectorate, of which 4,607 (7 per cent) were conducted upon the prior notification and 65,515 (93 per cent) were conducted without prior notification or any written inspection warrant.

In 2018, 939 extraordinary inspections of unregistered entities were conducted without prior notification to the employer on the upcoming inspection. The above-mentioned figures show that the labour inspectorate, in its inspections conducted in 2018, applied directly the standards of the ratified ILO Conventions, in accordance with the Constitution of the Republic of Serbia. The same situation was observed in 2017 and 2016. I would like to add that no inspector paid a fine for the actions undertaken in the course of their duties.

Finally, taking into consideration the findings of the Committee of Experts, we would like to inform the Committee that the Government of the Republic of Serbia will send a request for technical assistance of the ILO, in order to overcome this situation and to adjust the provisions that have been brought into question by the Committee of Experts regarding Conventions Nos 81 and No. 129.

I am sure that after discussion with the ILO, and with our social partners and relevant stakeholders within the Government – because I just want to mention that this Law is under the responsibility of the Ministry of Public Administration in the local governments – if the ILO offers this technical assistance, we will manage to remedy this situation with regard to our legal framework in the near future.

Employer members – The objective of the present case is to analyse the conformity of the Law on Inspection Oversight of Serbia, No. 36/15 of April 2015, with the principles set out in the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

Both instruments form part of the series of international labour standards intended to guarantee a minimum floor and universal protection for workers in the sectors concerned. Their objective is not to promote a uniform system of labour inspection, but to establish principles to guide its operation as a basis for labour inspection:

- in terms of its function of ensuring compliance with the legislation on conditions of work and the protection of workers; and
- also to contribute to the development of this legislation in conformity with national and international labour markets.

In addition to the function of supervision, which includes a series of competences and prerogatives directed toward the repression of violations, the instruments confer on labour inspectors an information and advisory function, as well as bringing to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

Finally, the instruments provide for the publication and communication to the International Labour Office of an annual inspection report which has to include principally information on the legal basis of labour inspection, the composition and distribution of inspection personnel, their areas of competence and their activities, as well as industrial accidents and cases of occupational diseases.

With regard to the case of Serbia, the ratification by this Balkan country of Conventions Nos 81 and 129 of the International Labour Organization forms part of an ambitious effort to bring its institutions and standards into conformity with international standards. This process has taken on greater dynamism since the entry into force of the Stabilization and Association Agreement between the European Union (EU) and Serbia in 2013 and the initiation of negotiations for the adhesion of the country to the EU, which will involve an adaptation of the social and labour standards in the country to the 20 principles of the European Pillar of Social Rights, for which the ILO and its Conventions are the highest source of inspiration in social and labour matters.

Serbia has been one of the principal objectives of programmes such as the Employment and Social Affairs Platform (ESAP), promoted jointly by the EU, the ILO and the Regional Cooperation Council in the Western Balkans, the main objectives of which consist of:

- improving economic and social councils;
- establishing employment mediation mechanisms;
- promoting the articulation of employment policies and strategies; and

- modernizing labour inspection in accordance with ILO principles, and through the establishment of a labour inspection network in the region for the exchange of experience.

It is within this context that we have to place the adoption by the Government of Serbia of the Law on Inspection Oversight No. 36/15, the principal objective of which is to establish the new model of labour inspection in the country through greater coordination between the various institutions involved in inspection activities and a uniform application of the principles for the operation of labour inspection in the country.

However, the Committee of Experts notes that sections 16 and 17 of the new Law on Inspection Oversight No. 36/15 restrict the freedom of initiative of labour inspectors by requiring three days prior notice for most inspections and a prior inspection warrant, except in emergency situations, specifying, among other matters, the purpose of the inspection and its duration. The Committee of Experts also noted that if, during the course of the inspection, an inspector uncovers an instance of non-compliance that exceeds the inspection warrant, an application must be made for an addendum to the warrant.

It also noted that the Law provides that inspectors shall be held personally accountable for the actions undertaken in the course of their duties, under the terms of section 49, and that they may receive a fine of between Serbian dinar (RSD) 50,000 and 150,000 (approximately between US$500 and 1,500), for example if they undertake inspections without prior notice, as set out in section 60.

In light of the above, the Committee of Experts requested the adoption of the necessary measures to remove the restrictions and limitations placed on labour inspectors by the Law on Inspection Oversight No. 36/15 so as to ensure that labour inspectors are fully authorized to enter freely and without previous notice any workplaces liable to inspection, in accordance with Conventions Nos 81 and 129.

In the view of the Employers, in a State in which the rule of law prevails, a modern labour inspectorate and a judicious legal framework are key to establishing an environment conducive to enterprise, increasing legal and economic security, and reducing the social risks to which investors are exposed.

We therefore consider it fundamental to have a good labour inspection service which, in particular, takes preventive and advisory action, to guarantee fair competition and promote investment, economic growth and employment creation. The independent and unrestricted operation of labour inspection guarantees good governance, transparency and responsibility in the system for the protection of rights. In this respect, the Law on Inspection Oversight No. 36/15 has to be understood as part of the firm will of the Government of Serbia to contribute through the modernization of its inspection system to the reinforcement of the rule of law in the country.

However, we also note certain inadequacies in the content of the Law and the procedure followed for its adoption:

- With regard to section 17 of the Law, which requires three days notice for labour inspection, we agree with the Committee of Experts that this provision should be adapted to the spirit of Conventions Nos 81 and 129, which recognize the principle of unannounced inspections.

  Accordingly, under the terms of Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129, labour inspectors provided with proper credentials shall be empowered:
  - to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection; or
  - to enter by day any premises which they may have reasonable cause to believe to be liable to inspection.

  Convention No. 129, in Article 16(2), adds that labour inspectors shall not enter the private home of the operator of an agricultural undertaking except with the consent of the operator or with a special authorization issued by the competent authority.

  But while agreeing in this respect with the Committee of Experts, we must:
  - recall that the complaints made in the observations must be limited to the specific rights and obligations provided for in the Conventions concerned; and
  - specify that, although unannounced inspections have been shown to be very effective, it is no less important to be governed by a series of specific rules which respect fundamental freedoms and maintain the principle of proportionality.
- With regard to the procedural issues, the fact that the Government submitted the draft Law on Inspection Oversight to the national Economic and Social Council highlights the lack of effective consultation of the highest tripartite advisory body in the country and takes us back to the debate last year on the deficiencies of social dialogue in Serbia, in light of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Taking into consideration the points raised, we recommend the Committee to request the Government of Serbia to:

- bring the national legislation into conformity with Conventions Nos 81 and 129 so that labour inspectors can undertake inspections in workplaces liable to inspection without previous notice with a view to ensuring appropriate and effective supervision;
- guarantee that inspections are adapted to their purpose and that it is possible to carry them out as often as is necessary; and
- finally, to continue its efforts to give effect to the conclusions adopted last year by the Committee in relation to Convention No. 144 to guarantee effective consultation with the social partners

Worker members – From its very beginning, the International Labour Organization identified labour inspection as one of its priority concerns. I recall in this respect that labour inspection is already included in the general principles set out in the Treaty of Versailles, which created the ILO.

If this major concern was present from the very first moments of our Organization, that is because it is clear that, without an efficient system of inspection, the effectiveness of social standards would be left to chance. Indeed, what is the purpose of adopting standards, formulating texts and voting for laws if there is not an inspection service responsible for the effective supervision of their application and for explaining their content to the various actors? The relevance of these considerations can easily be seen in relation to the case of Serbia.

The Committee of Experts has made worrying observations concerning the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), in the country. The report indicates that a new law adopted in April 2015 has the consequence of placing significant restrictions on the powers of labour inspectors. Sections 16 and 17 of the Law provide that most inspections must be announced three days in advance and that a written inspection warrant (except in emergency situations) must specify the purpose and duration of the inspection. Section 16 also provides that if, during the course of the inspection, an inspector un-

covers an instance of non-compliance that exceeds the inspection warrant, the inspector must apply for an addendum to the warrant. The Committee of Experts also notes that the Law provides that inspectors shall be held personally accountable for the actions undertaken in the course of their duties and that they are liable to very dissuasive fines if they undertake inspections without prior notice.

These provisions raise serious problems in light of Conventions Nos 81 and 129 and, more specifically, Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129. The two texts provide that labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. In comparison with these provisions, it is clear that the new Law adopted by Serbia is intended to ensure that the labour inspection services cannot organize any unannounced inspections, or at least endeavours to intimidate inspectors who might wish to do so. As a result, this legislation is not only contrary to the Conventions, but also pursues an objective that is totally opposed to them. There is no need to provide a long justification of the importance of carrying out unannounced inspections, so evident is it.

We can nevertheless recall that the Committee of Experts had the occasion in its General Survey on labour inspection to specify that: "Unannounced visits enable the inspector to enter the inspected premises without warning the employer or his or her representative in advance, especially in cases where the employer may be expected to attempt to conceal a violation, by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection. Conducting unannounced visits on a regular basis is especially useful as it enables inspectors to observe the confidentiality required by Article 15, subparagraph (c), of Convention No. 81 and Article 20, subparagraph (c), of Convention No. 129 as regards the purpose of the inspection if it was carried out in response to a complaint." Restricting the powers of inspectors, as this legislation does, is tantamount to telling employers that their impunity is assured. They are given a blank cheque to exploit the workforce shamelessly.

Attention should also be drawn to the fact that, as indicated in a direct request made by the Committee of Experts, Serbia has also taken measures to significantly reduce the number of inspectors. According to the information provided by the Government, the number of inspectors fell from 324 to 242. To give an idea of the extent of the work to be carried out, in 2016 there were 337,927 registered commercial establishments, without counting those that are not registered. Despite all the rotation systems possible and imaginable, and the best possible organization, it is not possible under these conditions to provide an effective inspection service capable of fulfilling its missions. That is truly impossible.

We should also point out that this reform was adopted without any consultation either with employers or trade unions. This is yet another illustration of the countless harmful effects of austerity. Our Committee has already had the opportunity to deal with similar cases in countries in the region that have taken the same path. The starting point for the reasoning underlying these policies is that social inspections, and more generally all public services, are a cost that must absolutely be reduced. From this perspective, social inspections are mere administrative cost items which must be reduced in the name of this dogma. And yet, austerity policies have continually shown all their limitations and the dead ends to which they lead. Making public services a factor of budgetary adjustment inevitably leads to a rise in inequality and more precarious conditions for workers. When austerity measures are targeted at the resources of inspection services, they lead to a deterioration in working conditions and serious problems for the health of workers, their families and communities as a whole. Worker delegates will provide greater detail in their interventions to illustrate this wave of austerity and its harmful effects.

At this stage, in conclusion, I am bound to insist on the fact that conditions of work and the health of workers cannot be used as levers for the achievement of budgetary savings. This is the whole reason for the existence of the ILO, which emphasizes that work cannot be assimilated to a vulgar commodity. Labour standards are not a weight on public finances, but on the contrary a necessary precondition for the prosperity of everyone.

Employer member, Serbia – I will be very brief. I am here to note that this Law was not a regular procedure. It results of public discussion. This Law was not on the Social Economic Council of the Republic of Serbia, so I think that trade union representatives and representatives of employers did not have a chance to make some influence in changing the articles. It was adopted by the Parliament of Serbia according to the urgent procedure, so some mistakes happen. We know these problems and for the first level you think that employers have some benefits of this Law, but I do not think so because I think somehow that this Law can be some kind of possible corruption because inspectors and employers can make a deal, so we know everything about this. In practice, as the representative of my country said, Ms Dragna Savic, it was just 7 per cent of this kind of labour inspection in the previous years, and I am sure that this Law will be changed very soon. They start with the procedure of changing the Law, and one more thing: it is the same kind of Law as the one that existed in former Yugoslavia, a former socialist country. So the same articles exist in the Special Laws in Slovenia, in Croatia, in Montenegro, in Bosnia and Herzegovina, in North Macedonia – so it is not just in Serbia, it is the same for others in the region. So, I am sure that whatever the Committee decides about this Law, it will make influence on the whole region. So, employers' organizations of Serbia have full confidence in the decision of the Committee.

Worker member, Serbia – We welcome the findings of the Committee of Experts regarding the violation of Conventions Nos 81 and 129. We are fully convinced that the Law on Inspection Oversight of 2015 provides for a number of restrictions on the powers of labour inspectors, especially with regard to free initiatives of labour inspectors to undertake inspections without prior notice which is in direct violation of the Conventions. In addition, this law is also in contradiction with the Labour Law and it is an example of the trends that we are facing for quite some time when the Labour Law is derogated by the different laws of lower levels of hierarchy. Trade unions are struggling against this and will continue to do it because it is crucial for the future of labour relations in the Republic of Serbia.

The Law on Inspection Oversight was written by the Ministry of State Administration and Local Self-Governance and it was not the result of consultation with the representative social partners. In addition, the Ministry did not submit the draft law for the opinion of the Social and Economic Council even though it is a legal obligation to submit all draft laws that deal with issues that are relevant to workers and employers for the opinion too of this tripartite institution of social dialogue. This is a concrete example of how a lack of social dialogue can have a negative impact on workers' position and violations of international labour standards.

Representing working people, we as a trade union have an absolute interest in advocating for a strong, independent, educated, adequate in numbers and equipped labour inspectorate – but the precondition and the most relevant thing is that labour inspectors are free to undertake their

duties without any restrictions and in a concrete case, not to be sanctioned if they undertake inspections without prior notice. This is not the way we will protect working people, diminish the grey economy and improve workplace health and safety.

In 2018, 53 workers lost their lives at the workplace in the Republic of Serbia. We need empowered labour inspectors who are credible to have zero tolerance for the employers who are not implementing health and safety measures defined by the relevant legislation. We need labour inspectors free from influences of employers and politics. The obligation of prior notice under the current law can only have negative effects such as corruption and double standards for the employers. We are also sure that some exemptions to this rule cannot be relevant argumentation for the Government because Article 12(1)(a) of Convention No. 81 clearly states that labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection.

To conclude, we strongly support the request of the Committee of Experts for the Government to take the necessary measures to ensure that the restrictions and limitations for labour inspectors in the Law on Inspection Oversight are removed so as to ensure that labour inspectors are empowered to enter freely and without previous notice workplaces liable to inspection in conformity with relevant Articles in Conventions Nos 81 and 129. Trade unions would also welcome ILO technical assistance on this matter.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The EFTA country Norway, member of the European Economic Area, aligns itself with this statement.

We would like to reiterate the importance we attribute to the promotion, protection and respect of human rights, as safeguarded by ILO Conventions and other human rights instruments. The EU and its Member States also believe that safe and healthy conditions of work should be ensured for all, everywhere, and we support the recognition of the right to safe and healthy working conditions as a fundamental right at work. In the same spirit, we believe that labour inspection is fundamental in promotion of decent work. Compliance with ILO Conventions Nos 81 and 129 is essential in this respect.

As a candidate country, Serbia and the EU have a very close and constructive relationship. The EU and its Member States are determined to strengthen and intensify its engagement at all levels to support Serbia's political, economic and social transformation, including through increased assistance, based on tangible progress on the rule of law, as well as on socio-economic reforms. We nevertheless note with concern the Committee of Experts' observations on Serbia's non-compliance with ILO Conventions Nos 81 and 129 with regard to free entry of labour inspectors to workplaces without prior notice. We note with regret that the Law on Inspection Oversight No. 36/15 of April 2015 applies to labour inspection and provides for a number of restrictions on the powers of inspectors, including the requirement of three days prior notice for most inspections and a written inspection warrant (except in emergency situations) specifying, among other things, the purpose of the inspection and its duration. In addition, in case of recognition of non-compliance that exceeds the inspection warrant, the inspector must apply for an addendum to the warrant. Finally, we deeply regret that the Law also introduces personal liability of the inspectors for the actions undertaken in the course of their duties for example the possible imposition of a fine for an inspection undertaken without notification.

The share of undeclared work remains at around 20 per cent and addressing this problem requires a comprehensive approach across the relevant ministries. Labour inspections have focused on tackling undeclared work, but the results do not have an impact yet on the level of this type of work.

We therefore call on the Government to ensure that the restrictions and limitations for labour inspectors in the Law on Inspection Oversight No. 36 of April 2015 are removed so as to ensure that labour inspectors are empowered to enter freely and without previous notice workplaces liable to inspection in conformity with ILO Conventions. The EU and its Member States remain committed to their close cooperation and partnership with Serbia.

Worker member, Greece – As we celebrate the International Labour Organization (ILO) Centenary, we recall that labour inspection has been a standard setting priority since the ILO was founded, with references in the Versailles Treaty and the ILO Constitution.

Addressing labour inspection as a pillar of labour administration, Conventions Nos 81 and 129, and the accompanying Recommendations, have provided the universal reference framework, with a high ratification level. As emphasised in Report V of the 2011 Conference, labour inspection systems play a vital, fundamental role in labour law enforcement and compliance, particularly regarding workers' rights. They also provide information, advice, and training, playing a vital role for occupational health and safety.

Still, in a shifting political, social and economic background, compounded by the economic crisis, the labour law inspection systems have been faced with complex challenges, including high and persistent unemployment, precarious jobs, undeclared or illegal work, labour migration and technological change. Linked to new business and production models, these challenges negatively affect labour standards and labour market institutions.

In this context, regulatory inspection in many EU Member States has been weakened by a well-established trend of cuts in public expenditure, aiming to remove alleged "regulatory burdens on business" and enhance competitiveness.

Recent research highlights cuts in operational costs affecting staff, salaries and conditions of work, a preference for voluntary/private regulation, prioritizing an advisory/informative role for inspection – all these to the detriment of coverage, enforcement and sound labour administration governance at a time when effective labour inspection services are most needed.

Such trends, in particular, weakened labour inspections, tend to be endemic in South-East Europe, a region populated with medium, small and micro-enterprises, some of them even clandestine workplaces, and burdened with undeclared or illegal employment. These trends are aggravated by legislation or practices, such as the Law on Inspection enforced in Serbia, which curtails rights and powers established by Conventions Nos 81 and 129, including the right of labour inspectors to freely conduct unannounced inspections in any workplace; to conduct examinations they deem necessary; interrogate alone or in the presence of witnesses, the employer or the staff. But these rights are essential for an effective, credible labour inspection that respects confidentiality.

Yet, they are abolished by this Law, which imposes prior notice obligation, requires detailed warrants, and compels inspectors to get an additional warrant if they find non-compliances not specified in the first warrant. Moreover, a disgraceful clause incriminates underpaid and overworked Serbian inspectors, imposing huge fines for actions undertaken during the course of their duties. As we heard, the Law has been adopted without any prior consultation

or dialogue with the trade unions and the other social partners.

Efficient, transparent and credible labour inspection systems, invested with all the means and resources needed for their unhindered operation are crucial for upholding labour standards, for ensuring a fair workplace, for fighting corrupt practices and for economic development. All these, in turn, are vital for Serbia, the biggest Western Balkan country, an EU candidate aiming to align its legislation with the EU – Serbia deserves better.

We also note with concern that other countries in our region, including Montenegro, Croatia, North Macedonia, Slovenia and even Greece, deploy comparable provisions and practices that fundamentally annul the very idea of inspection. In this light, we urge the ILO to renew its focus on the whole region and monitor labour inspection systems.

To conclude, we follow the Committee of Experts and we request the Government to take the necessary measures for ensuring full compliance with two Conventions and engaging also in dialogue with the social partners so as to consolidate a working, credible and efficient labour inspection system.

Worker member, Belgium – The Committee on the Application of Standards is an essential component of the ILO supervisory system. Essential, because it examines the manner in which States comply with their obligations deriving from the Conventions and Recommendations adopted by the ILO that they have ratified.

As has been mentioned during the discussion on another case, adopting standards without a robust mechanism to supervise the respect of these standards, would be pointless.

Supervising standards on the national level, supervising the respect of the legislation on the national level, is the very essence and purpose of labour inspectorates. Having a well-established corpus of labour law, does not mean a thing in practice if the respect of these labour laws cannot be controlled.

Without labour inspection, workers would be left to the whims of their employers. Without a well-functioning, well-trained and sufficiently equipped force of labour inspectors, decent work, decent working conditions, occupational safety and health, are but distant aspirations that cannot be fulfilled.

It is not a surprise, that one of the conclusions already adopted by this Committee in another case, calls on that government to strengthen the capacity of the labour inspectorate. And this as well on the human as on the material level. To provide the inspectorate with sufficient technical resources and training.

We need to stress however that even a fully equipped, well-trained labour inspectorate is rendered useless if it does not have the ability to conduct surprise inspections. Forcing labour inspectors to give prior notice three days in advance deprives them of the possibility to truly see to it that labour law is being respected.

It is for a reason that the Conventions, the respect of which we are discussing now, stipulate clearly that labour inspectors should be empowered to enter freely and without previous notice any workplace liable to inspection and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection.

Depriving labour inspectors of this possibility, obliging labour inspectors to give a three-days prior notice, is giving a free pass to malicious employers to obfuscate problematic working conditions, to befog non respect of labour law, to simply send away or even lock up workers that are being exploited, to pack up their things and disappear to another location where they can continue their nefarious actions.

The respect of labour law, the respect of occupational safety and health, the respect of decent working conditions is frankly a matter of life and death. Already this year, at least 14 workers have lost their lives in the Republic of Serbia. The Government has confirmed that the number of accidents at work has risen, due to lower compliance.

Without even touching on the ban on hiring new staff in the whole public sector, a ban that is already in place for five years, a ban of which the effect on the number of labour inspectors, given the impossibility to replace labour inspectors, is simply disastrous, we strongly urge the Government to swiftly revise the Law on Inspection Oversight so as to drop the obligation for labour inspectors to give prior notice. And this for all possible situations. We stress once again that labour inspectors should be empowered to enter freely and without previous notice workplaces liable to inspection.

Worker member, France – The Labour Inspection Convention, 1947 (No. 81), is an essential Convention because all rights at work depend on its sound implementation, and particularly the right to occupational safety and health, which would merit inclusion in the body of fundamental standards, as no one should die at work. And yet, the situation of labour inspection in Serbia is such that 53 people lost their lives at the workplace in 2018, and there have already been 14 deaths since January 2019.

Globalization and liberalization are exerting greater pressure on labour resources, and this situation requires greater vigilance by labour inspection services to prevent the exploitation of workers and the deterioration of conditions of work. Labour inspection activities are fundamental for balanced socio-economic development and, consequently, for social justice.

And yet the issue is not new in Serbia, a candidate country for membership of the European Union in 2025. In 2010, the ILO designed a tool kit for labour inspectors in Serbia, entitled: "A model enforcement policy: A training and operations manual: A code of ethical behaviour". The publication was prepared to help Serbia modernize its labour inspection system and make it more suited for its subsequent membership of the European Union, and to bring its policies and practices into conformity with those of similar neighbouring States in Europe. The objective was to improve significantly the level of compliance with its laws and regulations on occupational safety and health.

Wages paid late, unpaid social contributions, unpaid overtime hours, disastrous working conditions, even to the point sometimes of a prohibition to go to the toilet, have all been reported by the press in large enterprises in recent years. But prevention is a bonus, not an additional cost. Respect for labour law and labour standards is not simply an obligation imposed on employers, but a contribution to quality, efficiency, productivity and the success of enterprises, and to the health, safety and well-being of all workers in the country.

In the Declaration of the EU-Western Balkans Summit held in Sofia on 17 May 2018, the leaders of the European Union stated in point 3 that the EU is determined to strengthen and intensify its engagement at all levels to support the region's political, economic and social transformation, including through increased assistance based on tangible progress in the rule of law, as well as in socio-economic reforms, by the Western Balkans partners.

For Serbia, that must include compliance with Convention No. 81 so that the State imposes compliance with labour standards in the country and does not sacrifice to the dogma of all-out competition, which can only lead to social dumping, far from the objectives of the European Pillar of Social Rights.

Government representative – I would like to express our gratitude to all groups and all individual speakers who took part in the discussion. I hope that the Government managed to explain the situation in the Republic of Serbia with the

clear statistical data about the labour inspection practice. As I said in my introductory intervention, the Government will work with the ILO together with our social partners and other governmental institutions, and we will ask for technical assistance in order to remedy the situation. We will inform the ILO in our next reports on the implementation of the Conventions about the improvements in this regard.

Worker members – We have heard the explanations of the representative of the Government of Serbia and we wish to emphasize once again that the issue under examination here is of primary importance. Labour inspection is a crucial means of ensuring adequate supervision of the application of labour standards.

We invite the Government of Serbia to bring its legislation into conformity with Conventions Nos 81 and 129. More precisely, it is necessary to repeal sections 16 and 17 of the Law that we referred to in our introductory intervention. That implies lifting all restrictions that prevent labour inspectors from carrying out inspections as envisaged in the Conventions. It is not acceptable for an inspector to be under the threat of a penalty or a fine for undertaking an inspection without previous notice.

We also emphasize that the problems faced by the inspection services in the country are not limited to these aspects. We note in this regard that the Committee of Experts has sent the Government a series of direct requests. For example, we note that the legislation is not clear on the time when inspections are authorized and does not appear to guarantee that they can take place at any hour of the day or night.

The same applies to the absence in the legislation of adequate guarantees of the confidentiality of complaints. We therefore invite the Government of Serbia to make the legislative amendments proposed in consultation with trade unions, as I indicated, to provide a precise and detailed response to the issues raised by the Committee of Experts in its direct requests and to guarantee a sufficient number of inspectors so that they can discharge their duties in full.

To follow up on these elements, we request the Government of Serbia to provide a report to the Committee of Experts containing the amendments that will be made to the Law and its response to the issues raised so that the Committee of Experts can examine it at its next session in November 2019. Finally, we propose that the Government avails itself as much as necessary of ILO technical assistance.

Employer members – On behalf of the Employers, we wish to thank the Government of Serbia for the constructive spirit and the dialogue demonstrated from the outset to resolve this anomaly, and we are also very grateful for the information that has already been provided and which will be provided in the near future.

We are also grateful for the description provided of inspection in the country, fundamentally indicating that in most cases notice is not given of the inspections carried out. For this reason, we consider that it is basically necessary to bring the legislation into conformity with both Conventions, even though the primacy of the Conventions is established in accordance with the Constitution of Serbia. It is equally important for this harmonization to be undertaken with the fundamental objective of avoiding undesirable situations, and particularly to ensure legal certainty, not only for workers, but also for enterprises.

And we also see it as being very positive that the Government of Serbia has requested technical assistance and we hope that this will also be carried out in strict coordination with employers and workers who, in this case, and particularly for this type of legislative proposals, have much to offer, especially to guarantee the effective defence of rights and to ensure a system of inspection that also guarantees legal security and an environment in which enterprises can operate on a level playing field.

For all these reasons, we hope that the Government will take on board all the contributions and recommendations made with the essential purpose of definitively bringing the legislation into conformity with Conventions Nos 81 and 129.

Conclusions of the Committee

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

The Committee noted with concern that the national legislation placed a number of restrictions on the powers of labour inspectors.

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.**

The Committee calls on the Government to avail itself of ILO technical assistance in relation to these recommendations.

The Committee requests that the Government report in detail on the measures taken to implement these recommendations by 1 September 2019.

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)

Discussion by the Committee

Government representative – We would like to apologize for the fact that we do not have a full delegation for genuine reasons. We will forward any information we receive this afternoon to our social partners, and in the future we will try and make sure that they can participate in our delegation too. I would also like to tell you that the policy of the Government of the Republic of Tajikistan in the area of discrimination at work and in employment is a major part of our Government's policy of social protection and labour relations, and is based on current international norms and standards. The Government of the Republic of Tajikistan has ratified 50 Conventions, eight of which are fundamental, three of which are priority ones. Our Government attaches particular attention to enhancing the role of women in society, and protecting their rights and interests.

Our policies in this area have specific measures which are directed at helping our society to overcome stereotypes about women and patriarchal attitudes towards them. In order to do this, we take various approaches and use various methods of work. We work through the mass media, through the printed media, on the Internet, through personal discussions and meetings, etc. Questions of gender equality are cross-cutting issues in our national development policy and our social economic strategy. According to Tajik legislation, men and women are equal, they have equal rights to work, to salary, to selection of a profession to work, to social protection against unemployment, equal rights to education, and so on and so forth. According to our Constitution, the State guarantees equal pay for men and women for work of equal value.

However, in our country there are differences in the professions in which women and men are employed. Generally speaking, women tend to work in the lower-paid professions, in such areas as the health system, education, culture, the arts and agriculture. On the other hand, there are more men working in areas such as construction or the extractive industries where the salary is higher. In order to tackle this problem, we have decided upon, and are carrying out, a state programme for training women and helping them to get other types of employment. The President's Office offers grants to businesswomen, and this is helpful in creating new jobs for women each year. The amount and quantity of these grants is gradually being increased. Every year, special training courses for women in leadership are held; we check our school curricula to make sure that they are gender neutral; we have gender training in the education academy; and we take other measures as well.

The Framework Law on State Guarantees for Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights No. 89, adopted on 1 March 2005, governs relations between men and women in accordance with the principles of the Constitution, making certain that they are equal in society, in politics, in the cultural sphere, and in any other domain. This is to prevent discrimination on the grounds of sex and make sure that everyone has equal opportunities. Article 3 of the Law formally and legally prohibits discrimination in any way that would encroach upon the rights of men and women. Article 4 provides that those working in the state apparatus have to be given training on gender relations, and this again ensures equality of opportunity for men and women. We have enacted laws to guarantee this too. We have run special programmes and we have taken other measures including those aimed at getting rid of the obstacles preventing people from enjoying equal rights. There is sometimes discrimination on the grounds of sex and as I say, we have to take special measures to get rid of it. The provisions of the Convention are covered by our legislation in several different laws. As I said, we have the Law on State Guarantees. We also have one on preventing domestic violence and we have a Presidential Decree to enhance the role of women in society.

Our state programme on education and training for officials of the State of Tajikistan and the recruitment of women and young men has been in operation for some time between 2007 and 2016. Then there is the national strategy to enhance the role of women in Tajikistan that is still under way and will be running until 2020. As you can see, we are doing quite a bit to try and ensure that men and women can enjoy their rights equally. We are trying to make it easier for women to find a stable job and we have already helped 32,000 people to do precisely that. We also provide vocational training programmes which help women to obtain more qualifications and retraining. According with the demands of the labour market, 17,000 persons have benefited from that. We help women to set up and run their own businesses and become self-employed – 3,000 persons have benefited from that. And of course, it goes without saying that we provide social benefits to women including unemployment benefit where that is required – 6,400 persons are covered by that. We are also providing information to women about their rights and how they can defend them through the courts. We also provide help in getting a job to women and girls who have in the past been victims of violence and/or trafficking. Between 2018 and 2019, this programme, in its various aspects, is going to help 79,000 women to obtain a job. When it comes to the involvement of women in hazardous, heavy or underground work, it is true that the situation in Tajikistan is not as good as it is in many other countries where there is special protection of women. But that is understandable, because the countries I am talking about are usually very wealthy, very well developed, socially advanced, and very technologically developed as well. Our country unfortunately is still modernizing its economy and its industry, and trying to make work safer for all its workers, both men and women. But it is a long process. In a nutshell, if working conditions can be improved, and that is of course the final goal of our Government, then we can look again at our legal provisions prohibiting women working in certain jobs, or certain types of work. Basically, what we are trying to do, is protect women's health against what can happen in certain hazardous or dangerous workplaces. We have had a traditionally humane approach to women's rights at work and indeed women's right in the family, and recently we confirmed a list of types of work where women were restricted, particularly when it came to lifting or moving heavy loads and work of that kind. Together with the ILO we have run and are running technical cooperation programmes to deal with this kind of issue. They also cover child labour in both the formal and informal economy. And there are other areas we have been working in as well.

I would like to show you that our country believes in and will do its utmost to observe all the principles and Conventions of the ILO.

Worker members – We are finally able to deal with the case of Tajikistan. However, we are proceeding with the examination of the case while still regretting the absence of an Employer representative and a Worker representative from the country.

The subject of our discussion is the application of Convention No. 111. It is one of the fundamental Conventions of our Organization and first that was adopted to address this issue fully. It implements one of the most important parts of the Declaration of Philadelphia, which provides that: "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". Although the Declaration refers to many criteria of discrimination, it was clear at that period that the one that would take centre stage, at first, would be in relation to sex. In this respect, the adoption of the Convention in 1958 was not a favour granted to women. The terrible episode of the Second World War had shown very clearly that women, who had played a broad role in the war effort, were as productive as men. The myth that claimed the opposite and assigned a subsidiary role to women had been broken. Sixty-one years have passed since them, but we still have to deplore that phenomena of discrimination persist to varying degrees in practically all the countries of the world. Today, we have the opportunity to examine the situation in this regard in Tajikistan.

The comments of the Committee of Experts on the Convention indicate that legislative provisions prohibiting discrimination have been adopted in the country. The legislation appears to be sufficiently broad to include cases of discrimination that arise in the field of employment and to

promote equality between men and women. In the information communicated by the Government to the Committee of Experts, reference is made to the establishment of an institution entitled the Committee for Women's and Family Affairs (CWFA). This is the central authority with responsibility for the implementation of the national policy to protect and ensure the rights and interests of women and their families. On the one hand, the name of this body raises an issue. It appears to enshrine the idea that women are the only ones who have to assume responsibilities in relation to their families. On the other, as noted by the Committee of Experts, the Government has not provided any information on the activities of this Committee or on the number of complaints that it has to deal with.

We should recall that Article 2 of the Convention provides that: "Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof." It is not only therefore necessary to draft laws, but also and in particular to implement specific policies to eliminate all forms of discrimination. As indicated by the Committee of Experts: "Effectively responding to the complex realities and variety of ways in which discrimination occurs requires the adoption of differentiated measures. Proactive measures are required to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal values." It is indispensable to give effect to these principles and to make them a tangible reality. The Government has provided certain data and information intended to show that there have been improvements. In this regard, it is not contested that the country is experiencing change in this field, in the same way as other countries in the region. It is nevertheless necessary to ensure that the provisions adopted are effective and accessible to women. The action to be taken cannot merely be limited to promotional measures and awareness-raising, but include in particular a structural modification of the underlying values that treat women as an exogenous category.

Employer members – The Employers' group would like to take this opportunity to also thank the representative of the Government of Tajikistan for the information provided. We also appreciate the Government's commitment to, in future, bring along and work with its social partners.

Tajikistan joined the ILO in 1993 and has ratified in total 50 Conventions, including all fundamental Conventions and 39 technical Conventions. Tajikistan ratified Convention No. 111 in 1993 and today is the first time that this Committee is examining the case. We note that the Committee of Experts has made observations three times in the past, in 2010, 2014 and 2016 on the same issue. We take note of Tajikistan's cooperation with the ILO in the past, framed in three Decent Work Country Programmes, namely 2007–10, 2011–13, 2015–17. We also note that a new Decent Work Country Programme has, in principle, been agreed upon for 2019–23, with signature scheduled for August 2019. The three priorities of the Programme are: (1) ensuring inclusive economic growth by creating decent jobs and strengthening labour market institutions; (2) improving working conditions and enhancing the coverage of social protection for women and men; and (3) strengthening capacities of tripartite constituents and social dialogue institutions to address priority labour issues.

Turning now to the experts' observations, we note the following issue of compliance in law and practice, being "Equality of opportunity and treatment between men and women: Legislative developments". The main issue concerns Article 2 of the Convention which requires that ratified member States undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof. The Committee of Experts noted again that 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, in short the Law on State Guarantees of 2005, contains a number of provisions prohibiting discrimination based on gender in all spheres, including in employment, and promoting the principle of equal opportunities for men and women. The Committee of Experts has requested the Government on several occasions to provide information on its implementation of the law in practice.

We note that the Government indicated in its report requested in the past, that Government Decree No. 608 of December 2006 approved the Regulation on the Committee for Women's and Family Affairs (CWFA), which is the central authority responsible for the implementation of state policy to protect and provide for the rights and interests of women and families. However, the Government fails to provide any information on the activities of the CWFA to implement the Law on State Guarantees of 2005, as well as any information on the manner in which violations of this Law are dealt with.

The Convention provides the necessary tools to eliminate discrimination in all aspects of work. The Employers believe that discrimination at work is not only a violation of a human right, but it also hinders the development of workers and the utilization of their full potential on the labour market. We fully agree with the Committee of Experts that legislative measures to give effect to the principles of the Convention are important, but not sufficient to achieve its objective and that to respond effectively to the complex realities and variety of ways in which discrimination occurs requires the adoption of differentiated measures, such as proactive measures designed to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal values.

So, we therefore urge the Government to provide, without any 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, such as for example, through the development of codes, tools and guides or affirmative action measures, including on the manner in which violations of its provisions are being addressed by the CWFA, the labour inspectorate or the courts.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The candidate countries, the Republic of North Macedonia, Montenegro and Albania as well as the EFTA country Norway, member of the European Economic Area, align themselves with this statement. We would like to start by expressing disappointment that the delegation of Tajikistan is not tripartite as it is essential to meaningful social dialogue at this Committee.

The EU and its Member States are committed to the promotion, protection and respect of human rights and labour rights, as safeguarded by the fundamental ILO Conventions and other human rights instruments. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular. The EU and its Member States are also committed to the promotion of universal ratification, effective implementation and enforcement of the core labour standards. The prohibition of discrimination is one of the most important principles of international human rights law. In the

European Union's founding treaties, in the Charter of Fundamental Rights of the European Union, and in the European Convention on Human Rights, the prohibition of discrimination is a core principle. ILO Convention No. 111 is founded on the same principle. The EU and its Member States are long-term partners of Tajikistan, with relations guided by the bilateral Partnership and Cooperation Agreement which came into force in 2010 and the Joint Communication on the new EU Strategy on Central Asia, which was adopted on 15 May 2019. The new Strategy reaffirms the crucial importance of continuing a meaningful dialogue on good governance, the rule of law and human rights. The EU also welcomes Tajikistan's steps towards becoming a GSP+ beneficiary, which would imply even stronger commitment to implementation of ILO fundamental Conventions.

With regard to the implementation of Convention No. 111, we share the Committee's observations recognizing that key pieces of legislation, and in particular 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 March 2005 (Law on State Guarantees of 2005), contain a number of provisions prohibiting discrimination based on gender in all spheres, including in employment, and promoting the principles of equal opportunities for men and women. However, we note with regret that the Government did not provide information about its implementation in practice. Similarly, information on the activities of the Committee for Women's and Family Affairs approved by Government Decree No. 608 in December 2006 to implement the state policy to protect and provide for the rights and interests of women and families, including to implement the Law on State Guarantees of 2005, is not provided; neither is the information on how violations of this Law are dealt with.

We appeal to the Government to provide information on the implementation of the anti-discrimination laws in practice, including on the manner in which violations of its provisions are being addressed by the Committee for Women's and Family Affairs, the labour inspectorate and the courts. In line with the Committee's recommendations, we also advise the Government to strive towards achieving the objectives of Convention No. 111 in its entirety, and while legislative measures are important, they need to be complemented with a number of differentiated measures, such as proactive measures designed to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal norms.

The EU and its Member States will continue to support the Government of Tajikistan in this endeavour, as proven by the recent 7th Cooperation Committee meeting held on 7 June in Dushanbe.

Employer member, Argentina – We wish to take the floor to support the concerns expressed by the Employers on this case. We agree with the Committee of Experts that, although legislative measures are important to give effect to the principles of the Convention, they are not sufficient to achieve its objectives. It is necessary for each country to adopt a policy and specific measures in response to the complex realities and variety of ways in which discrimination occurs in each region. Measures have to be designed to have an impact on the underlying causes of discrimination and structural inequality, which are often deeply entrenched in traditional and societal values.

In this respect, it is essential for Governments to comply with their obligations to provide constant reports within the time limits and to reply to the direct requests received through the provision of detailed and relevant information. The failure of Governments to provide information is prejudicial to the capacity of the Office and the Committee of Experts to analyse in depth the situation with regard to compliance with international labour standards. This Organization is based on the commitment undertaken by Governments through the ratification of Conventions and requires their cooperation for the proper functioning of the supervisory system and the achievement of the objectives and values that it guarantees. For this reason, we note with concern the absence of a tripartite delegation duly accredited to this 108th Session of the International Labour Conference.

Combating discrimination in the world of work is a fundamental policy that reflects the commitment of a nation to human rights. But it is also a contribution to the vocational development of workers and the growth of enterprises. In short, it contributes to the economic development of a country. Governments that work to strengthen diversity in the labour market, and which ensure freedom and equality of association and participation in workers' and employers' associations, without discrimination on grounds of gender or of any other nature, are working to reduce conflict and to extend rights. But there are also improvements related to the attraction and retention of talent, the profitability and productivity of enterprises and, finally, the growth of the gross domestic product at the national level.

We therefore hope that this Committee will urge the Government of Tajikistan to comply by sending without delay information on the measures taken for the implementation of the standards that have been adopted, to ensure compliance with the Convention and, particularly, on the manner in which violations of those provisions are dealt with, and the content and scope of the penalties, if they exist.

Worker member, Norway – I am speaking on behalf of the trade unions in the Nordic countries. The Republic of Tajikistan is discussed due to discrimination and that the Government of the country has once again failed to report on a number of issues which have been raised earlier such as: measures on sexual harassment at work in civil and in the labour law; how steps are taken to prohibit discrimination on all grounds, including colour and social origin; and access of women to education, employment and occupation. I would like to remind the Government of Tajikistan that Convention No. 111 in terms of discrimination includes any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The Convention also includes access to vocational training and terms and conditions of employment. According to our information there is still a very low number of women in various levels of education and training courses. The Government should therefore take specific measures to improve women's and girls' educational opportunities.

According to the Committee on the Elimination of Discrimination against Women's (CEDAW) report in 2018, the participation in the working life for women remains low – only around 32.6 per cent. Around 80 per cent of women are working in the agricultural sector – only 12 per cent of private farms were run by women. The CEDAW also expressed concern of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society. We urge the Government to improve the access of rural women to employment and to address prevailing stereotypes on the role of women. As far as we are aware, hardly any concrete measures have been taken to improve the situation.

As to sexual harassment, we are aware that there is a provision of this in the criminal code. However, it is not sufficient to only address sexual harassment through criminal proceedings. As we are all aware, sexual harassment is a sensitive issue. It is therefore necessary to take effective

measures to prevent and prohibit sexual harassment at work, in civil and labour law.

We urge the Government of Tajikistan to take its obligations in the ILO seriously, comply with the Convention and provide the information requested by the Committee of Experts urgently.

Government representative – The Constitution and the laws of Tajikistan do enshrine prohibition of discrimination and preventing it is a major concern for our Government. The Labour Code of the Republic of Tajikistan, the Taxation Code, as well as our laws on social protection, offer protection to those who need it. Any restrictions on being hired for work are prohibited in our Constitution and we offer men and women equal pay for work of equal value. We will take into account all the comments which have been made by the distinguished experts and we can assure you that in the very near future the Republic of Tajikistan will provide additional information on these matters.

Employer members – We have noted the information that the Government has shared about measures taken to uplift women in various sectors in Tajikistan, including the National Strategy to Enhance the Role of Women that will run until 2020, a training given to women to start their own businesses, etc. However, we also appreciate the Government's candid admission that discrimination still exists in Tajikistan.

The Employers wish to underscore the importance of Convention No. 111 in the world of work. We believe that discrimination at work is not only a violation of a human right, as we previously said, but it also hinders the development of workers and the utilization of their full potential. We urge the Government to provide, without any further 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. The proper functioning of this Committee and the entire ILO supervisory mechanism depends largely on available information. In this regard, we stress the importance of compliance with the reporting and other standards-related obligations of governments. Failure by the Government of Tajikistan to provide information previously requested by the experts on the way the Convention applies in practice impede meaningful supervision of the ILO legal standards. We accordingly call upon the Government to strengthen its commitment and cooperation with the ILO supervisory system.

Worker members – We thank the Government for the explanations provided during this discussion. In our introductory remarks, we recalled the importance of unfailing action to combat all phenomena of discrimination suffered by women in Tajikistan. This is a fundamental principle of our Organization. Indeed, the fact of being a Member of this Organization implies making this issue a central plank of national policy. The Workers' group therefore insists on the importance of action to combat discrimination, not only at the legislative level, but particularly in practice. We therefore invite the Government to provide the Committee of Experts with data and information on the effectiveness of the rules adopted so that it can examine them at its next session.

Conclusions of the Committee

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

The Committee took note of the Government's statement to ensure compliance with Convention No. 111.

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

- **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.**

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.

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 Protection of the Right to Organise Convention, 1948 (No. 87)

Discussion by the Committee

Government representative – Before I begin my remarks, being elected as the Chairperson and Vice-Chairpersons of this Committee, I wish you every success in your endeavours to make this Committee's work more fruitful, in a spirit of constructive dialogue, worthy of the ILO's Centenary.

Since your Committee's last discussion of this case during the 100th Session of the International Labour Congress in 2011, there have been extensive developments in the trade union legislation of Turkey. A new Act on Trade Unions and Collective Labour Agreements (No. 6356) was enacted in 2012. The Act replaced two different acts: Acts Nos 2821 and 2822, which had drawn criticism from the Committee of Experts for many years and had become the subject of discussions in this Committee several times. The Act covers all those working under employment contract in both private and public sectors and regulates their right to organize and bargain collectively. The Act was the outcome of social dialogue and consensus between the parties that was, at times, not easy to achieve.

Another legislative change of great importance was the amendment to the Act No. 4688 on the Public Servants' Trade Unions in 2012, which changed its title as Public Servants' Trade Unions and Collective Agreement and introduced many far-reaching amendments to recognize public servants' rights to collective bargaining.

After outlining the last decade's developments, I would like to touch upon the allegations made by our social partners. As to the allegation of the TÜRK-İŞ that temporary workers employed by private employment agencies cannot enjoy trade union rights as they often change industry, I would like to emphasize that this form of contract is called a "triangular *employment* contract" in which a worker is employed by a temporary employment agency and works for a different employer. These workers have the right to organize in the branch activity in which the employment agency operates.

With regard to the allegation on the pressure exercised on the workers in public sector workplaces to join or not to join certain trade unions, I would like to point out that provisions guaranteeing the protection against anti-union discrimination exist in the Constitution, the Penal Code and the labour legislation. Both unions and workers have administrative and judicial means to contest such action.

The actions of anti-union discrimination by any employer are considered as a crime, punishable with imprisonment up to three years under articles 118 and 135 of the Penal Code. In addition, labour legislation provides compensation for such cases at least the amount of one year's wage and, in case of dismissal, the possibility of reinstatement. As the public employers have also responsibility for fully respecting the law in discharging their duties, they are further liable under the public law.

With regard to civil liberties, I would like to reiterate that Turkey is a democratic country, upholding the rule of the law. In our country, no trade union has been closed and none of their officials were suspended or dismissed, due to their legitimate activities.

With the enactment of the Act No. 6356 and the substantial amendment of the Act No. 4688, the rate of unionization has steadily increased, reaching up to 22 per cent, public and private sectors combined.

In all democratic countries there is always a regulatory framework for organizing the meetings and demonstrations. Turkey is not the exception in this regard. In this context, when some trade union members transgress the law, destroy the public and private property and seek to impose their own rules during the meetings and demonstrations, then the security forces are naturally obliged to intervene to preserve the public safety. Indeed, by prior notification, marches and demonstrations can be organized.

How bizarre to discuss the lack of freedom in organizing meetings and demonstrations in a country where the last May Day celebrations were held by all trade unions and confederations in several cities around Turkey peacefully with enthusiastic participation.

We overcame such a dreadful and bloody coup attempt that we wish no country would experience. We lost 251 innocent citizens and thousands (2,391) of our people got wounded. The attempt for seizure of a democratic country was also condemned by the international community.

The allegations in the report concern the period of the state of emergency between July 2016 and July 2018 when our country tried to defend its national security and public safety. In this regard, closure of terror-related organizations which are organized under the guise of trade unions should not be exploited against Turkey in any platform. In Turkey, fundamental rights and freedoms, including trade union rights, are always and will be under the protection of the Constitution.

Apart from the right for everyone to seek judicial review against all actions and acts of the administration, every person may apply to the Constitutional Court alleging that the public power has violated any of his or her fundamental rights and the freedoms secured under the Constitution, which falls into the scope of the European Convention on Human Rights.

As requested by the Committee of Experts, I have brought with me to hand in to the secretariat several examples of the rulings of the Constitutional Court, which show that remedial channels are open and functioning well upon the invocation of trade unions or union members.

The trade unions and their members are expected to respect the law of the land as required by Article 8 of Convention No. 87. For example, the Constitutional Court emphasized this point in a ruling that "union membership must not necessarily lead the public officials to act contrary to the duties and responsibilities expected of them while enjoying their constitutional rights". Unfortunately, few of the trade union members are in fact linked to the terrorist organizations and use trade union activities to disguise their illegal acts. When these union members are prosecuted, it is reflected as if they were prosecuted on the grounds of trade union activities.

Since it has a direct bearing on the issue of civil liberties, I would like to inform your Committee that a Judicial Reform Strategy was launched on 30 May 2019 by the President of the Republic himself. The main aims of this reform include: strengthening the rule of law, protecting and promoting the rights and freedoms more effectively, strengthening the independence of the judiciary and improving impartiality, increasing the transparency of the system, simplifying judicial process, facilitating access to justice, strengthening the right to defence and efficiently protecting the right to trial in a reasonable time. A clear and measurable Action Plan will also be prepared and the Ministry of Justice will issue annual monitoring reports.

On the article 15 of the Public Servants' Trade Unions Act, I would like to indicate that in the determination of the public servants to be excluded from the scope of article 15, the second paragraph of Article 1 of the Labour Relations (Public Service) Convention, 1978 (No. 151), was taken into account. As you recall, this provision reads: "The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of highly confidential nature, shall be determined by the national laws or regulations".

In principle, all public servants are entitled to benefit from the trade union rights, but due to the nature of their duties a limited number of the public servants are excluded from the scope. Restrictions are limited to senior public officials and to public servants in public services such as security and justice where disruption cannot be compensated.

On the issue of the strike suspension in the urban public transportation of the metropolitan municipalities and in the banking services, I would like to clarify that the power to suspend a strike in urban public transportation does not rest with the metropolitan municipalities.

Strike prohibition and strike suspension are two different things that are regulated in two separate articles of Act No. 6356. Services where strikes are prohibited are determined in article 62 of the Act while the possibility of strike suspension for 60 days in the above-mentioned services under certain conditions is regulated in article 63.

One should bear in mind that strike action during the collective bargaining process in Turkey is applied to the enterprise or workplace subject to the collective bargaining in its entirety and indefinitely. Therefore, when a strike action is harmful to the general health and the national security or the urban public transportation of metropolitan municipalities or economic and financial stability in banking services, the strike may be postponed for 60 days.

We are also transmitting a copy of Presidential Decree No. 5 concerning the State Supervisory Council, as requested by the Committee of Experts. Although we will be supplying more detailed information with our report, I would like to inform your Committee that there has never been an investigation or audit of a trade union organization or suspension of a trade union official by the State Supervisory Council in pursuance of Decree No. 5.

At this point, I would like to indicate that the Council's power emanates from the provision of article 108 of the Constitution, which exists since the promulgation of the Constitution in 1982. Under this Constitutional provision, the Council had already power to conduct all kinds of examinations, inquiries and inspections at all public bodies and organizations including public professional organizations and unions. I would like to clarify that the State Supervisory Council has no authority to dismiss or to suspend any trade union officials. This authority is only applied to the public officials and the Council has never interfered with the internal functioning of trade unions in its history.

In addition, dissolution of trade unions and suspension of their executives is a matter regulated by the trade union legislation. As it is a special legislation it cannot be overruled, neither by presidential decrees nor the laws of general nature. Under article 31 of the Trade Unions and Collective Labour Agreement, only the competent courts are empowered to dissolve the trade unions and, if need be, suspend the union executives responsible for unlawful acts.

I would like to point out that the Act on Trade Unions and Collective Labour Agreements was prepared with the active participation of the social partners and taking into account the provisions of the relevant ILO Conventions,

the European Union Directives and Revised European Social Charter. It broadens the rights and freedoms of the trade unions and their representatives and guarantees their independence.

Article 29 and its relevant Regulation stipulate the principles for internal supervision and external audits of the trade unions. According to their provisions, administrative supervision and financial audits of the trade unions and their confederations shall be carried out by their supervisory boards in accordance with the provisions of their statutes and their general assembly decisions of these organizations themselves.

On the last point concerning dissolution of some trade unions after the coup attempt on 15 July 2016, I would like to emphasize that these trade unions had very strong connections to the FETÖ terrorist organization. As I mentioned before, in no way the dissolutions of these trade unions are related to or based on any of their legitimate trade union status or activities.

Nevertheless, I would like to indicate that all the dissolved trade unions and the dismissed public servants by a State of Emergency Decree have the right to apply to the Inquiry Commission for a review of the dissolution or dismissal. Even the one confederation and nine trade unions, dissolved due to their connection to the FETÖ terrorist organization, have applied to the Inquiry Commission.

I wish to underline that dismissal or dissolution directly through a decree with the force of law was a measure applied only during the state of emergency and all of the judicial recourse avenues are open against the decisions of the Inquiry Commission through the judicial system, including the Constitutional Court of Turkey and the European Court of Human Rights.

Finally, we will submit our report in 2019 with the detailed information on the developments and with the copies of the documents requested for further examination by the Committee. We hope that in drawing up the Committee's conclusions the revolutionary developments in Turkish trade union legislation should be acknowledged.

Worker members – We are examining the Turkish application of the Convention and this is a double-footnoted case and it is not surprising given the seriousness and persistence of violations of freedom of association which we fear now are now entrenched in the Government's attitude towards workers. The last time we examined the Turkish Government's application of the Convention was in 2011. At the time, the Committee expressed serious concerns over restrictions placed on the civil liberties of trade unions and their members and the arbitrary exclusion of trade unions from the exercise of the freedoms and rights guaranteed under the Convention.

Despite the time that has passed since then, the Committee of Experts report before us does, unfortunately, not point at any progress. On the contrary, the situation has significantly deteriorated in recent years with the persistence of arbitrary arrests and withdrawal of civil rights and the peaceful exercise of legitimate trade union activities. The Government has undertaken authoritarian measures to interfere in trade union affairs and impose heavy restrictions on the right to organize. We are in a situation in which it has become almost impossible for trade unions in Turkey to operate.

From 2016 in particular, the Government has justified continued violations of civil liberties under the guise of the state of emergency through associated decrees.

The law on meetings and demonstrations has consistently been used to prohibit numerous legitimate trade union activities. For example, in September 2018 about 600 workers were arrested in their dormitories at night for engaging in a protest against health and safety breaches at the construction site of the new Istanbul airport where, according to official figures, about 57 workers had died as a result of various health and safety violations. Though many of the workers have been released from pre-trial detention, about 31 workers are on bail under strict judicial control facing criminal prosecution.

As part of the attacks on independent trade unions, the authorities have also repeatedly dismissed workers for their trade union activities. More than 11,000 representatives and members of the Confederation of Public Employees Trade Union (KESK) were suspended from their jobs or sacked because of their trade union activities, under the pretext of national security and emergency powers by targeting peaceful trade union activity under very broad and vague criteria as terrorism. This stigmatization has created a clear, chilling effect on workers wishing to join trade unions. Trade unions are not terrorists, this climate of fear has to stop!

The absence of respect for civil liberties renders the concept of trade union rights meaningless. The Committee on Freedom of Association pointed out that national security and emergency measures do not justify a derogation from obligations under the Convention. The guarantee of the right to free speech, free assembly and trade union activities should never be considered as a threat to national security. The Government violated civil liberties because, allegedly, the trade unions and workers ignored or disrespected the requirements of the state of emergency or for engaging in political activities. In this regard, we reiterate the call of the Committee of Experts that the Government must take measures to "ensure a climate free from violence, pressure or threat of any kind so that workers fully and freely exercise their rights under the Convention".

Secondly, we raise the restrictions placed on civil servants in joining and establishing trade unions. The Committee of Experts pointed out, and in particular, that section 15 of Act No. 4688 prevents public employees, magistrates and prison guards from exercising the right to freely join or form unions. While this provision has now been declared as unconstitutional, we note with concern that restrictions on civil servants continue to be imposed. The scope of Article 2 of the Convention recognizes the right of workers without distinction whatsoever to form or join organizations of their own choice. Despite this, the Government applied broad restrictions to join trade unions to one in six public employees, who are neither in the armed forces nor the police. This is a blatant breach of Article 2. The Government should urgently review this Decree relevant sections of Act No. 4688 including section 15 in consultation with the social partners.

Thirdly, we note the serious concern expressed by the Committee of Experts regarding excessive interference into trade union activities by public authorities contrary to Article 3 of the Convention. The principle of non-interference in trade union activities, programmes and administration protects the independence of action of trade unions including their right to take strike action.

The Committee of Experts highlights in particular that section 63(1) of Act No. 6356 does not conform with Article 3 of the Convention. This provision allows the Council of Ministers to suspend strikes for 60 days and unilaterally refer the underlying matters for compulsory arbitration if no agreement is reached after 60 days. While the law indicates that such a suspension should be limited to strikes that may be prejudicial to public health or national security, it has been interpreted in such a broad manner that strikes in non-essential services have also been effectively prohibited. These excessive powers to interfere in legitimate trade union activity were further boosted under Decree No. 678. This Decree allows the Council to postpose strikes in local transportation companies and banking institutions for 60 days contrary to an earlier constitutional court ruling.

In addition, the Workers' group has serious concern over the adoption of Decree No. 5, which further exposes trade

unions to undue interferences by the public authorities. Under the Decree, the State Supervisory Council – an outfit of the Office of the President – has power to investigate and audit trade unions and other associations at any given time. With this power, all documents and activities of trade unions and other associations will come under investigation without safeguards and guarantees provided by a prior judicial process. The effect is that unions are restricted and impeded from freely and fully exercising the right to pursue their legitimate activities without fear. Unions are forced to self-censor their activities and programmes in order not to suffer continued, politically motivated and malicious investigations and audits. This is an interference and a disguised form of prior authorization contrary to the Convention. This is a further example that Turkey has become a state of fear and oppression.

Any law that gives the authorities direct or indirect powers of control over the internal functioning of unions, for example by going beyond the obligation of the union to submit annual financial reports, is incompatible with the Convention. The Government must provide details of any investigations and/or audits it has conducted on unions to the Committee of Experts, including the outcome of these investigations and audits as well as dismissals or sanctions inflicted to trade unions and their leaders.

Finally, we are deeply concerned about the Turkish Government's arbitrary dissolution of trade unions in violation of Article 4 of the Convention. Decree No. 667 provides that trade unions found in connection, communication or adherence to groups and organizations threatening national security or terrorism will be banned. The law makes no distinction between the trade union as an organization with an objective public purpose and individual actors. In effect, the Decree holds all members of the trade union guilty by association with the consequence of a close down of the union.

In accordance with Article 4 of the Convention, workers' organizations should not be liable to be dissolved or suspended by the government. The supervisory bodies have held that dissolving or suspending a trade union organization is the extreme form of interference by authorities in the internal activities of workers' organizations. As such, all necessary safeguards and guarantees must accompany any action in this regard. We regret that no safeguards nor guarantees have been undertaken within the framework of this Decree. Although the Government has set up an Inquiry Commission to review its actions after the fact, including the dissolutions, the process does not enjoy the trust of victims and trade unions due the manner in which it was constituted and the results of the processes so far. It is marred by a lack of institutional independence, long waiting periods, an absence of safeguards allowing individuals to rebut allegations and weak evidence cited in decisions to uphold dismissals.

To conclude, we highlight that a fundamental change is needed to effect the realization of the Convention for workers in Turkey. The source of real or perceived security challenges do not lie within free and independent trade unions and the guarantee of basic rights that define a democracy. Indeed, if we have learned anything in 100 years of the ILO it is that the guarantee of the right to freedom of association is indispensable for social justice and peace.

Employer members – The Employers' group would begin by thanking the Government for its submission today. We make special note of the Government's stated commitment to submit its 2019 report with detailed information and provide copies of the documents requested for further examination by the Committee of Experts. The information provided by the Government today is very important to allow us to better understand the manner in which Turkey is applying the Convention, the challenges it is facing and the ways it has found to overcome some of those challenges.

In looking at the history of this case, it is important to highlight that Turkey ratified the Convention in 1993. The Committee has discussed Turkey's compliance with this Convention six times since 1997–2011, and we note that the Committee of Experts have made a total of 19 observations on Turkey's application of this Convention in past years. We also note that Turkey received ILO technical assistance in the framework of the Improving Social Dialogue in Working Life EU Project, which was aimed at increasing the capacity of social partners and relevant public institutions at all levels including through numerous training activities on international labour standards in 2016, 2017 and 2018.

The issues in the present case which was double footnoted by the Committee of Experts this year concerned four main issues which we will discuss each separately.

The first issue identified by the Committee of Experts was the issue of civil liberties. First we note that the International Trade Union Confederation (ITUC) and Turkish trade unions allege continued infringement of civil liberties, such as prohibitions of demonstrations and press statements of Turkish trade unions, arrests of union trade members and officials, and withdrawal of passports of dismissed trade union executives.

We note that in the Committee of Experts' observation the Government refers to situations where the requirements where the state of emergency were persistently ignored or disrespected, where unlawful activities took place. For example, open-air activities in violation of Law No. 2911, or where civil servants were involved in politics in violation of their status. The Government also indicates that domestic administrative or judicial methods of remedy are available against all acts of the administration. We thank the information that the Government provided today in this respect as it provides some additional context to be considered.

The Employers' group believes that effective respect for civil liberties of workers and employers is the very basis for the exercise of freedom of association under the Convention. The Employers therefore encourage the Government to give to the Administration all instructions that are necessary to ensure that violations of civil liberties, which are the basis for freedom of association protected by the Convention, will not occur in the future. The Government should also provide information of any outcomes of administrative and judicial remedial channels invoked by union members.

Turning to the second issue, the right of workers without distinction to establish and join organizations as included in Article 2 of the Convention. Moving to the second issue concerning the right of workers to establish and join organizations, we note that according to section 15 of Act No. 4688 as amended in 2012, senior public employees, magistrates and prison guards are excluded from the right to organize. In a 2015 judgment, we understand that the Constitutional Court repealed one part of this restriction, namely section 15A. As regarding the personnel of the Administrative Organization of Turkish Grand National Assembly, we understand that the other restrictions in section 15 remain in force.

It is our understanding that the Government seeks to justify these restrictions by taking the position that they are limited to those public services where disruption cannot be compensated, such as insecurity, justice and high-level civil servants.

The Employers would take this opportunity to highlight that the right to establish and join organizations under Article 2 of the Convention does not give the right to disruption or a right to strike. In other words, in our view, the Government would not be hindered by the Convention to restrict or exclude the right to strike for senior public em-

ployees, magistrates or prison guards. We have emphasized this Employers' view on many occasions. It appears therefore that the apprehensions of the Government are therefore not justified and it should not exclude these workers or public servants from the right to organize. The Employers therefore call upon the Government to make the necessary changes to the law, in particular section 15 of Act No. 4688, to ensure that all public servants have the right to organize. Only the armed forces and the police may be exempted in accordance with the Convention.

On the third issue concerning the right of workers' organizations to organize their activities and formulate their programme. The Committee of Experts' observations concern in essence legal provisions that enable a suspension of strikes under certain conditions. At this moment the Employers would simply comment on this point that in their view these issues fall outside of the scope of the Convention. Also, the Government group has expressed the view, in its statement in 2015, that the right to strike is regulated at national level. This is consistent with the Employers understanding that these issues can be regulated at national level.

The Employers want to take this opportunity to register its opinion that the Committee on Freedom of Association does not have the competence to supervise compliance with the Convention. Its mandate is strictly to examine alleged infringements of principles of freedom of association and the effective recognition of the right to collective bargaining enshrined in the ILO Constitution, the Declaration of Philadelphia and as expressed by the 1970 ILO resolution.

Therefore the Employers reiterate that in the absence of any rules on industrial action in the Convention, the Government may set and apply its own rules in national law and practice to the issue of industrial action. The explanations and requests made by the Committee of Experts on this issue should be taken within that context. Moreover, we note that according to an ITUC allegation, Decree No. 5 of July 2018, enables the State Supervisory Counsel (DKK), an institution which is directly accountable to the Office of the President to investigate and audit as well as remove or change the leadership of trade unions and certain other associations. In this respect, we note that the Government explained in its report that the DKK only seeks to ensure the lawfulness, regular and efficient functioning and improvement of the administration, and that there is no intention to interfere with the internal functioning of trade unions.

We understand from the Government's submission that the competence to dismiss or suspend trade union administrators only apply to public servants. In this regard, the Employers note that it is not for government agencies to take measures to ensure regular and efficient functioning of the administration of trade unions. That is in fact a matter that falls within the autonomy of trade unions which is protected by Article 2 of the Convention.

Any competence by the DKK, whatever the objectives are to investigate or audit trade unions or employers' organizations other than simply requesting them to submit annual financial reports, as Mr Leemans pointed out, would not be in line with the Convention. We request that the Government provide the Committee of Experts with a copy of Decree No. 5, as well as information on its application in practice, in order to enable a proper examination of its compatibility with the Convention, particularly in respect of the right of trade unions and employers' organizations to organize their activities without interference from government authorities.

Finally, turning to the last issue on the discussion of the dissolution of trade unions, KHK No. 667 provides that trade unions can be banned on the suggestion of a commission and approval of the Minister concerned when they are found to be in connection, communication or adherence to formations threatening national security or to terrorist organizations. According to allegations made by the Turkish trade union, the Confederation of Public Employees Trade Unions of Turkey (DISK), 19 affiliated trade unions composing 52,000 members were closed down for being in connection with a terrorist organization, Parallel State Structure. An Inquiry Commission has been established in the meantime, which is receiving complaints against the dissolution of trade unions. Contrary to its decisions, legal recourse to the administrative courts is possible. While the Government did not provide its perspective on these allegations to the Committee of Experts in 2018, it has shared some information on this issue in its presentation today. We understand that the Government has advised that the dissolution of trade unions is a matter regulated by the trade union legislation and that, under article 31 of the Trade Unions and Collective Labour Agreement Act, only the competent courts are empowered to dissolve trade unions. While we appreciate the information shared by the Government today, the Employers' group does call upon the Government to provide this detailed information in this regard in relation to this issue and related circumstances regarding the dissolution of any trade unions in all cases to the Committee of Experts, as well as information regarding the re-establishment of trade unions as a result of decisions made by the Inquiry Commission or by the administrative courts. This information would allow a more proper and fulsome understanding of this issue. The Employers' group thanks the Government for its submission today and we take this moment to impress upon the Government how important it is that it is encouraged to take measures to fully comply with the Convention based on the comments before you.

Employer member, Turkey – I would like to present the opinions and suggestions of Turkish employers with respect to the subject matter. Regarding the Convention, the Committee of Experts firstly takes into consideration the complaints filed by different workers' organizations about civil liberties. Considering the observations of the Committee of Experts on this matter, we, as Turkish employers, deem it necessary to inform this Committee on certain issues.

The first issue is that the right to personal liberty and security is regulated in article 19 of the Constitution of the Republic of Turkey and that the circumstances and conditions under which the said rights might be restricted is also specified in the same article. Thus, by means of such legal measures, the creation and assurance of an environment that will enable workers and employers to exercise their rights arising from the Convention, fully and freely without being subject to violence, oppression and threat, is ensured. As Turkish employers, we believe that the realization of such an environment is a necessary condition of the Convention and Turkey's working life ecosystem is perfectly in line with ILO standards.

The Committee of Experts' observations about Turkey within the scope of Article 2 of the Convention focus on rendering article 15 of the Civil Servants Unions Act compatible with the Convention. As Turkish employers, we believe that all employees, except for a few exceptions, working in the public sector should enjoy the right to organize. Having few exceptions is not only the case for Turkey, it is a kind of conventional approach for the majority of the countries.

Indeed, Convention No. 151, which is another ILO Convention to which Turkey is a party, also leaves the authority to determine the extent of application for the syndicate assurances about senior level public officials, performing top secret duties, members of the armed forces and members of police forces to the national legislation of the member countries. However, persons referred to in article 15 of Act

No. 4688 do not hold the status of "public employee, namely the workers working at the public sector", but hold that of "public official" namely the civil servants. Legally, these persons are not at the status of "worker", but at that of "public servants". Accordingly, we have not been able to understand on what reasoning the Committee of Experts wants to compare the provision of a national law that applies to civil servants with those of a Convention that is solely devoted to workers.

As a matter of fact, given the fact that there is a specific Convention provision related to the very matter and that the provisions of the national legislation complies with this provision, making an evaluation under Article 2 of Convention No. 87 is inappropriate. While Convention No. 87 means that workers/public servants from these groups can set up and join their own autonomous organizations, it does not mean that workers/public servants from these groups or their organizations have a right to collective bargaining or even a right to strike under this Convention.

The Committee of Experts' observations about Turkey, under Article 3 of the Convention, is mainly based on strike postponements and their execution. However, the Committee of Experts makes an observation on a matter on which it is not authorized. In fact, the Convention does not mention about the word strike or right to strike; nor does it guarantee that right by any means. Hence, our Employers' group also is of the opinion that the Committee of Experts is not authorized to comment on the provisions about the postponement or the limitation of the right to strike acknowledged by national legislation. Namely, the power to interpret ILO Conventions belongs solely to the International Court of Justice.

In line with the Government group position, the right to strike is regulated at national law in Turkey. There exist laws in Turkey that determine the scope of the right to strike in line with the national industrial relations system. These laws have been adopted in a regular and democratic process. The application of these laws can be challenged before the Constitutional Court, which has been done on a number of occasions.

Another point regarding the Committee of Experts' observations on Turkey about Article 3 of the Convention is the claim that the State Supervisory Council's power of auditing and investigating unions does not comply with the provisions of the Convention. The power of the State to conduct administrative and financial inspection of the employers' and workers' organizations provided for in article 52 of the Constitution of the Republic of Turkey was repealed by Article 3 of Act No. 4121. In parallel to this amendment, article 29, Unions and Collective Labour Agreement Act No. 6356, stipulates that the supervision of the unions shall be conducted by their own supervisory bodies and the financial audit shall be done by certified public accountants.

Thus, article 108, Constitution of Turkey, regulates the State Supervisory Council. It carries out its examinations with the purpose of ensuring the lawfulness, regular and efficient functioning and improvement of the administration. The claim that the State Supervisory Council has the power to dismiss or change the trade union administrations, which is among the allegations of the ITUC, is baseless, since the power of dismissal or suspension is an arrangement intended only for the public servants. In this context, Presidential Decree No. 5 does not impose any regulation outside the framework laid down in the Constitution in relation to the freedom of association and the right to organize.

Another point regarding the Committee of Experts' observations on Turkey about Article 4 of the Convention is the dissolution of trade unions.

As it will be recalled, not long ago, an attempt to overthrow the Turkish Government was under way; 251 were killed, and more than 2,000 people wounded as a result of the attempted coup. The Turkish employers condemn any terrorist attack or unconstitutional effort to seize power and overthrow democracy. Namely, after the attempted coup of 15 July 2016, an Inquiry Commission has been established that receives applications against the dissolution of trade unions during the state of emergency and whose decisions are appealable before administrative courts of Ankara. The grounds for the dissolution of trade unions can be examined by the administrative courts in Turkey when applications are made, which is a due and effective recourse by law.

Finally, I want to emphasize that the Turkish employers give the utmost priority to the ILO's supervisory system. In our view, the credibility and transparency must be respected within the Committee with a view to enable a high level of compliance to the international labour standards.

Worker member, Turkey – Workers right to join a union with their free will is under the guarantee of article 51 of our Constitution and the 19th article of the Trade Unions and Collective Agreement Act No. 6356.

The 31st article of the Trade Union Act 2821 which was in force before Act No. 6356 was foreseeing that employing a worker cannot be linked to a specific union membership. Imprisonment and a judicial fine was foreseen in case of the violation of this provision. However, new Act No. 6356 foresees only a judicial fine. In fact, article 118 of the Turkish Penal Code also foresees imprisonment in case of the workers enforcement to join or resign from their union. But since it is up to two years, the imprisonment decision may result with the suspension of the pronouncement of the judgment. Therefore, the sanctions in case of the violations of organizing rights or current legislation should be strengthened. The report of the Committee of Experts includes a variety of situations in which the certificate of competence to bargain collectively may be withdrawn by the authorities. Particularly, the designation of industrial branches or the competencies and long trial periods create concerns.

We acknowledge the improvements made in legislation since we have been discussing the case at the Committee. However, we still face the dismissals because of joining unions particularly in the private sector. Unions and workers solving all procedural problems are this time facing the pressure applied by the employers. They are forced to resign from their unions or join unions designated by their employers.

We need legal sanctions to protect the organizing rights of workers and providing them the required circumstances free from any pressure or threats necessitates a mentality change towards an understanding of tackling problems with social dialogue.

In accordance with our prior requests and case discussions at the Committee, thresholds were negotiated with the Government and the national threshold was decreased from 10 to 1 per cent. This was a result of the consensus achieved after the negotiations among the parties. This was also shared in details with the previous missions from the Office.

As a result of this decrease at the national threshold and the e-state membership application replacing the prior high-cost notary procedure, progress has been achieved in regard to unionization rates. However, as mentioned in the Committee of Experts report, we previously indicated that it is not always easy to reach the 50 per cent workplace and 40 per cent enterprise threshold levels in the environment of increasing flexible employment systems noting that we are in favour of "One competent union at one workplace" principle.

As mentioned in the Committee of Experts report, Act No. 6356 provides that strikes can be postponed for 60 days with a decree due to the reason of public health or national

security. The Government should ensure that this provision is not abused. Approximately 800,000 subcontracting workers are employed at the related workplaces through Decree No. 696 in 2018. The Government should also ensure that those workers transferred from subcontracting companies are fully benefiting from their collective bargaining and organizing rights.

As it is indicated in the report of the Committee of Experts, there was a situation of acute crises in Turkey after the failed coup attempt. The FETÖ terrorist organization behind the coup aimed to suppress all democratic and constitutional institutions and overthrow the Turkish Government and it is responsible for the deaths of 251 Turkish citizens including our six members and injury of more than 2,300 civilians. Regarding this issue, the administrative and judicial channels should continue to be open and current commissions should rapidly finalize their work.

As one of the countries benefiting very much from ILO and its tripartite structure we would like the Government to find solutions to all these issues in close consultation and cooperation with the social partners.

Another Worker member, Turkey – I would like to concentrate on public workers' issues. Turkey has approved Convention No. 87 and many other Conventions in the early 1990s. Our Confederation Turkiye Kamu-Sen (Turkish Public Workers' Trade Unions Confederation) was established in 1992 when there was not any legislative base including constitutional for civil servants to be a member of any union. Because, at the mentioned time, public workers trade union rights were banned for a public worker; to be a member of a trade union was banned until 2001 when the first Public Workers Law Act No. 4688 was adopted.

From 2001 and 2012, public workers trade unions acted as an ordinary organization rather than a trade union. This was because of the limited rights regulated in the Constitution and in the law. In 2010, some articles of the Constitution including the articles related to trade union issues were amended in a referendum and depending on those amendments some articles of the public workers trade union law was changed two years after that mentioned referendum.

Of course public workers' trade unions gained some improvements in public workers trade unionism but there are still many limitations for public workers in terms of freedom of association in relation with the Convention in practice. In spite of having this same international and national legislation basis there are still 12 handicaps for public workers trade union rights comparing with the labour trade unions rights.

In this time period Turkey had faced a large amount of immigrants and terrorist attempts. The most important one was the failed coup attempt prevented in seven hours by the security forces, Government, trade unions, many other democratic institutions and a very large part of society. The mentioned coup attempt was organised by the FETÖ terrorist group organization. All those attempts were targeting to destroy Turkey's economic and social stability.

Especially after 15 July 2016, many public workers were investigated and big amounts of them were dismissed. In that extraordinary time period, black and white mixed for a while. Today everything is getting normalized in Turkey and an Inquiry Committee consisting of seven members coming from mostly high courts was established to examine this issue. They should work hard and solve this problem in a short time for the people who may be innocent.

Finally, Turkey was discussed more than ten times in this Committee for different reasons since 2003. Last some years it was received high-level mission of the ILO. Some years Turkey was supposed to submit some recovery report to the Committee.

These days we are more hopeful because we have a new and a very young Minister of Labour. The Minister and her team know the problems and they are aware of the matters. In legislative base, we have all types of social dialogue mechanisms which need to be implemented in practice. The ILO is setting a Centenary vision for decent and peaceful work life. So as Turkey, we have to put the same vision for our next future to solve all problems including freedom of association.

Government member, Romania – I am speaking on behalf of the European Union and its Member States. The European Free Trade Association (EFTA) country Norway, member of the European Economic Area, aligns itself with this statement. We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights and we attach the highest importance to freedom of association and the right to collective bargaining. Compliance with ILO Conventions Nos 87 and 98 is essential in this respect. Turkey is a key partner for the European Union and a candidate country. During the last EU–Turkey Association Council held in March 2019 in Brussels, the EU reaffirmed the importance of the relations between the EU and Turkey. The EU and its Member States immediately and strongly condemned the 15 July 2016 coup attempt. However, three years later, and despite the lifting of the state of emergency, we remain concerned over the continuing and deeply worrying situation in the areas of fundamental rights and rule of law, and the pressure faced by civil society, notably in the face of widespread arrests, and recurrent bans on demonstrations and other types of gatherings. We also underline the importance of ensuring that the Inquiry Commission on the State of Emergency Measures represents an effective remedy for those unjustly affected by the broad scale and collective nature of the measures taken in the aftermath of the coup attempt. With regard to the present case before us, which relates to the Convention on freedom of association and collective bargaining, we would like to stress that an environment conductive to social dialogue and trust between employers, workers and governments is essential for social and economic stability. We express concern over recent arrests of union members and officials during protests (including against working and living conditions in the new Istanbul airport site construction), as well as the withdrawal of passports of trade union executives and other restrictions to civil liberties such as the prohibition of demonstrations and press statements. We understand that trials are still under way and hope that the ruling of the courts will be based on the rule of law and respect of Conventions Nos 87 and 98 that Turkey has ratified. Workers should have the right to unionize and join the organizations of their own choosing, including in the public sector. We duly take note of the allegations from the KESK that restrictions still impact one in six civil servants in Turkey. The Committee of Experts in previous comments had already requested the Government to review section 15 of Act No. 4688 as amended. We therefore call on the Government to take the necessary measures to amend this law so as to lift the restrictions on the right to unionize which are not in conformity with the Convention and ensure that all civil servants, including those working in the justice and security sectors, as well as high-level civil servants, have the right to form and join trade unions. We also highlight that workers should be free to join the trade unions of their own choosing and that they should not be subject to any pressure from their employer in this respect. Moreover, government authorities should not interfere in the programme and organization of trade unions. According to the Committee of Experts report, the State Supervisory Council – an institution directly accountable to the office of the President – has been attributed with very wide powers, such as investigating and ensuring audits of trade union and professional organization, at any given time. According to the ITUC, this Council has also the power to remove their management.

The Committee of Experts report recalls that these powers should not go beyond requesting the submission of annual financial reports and in any case not interfere with the internal functioning of the unions, otherwise it would be incompatible with the Convention. We would therefore like to request further information on the role and activities carried out by the State Supervisory Council, the investigations already undertaken under its auspices and their outcomes. We also express our concern that section 63 of Act No. 6356 and KHK No. 678 are applied in a manner that unduly infringed with the right of workers organizations to organize their activities free from government interference. The Committee of Experts recalls that a series of strike suspensions took place based on these texts and despite the fact that they had been ruled as unconstitutional by the Constitutional Court. We would like to request more information from the Government on the application of these two laws. Finally, we would like to highlight the very dire and uncertain situation of a large number of trade union members dismissed in the public sector as well as trade unions closed down in the coup attempt aftermath. It is crucial to ensure that the Inquiry Commission is accessible to all organizations and all trade union members that desire their review and that the Commission, and the administrative courts that review its decisions on appeal, carefully examine the grounds for the dissolution of trade unions and dismissals. We would be interested in having more information on the work of this Commission and in particular the number of applications submitted by the dissolved trade unions, the number of cases considered by the Commission and the outcome of their examination. Regarding trade unionists dismissed in the public sector, we are concerned by the large backlog of unsolved cases for those affected by measures under the state of emergency and a very low level of reinstatements (7.5 per cent as of May 2019). We urge the Government of Turkey to swiftly take the necessary steps to ensure a climate free from violence, discrimination, pressure or threats so that all workers and employers are able to exercise their rights under the Convention in the country. The EU and its Member States will continue to cooperate with Turkey and closely monitor the situation.

Government member, Qatar – The Turkish Constitution guarantees equality between all citizens before the law without any discrimination on the basis of language, race, skin colour, confession, etc. The Government has taken measures following the attempted coup. To our mind, these provisions were not intended, they were not against the trade unions, they were simply measures against those who had prepared that military coup.

We have noted the number of unions has increased over recent years between 2013 and 2019. In fact the number of unions has tripled. That shows clearly that the Turkish Government has created a climate which is conductive to unions which guarantees and protects the rights of their members. What is more, the Turkish Constitution has recognized all fundamental freedoms, including the freedom to organize.

Our country considers that Turkey is striving for social justice as required by our Organization. So we would ask the Committee to evaluate the case of Turkey bearing in mind what I have just set out. We support the statement by Turkey on this and we would ask the Committee to take into account this statement of the Government of Turkey when it comes to its conclusions.

Observer, International Trade Union Confederation (ITUC) – I would like to express the wish that our meetings will provide solutions to the problems faced by workers, and for that reason I will give a general overview of the developments that have taken place in the context of the Convention.

The Government openly supports affiliated trade unions and confederations which are in the same political line as its own. Although this runs counter to ILO standards, the Government adopts a discriminatory approach with respect to confederations and trade unions. Trade union discrimination extends the granting of presence in the collective bargaining system and appointments in the public sector, for instance during promotion procedures. Decisions are taken not on the basis of the knowledge and skills of employees in the public sector, but the union to which they are affiliated.

The new measures that came into force during the state of emergency have become permanent and, as a result, the right to organize has been dealt a serious blow. Pursuant to the executive decrees promulgated during the state of emergency, approximately 130,000 public sector workers were dismissed without any investigation or judicial procedure, and without any possibility of defence. At present, 4,510 public-sector workers who are members of trade unions affiliated to the funds are still dismissed from their posts. The penality of dismissal was imposed during the state of emergency purely on the basis of the opinion of public-sector managers (i.e. administrative managers, most of whom are appointed by the political authorities), anonymous denunciations, and a system of personal files. The remedies for challenging this injustice have been blocked for employees dismissed from the public service.

A commission entitled the "Inquiry Commission" was established about six months after the declaration of the state of emergency and began functioning 13 months later. All members of this seven-person commission were appointed by the Government, and the President has been authorized to remove them from office. In these circumstances, it is impossible to expect the commission to make fair decisions. As a result, the Commission has ruled on approximately 70,406 claims out of a total of 126,120 claims filed to date. For 65,156 of claimants, or 92.5 per cent, this resulted in the dismissal of their claims. Only 7.4 per cent, or a total of 5,250 public sector employees, have been reinstated in their duties.

So let me highlight these two points: the number of public sector workers prohibited from joining unions is increasing and the ban on strikes is continuing. In Turkey, legal barriers to public sector workers joining trade unions have increased. One in nine public sector employees is prevented by law from joining a trade union. This is also explained in detail in the report of the Committee of Experts. Despite this, the prohibition on strikes by public sector workers in Turkey is still in force, and moreover, repression against the Confederation of Public Employees' Trade Unions (KESK) has increased. With regard to trade union rights and freedom of association, it should be noted that any collective demonstrations and press releases we wish to issue are obstructed for reasons that have no legal basis.

Government member, Ukraine – It is widely recognized that Convention No. 87 is a vital instrument of the International Labour Organization, a fundamental building block for tripartism, collective bargaining and social dialogue without which freedom of association and equality at work would not be possible. Ukraine is a State party of the Convention since 1956 and fully acknowledges and highly values the important role played by this indispensable international document as an effective mechanism for ensuring the principles of allowing and enabling workers and employers to exercise freely their rights to organize. Despite its significance, the Convention unfortunately remains one of the least widely ratified of all the ILO's fundamental Conventions. The recurrent report of social dialogue, which was discussed during last year's International Labour Conference session, as well as the recurrent report of the Committee for Fundamental Principles and Rights at Work presented in 2017, both strongly emphasize the need to further promote the universalization and proper adherence to this essential treaty. Ukraine therefore recognizes the efforts

being undertaken by our neighbour, Turkey, to comply with the Convention, in particular those related to the adoption of relevant national trade union legislation, and hopes for further fruitful cooperation between Turkey and the ILO in all necessary social and labour fields, including the strengthening of social dialogue on national and international levels.

Worker member, Belgium – Just the day before yesterday, we were shown a video recalling the importance of the Committee on the Application of Standards, and highlights this Committee and with it the whole International Labour Organization has seen throughout its 100 years of existence. Among these highlights was the much appreciated contribution of the ILO to the establishment and recognition of a truly independent self-governing trade union in Poland.

- Turkey has ratified the Convention in 1993. The text of this Convention is clear: "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation."
- "Workers' and employers' organisations shall have the right to elect their representatives in full freedom."
- "The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."
- "The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention."

Notwithstanding the clarity of these phrases, to our regret, in July 2018, Turkey adopted Presidential Decree No. 5. This Decree establishes the State Supervisory Council, which has the authority to investigate and audit trade unions, professional associations, foundations and associations at any given time. It even has discretion to remove or change the leadership of trade unions. This is one of the most blatant and clear violations of the Convention, one of the fundamental Conventions of the ILO, covering one of the fundamental principles and rights at work: namely the freedom of association and the protection of the right to organize. It is the role of our Committee to guarantee the right application of the standards of the ILO.

In this case, the conclusion is clear; Turkey needs to ensure that Turkish trade unions can be truly independent and self-governing. The ability by the Government to remove or change the leadership of trade unions not only restricts the functioning of truly independent, self-governing trade unions, but simply makes it impossible to function as a truly independent, self-governing trade union. To be clear; this goes beyond trade unions. The possibility to remove or change the leadership of employers' organizations would amount to an even graver violation of the Convention.

To conclude this intervention, we refer to the extensive compilation of decisions of the Committee on Freedom of Association. Chapter 7 of the Compilation published last year, covers in depth the right of organizations to elect their representatives in full freedom. It goes without saying that removals constitute serious infringements of the free exercise of trade union rights and are not compatible with the principle of freedom of association, be it for private sector or public sector employees.

Government member, Morocco – I would like to begin by thanking the Government of Turkey for the information it has provided in response to the various comments and observations made on this matter by the Committee of Experts.

Indeed, the comments of the Committee of Experts cover a number of subjects directly related to the implementation of the Convention, in particular regarding the rights of public sector workers to establish or join organizations of their choosing, the monitoring of the internal functioning of trade unions, and the dissolution of trade unions.

The representative of Turkey provided important explanations and clarifications while pointing out that Turkey experienced a very particular situation in 2016 when it faced a threat to its national security.

According to his explanations, and particularly the fact that fundamental rights and freedoms are protected by the Constitution, that Turkish public sector workers have the right to organize, and that restrictions are limited to senior officials in certain areas, such as security and justice, workers' organizations have the right to freely organize their activities as long as they comply with national legislation. All unions have the right to challenge dissolution decisions through the Inquiry Commission.

In this regard, we support the efforts made by the Government of Turkey and invite it to redouble its efforts to bring its national law and practice into conformity with the provisions and principles of Convention No. 87.

Observer, Education International (EI) – Under the heading of the Civil Liberties, a number of infringements were listed. As a trade union member, from the field of education, I have to express that dismissals, suspensions, deportations, transfer from the workplace without the will of the worker are the practices that the Turkish Trade Union members have been facing for a very long time and all these are stated in the Committee of Experts report.

The Government, when it is asked, usually defines itself by defining these trade union members acting contrary to the legislations. However in reality the practices of these trade union members are not investigated or punished since they are acting against the legislation. These acts of the Government are the result of the will to oppress the trade unions which are accepted as dissidents. Also, the prohibitions of the demonstrations, brass meetings, trade union members' gatherings and the arrests, dismissals and the court cases that the trade union members and the trade union officials are facing daily, as mentioned in the reports of the Committee of Experts, make it impossible for the Turkish trade unionists to carry on an independent trade union activity. As an example, the General Secretary of Egitim Sen was arrested on 4 May, last month, because of attending a press meeting. Because of this arrest, he was not allowed to travel abroad because of a travel ban and passport ban put by the local administrators. He was supposed to be here in the ILO Conference, but he could not. Now, is it possible to talk about freedom of association and right to organizing in this kind of a situation? Discrimination among the trade unions because of being politically close to the Government or not is another crucial problem. Using the power and the tools of the State as an advantage for progovernment trade unions is another unacceptable act. How can a trade union member enjoy the right of freedom of association and enjoy the right to organize under these conditions. These rights can only be fulfilled when all these rights are protected either by the domestic or the international laws and Conventions.

Trade union rights and freedoms are under, or must be under, the protection of international Conventions, including ILO Conventions and domestic laws. Article 90 of the Turkish Constitution considers duly rectified international Conventions superior to domestic legislation. However, it is clear that the Government does not obey these obligations in this regard. As a result in this case, it is clear from the reports and interventions that the Convention is heavily violated and ignored.

Government member, Cuba – My delegation wishes to reaffirm the importance of continuing to promote tripartism and social dialogue in each country to resolve differences that arise in the world of work and of developing greater protection for workers' rights, which must be a constant objective for us all. We accordingly recognize the

progress made by the Government of Turkey, while encouraging it to pursue the efforts made for this purpose.

We also emphasize the need to continue promoting in the framework of the ILO measures and programmes that develop technical assistance to countries and assist governments to take action to resolve the challenges that they are facing in the world of work, in an environment of cooperation and exchange.

Observer, International Transport Workers' Federation (ITF) – When we consider individual cases of civil rights violations against trade unionists in Turkey, it is always important to look at the wider context because what we usually find is a catalogue of violations of the Convention in the lead up to a Government-led crack down on legitimate trade union activities.

Allow me to share one example involving the ITF-affiliated TÜMTIS union. When the workers of a large cargo company in the Province of Gaziantep joined TÜMTIS in late 2017, the employer tried to coerce the workers to resign from the union. After the workers refused, the company dismissed nine workers and violently removed them from the premises. The incapacity reports issued to the workers by their health services demonstrate the level of violence metered out on the workers.

When Kenan Ozturk, the TÜMTIS President, and four other union officials visited the unfairly dismissed workers and held a press conference, little did they know that the Public Prosecutor was already drafting an indictment against them. Mr Ostruck and his fellow officials were charged with breaching the now infamous Law 2911 on Assemblies and Demonstrations. The Prosecutor is asking for jail terms between 18 months and three years, all because these officials have the audacity to hold a press conference and speak to their members.

The second hearing in this case will take place in four weeks' time, on 9 July. This case against TÜMTIS and its leaders is not an isolated case. This Committee is familiar with the cases referred to in the Committee on Freedom of Association Case No. 3098. Indeed, TÜMTIS leader, Nurettin Kilicdogan, languishes in prison as I make this statement. Such levels of judicial harassment creates an atmosphere of intimidation and fear, prejudicial to the development of trade union activities.

I would also like to report to this Committee that another strike has been postponed under section 631 of Act No. 6356 since the Committee of Experts issued their observations. A strike in Izmir, called by the ITF-affiliated Railway Union, was officially suspended by Presidential Decree on 8 January 2019. The Decree signed by President Erdoğan himself confirms that the strike was postponed because it was, I quote, "disruptive to urban public transport services". This was the first time article 631 has been invoked in the inland transport sector.

To quote the President of the Izmir Bar Association, "this decision is a blow to labour rights, democracy and the right to strike. It is devoid of any legal basis and is contrary to the constitution, national laws and international conventions" unquote. For transport workers and their unions in Turkey, the situation is getting desperate. It is our sincere hope that sooner rather than later workers and unions in the transport sector – and indeed all workers and unions – can exercise their full trade union rights in freedom.

Government member, Azerbaijan – We believe this important Committee should serve as the forum for constructive discussions aimed at improving compliance with international labour standards. We appreciate the information provided by the Government of Turkey and welcome its willingness and commitment to constructively engage and cooperate with the ILO. In particular, we welcome the readiness of the Government of Turkey to provide additional information to the Committee of Experts which would allow it to better evaluate the situation in Turkey.

We encourage the Government of Turkey to continue pursuing its efforts to amend the relevant laws in consultation with the relevant stakeholders, especially the social partners, and to continue providing information of further progress made in this regard. We call on the ILO and its member States to support the Government of Turkey and to provide any technical assistance that it might seek in this regard.

Worker member, Germany – In 1970, the International Labour Conference adopted by a broad majority the resolution concerning trade union rights and their relation to civil liberties. The resolution points out that "rights conferred upon workers' and employers' organizations must be based on respect for those civil liberties, which have been enunciated in particular in the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and that the absence of these civil liberties removes all meaning from the concept of trade union rights."

Civil liberties form the grounds on which all rights guaranteed by the Convention are to be exercised. We consider freedom of association to be one of the cornerstones of the ILO. I am no engineer but even I know a cornerstone must be built on solid ground. However, when we look at the situation in Turkey we note with great concern that this ground is very brittle. In its 2019 report on Turkey, the European Commission noted that there "has been serious backsliding in the areas of freedom of expression, assembly, and association and in procedural and property rights." "Trade union rights continue to be under severe pressure."

In November 2018, for instance, the Turkish trade union leader Abdullah Karacan was shot while meeting workers at a tyre factory. Two other union representatives were wounded in this incident. Arzu Çerkezoğlu, president of the Turkish care-worker union and of the Turkish trade union confederation DISK, currently face trial for three years' imprisonment, just for having taken part in a public panel debate entitled "Quo vadis Turkey". On similarly unsubstantiated grounds the exercise of freedom of speech is oppressed on a constant basis by banning press statements or demonstrations by unions. The right to freedom of assembly is also extremely limited, with rallies and demonstrations regularly banned and protestors subject to disproportionate police responses and detainment.

The state of emergency has been used as carte blanche for the infringement of civil liberties and hence the grounds of trade union rights. But even after July 2018, many of the emergency laws are still in place and with them the climate of intimidation for trade unionists.

We therefore call on the Turkish Government to repeal legislation and decrees implemented under the state of emergency and to take immediate steps to bring into line both its law and practice with its obligations under Convention No. 87 and under the international human rights law.

Government member, Algeria – Algeria thanks the Government of Turkey for its substantive report on the situation of trade union rights and the right to strike and supports all of its comments.

We also commend the efforts made by the Government of Turkey, and particularly its readiness to cooperate with the ILO. Algeria welcomes the opening of trade union rights to temporary workers employed by private employment agencies. We also welcome the progress achieved in the introduction of judicial remedies against violations of trade union freedoms and we remain determined to support Turkey in its efforts to reinforce the rule of law, protect and promote rights and freedoms more effectively, strengthen the independence of the judiciary and facilitate access to justice.

Algeria shares many priorities with the Republic of Turkey in relation to freedom of association, and Algeria reiterates its full support for the limitations placed on the right to strike in order to preserve labour peace in essential services, where they are defined as services the interruption of which would endanger the life, safety or health of the whole or part of the population, or where they are justified by risks to public order. This is the case, for example, for magistrates and prison staff.

Observer, Public Services International (PSI) – I shall limit myself to three points. Firstly, tens of thousands of workers in the public sector have been arbitrarily dismissed under decrees which were brought in during the state of emergency; 796 members of the Trade Union of Employees in Public Health and Social Services (SES) were dismissed from public administration and only 17 of them were reinstated. The Inquiry Commission on the State of Emergency Measures was established by the Government. All the officials dismissed have to address this Committee before they can turn to the courts. So far, 117 application cases of SES members were examined by the Commission; while 42 of these applications were accepted and achieved a positive ruling, 58 others were rejected.

Secondly, a new measure has been introduced to the recruitment procedure of public officers. It is called security vetting. Those who do not pass the vetting are not recruited for public institutions. The scope of the vetting is such that it is impossible to know who will be ruled out under and by which criteria. The application of this procedure is illegal and arbitrary; that is, the right of citizens to employment is violated through unfair vetting. People are considered inappropriate for public posts depending upon their ethnic religious origin, their political opinions or their choice of trade union.

Thirdly, in addition to the security vetting, interviews are common currency for recruitment in the public sector. These interviews are not intended to determine objectively compatibility of professional skills with the requirements of the post. The interview has now become a mechanism which makes it possible to ascertain the loyalty of each for those who might be recruited as to whether they are appropriate; no trace of these interviews is left. It is completely arbitrary, thus those who gain a given mark during the exam have sometimes considered to have failed on the basis of the interview. It is very difficult thus for those employed in this sphere and these things are used as a medium for subordination in the absence of job security. No worker in the public sector can exercise a freedom of expression, his right to take part in political life, his right to join a trade union, etc. This effects negatively the quality of our public services. Our struggle under these conditions as SES Union is conducted in various ways. The public authorities hinder custom trade union works such as the distributing of pamphlets, opening of information stands or other matters relating to our work and holding organizations and posting of posters and things like this are subject to particular checks and the employers decide what can appear. All of these things show that the right to organizing freedom of association are violated in favour of and by the authorities. In spite of these difficult and ethnic challenges in our sector we continue to fight with determination for labour and trade union rights.

Government member, Kazakhstan – We welcome Turkish engagement with the ILO. We wish to stress that eight years ago the Committee discussed the situation in Turkey with regard to the Convention. Immediately after their discussion, Turkey enacted in 2012 a new trade union legislation in conformity with the constitutional changes and the ILO Conventions and demanded public servants trade unions law to recognize collective bargaining rights to civil servants.

We believe that Turkey will work with ILO and social partners in the same spirit of constructive cooperation, regarding the ILO and the international labour standards with the highest esteem and comply with reporting obligations and the ratified ILO Conventions.

Worker member, United Kingdom – In 2018, the British Public Sector Union (UNISON) sent a delegation to speak to their Turkish colleagues. They reported a grim picture of a country where workers' rights and the rule of law have been severely diminished despite the official end of the state of emergency. The UNISON report, distributed among their 1.3 million members, highlights systematic abuses, including the arrest of trade union leaders, the banning of peaceful demonstrations and the prohibition of strike action on spurious national security and public health grounds. One strike at a glass manufacturing company was denied because a shortage of glass might lead to a shortage of medicines if they happen to need glass containers. This thin and tortuous logic was used to turn a manufacturing strike into one with de facto essential services status in clear contravention of ILO definitions, as well as of article 51 of the Turkish Constitution. As you have heard, this concern for health and safety was not evident at the construction of Istanbul's third airport, where official figures state that in excess of 50 workers have so far died on-site. When the workers took strike action to demand that their terrible working conditions were remedied, 600 were arrested. We are unaware of any prosecution of those responsible for the deaths of more than 50 workers.

In 2018, 132 Turkish workers were dismissed from a cosmetics factory. After demonstrating tenaciously for 300 days, some were reinstated but only on condition that they forwent their union membership. Such behaviour must be dealt with by the State if it is to meet its international obligations, but no action has been reported. Our colleagues also raised concerns about the treatment of their fellow public sector workers. In particular it is depressing to see the same request in the Committee of Experts' report that the Government of Turkey should review section 15 of Act No. 4688. The wording of the Convention could not be clearer, that workers should be allowed to establish and join organizations of their own choosing. Their status as senior civil servants or prison officers should have no bearing on their right to be independent trade unionists, as my colleagues from the British First Division Association of the highest rank of civil servants or the British Prison Officers' Association would attest.

Government member, Pakistan – My delegation would like to thank the Turkish Government for the detailed response they have provided. We also welcome the Turkish Government's willingness to engage in dialogue and provide more information. We take note of Turkey's efforts to work closely with the ILO in several fields, including the strengthening of social dialogue, at the national and international level. We encourage them to continue to undertake further steps in this regard. Observations of the Committee of Experts about Turkey contain many points where the Committee of Experts need further information and clarification in the form of relevant legislations and court rulings to better evaluate the situation. Turkey has taken a number of steps since its last evaluation in 2011, when the Committee discussed this case. It has also demonstrated commitment and willingness to engage with the Committee to make improvements on the ground. For these reasons, we join the request that the Committee takes into account all the efforts made by Turkey, and allow more time to the Committee of Experts to adequately examine the information provided by Turkey.

Worker member, Netherlands – It is with utmost concern that the Dutch Trade Union FNV observes a continuous violation of the Convention that has been ratified by Turkey in 1993. Although the state of emergency was lifted on

19 July 2018, there are still practices that imply a continuation, such as for instance martial law in some provinces, which in many cases affects trade union activities.

In the Netherlands we have a large amount of members who have intensive contact and cooperation with their colleagues of the trade unions in Turkey. They have observed a dramatic increase in the anti-union policies since the coup attempt, resulting in repressive policies with far-reaching effect for the careers and for the personal life of these workers.

Amnesty International was outlining the arrests of workers protesting the conditions of a new airport construction site near Istanbul in 2018, saying: "By detaining and prosecuting these workers who were simply calling for dignified and safe working conditions, the Turkish authorities are sending out a message that anyone who attempts to stand up for their rights will be punished." As a result, anti-union practices clearly exist, of which even multinational companies are not exempt, as in the case of the female workers earlier mentioned by my colleague at a Turkish subsidiary of a cosmetics company, where 132 female workers had been unfairly dismissed for belonging to a trade union.

Also it is unprecedented that so many public officers were suspended and dismissed from their offices in Turkey since the military coup attempt on 15 July 2016. According to the UN High Commissioner for Human Rights there are approximately 150,000 dismissed and around 40,000 suspended public officers in Turkey. There is a criminalization and a defamation policy towards public officers in general and specifically against members of the independent trade union KESK.

As a clear example of anti-union policies and stigmatization of trade union members and activists we mention the case of the 25 KESK women members who were charged with membership of an armed terrorist organization, and secondly the 72 KESK members (women and men) including the former KESK President, Mr Lami Özgen, the current Co-President, Mr Mehmet Bozgeyik, and several other executive committee members, all charged with membership of an armed terrorist organization.

So we strongly condemn the current practice resulting from the use of the former state of emergency as an excuse for trade union members' dismissals for the usage of their trade union rights and freedoms.

Worker member, Ukraine – I want to draw the Committee's attention to the attack against construction workers at the construction site at the new Istanbul airport who have been struggling for fundamental labour and human rights, including the right to form a trade union and for collective action according to the Convention.

At the end of 2018, from 26,000 workers at the site of the new Istanbul airport close to 22,000 were subcontract workers employed by 281 companies. The main contractor was Airport Construction Ordinary Partnership Joint Stock Company, IGA. In addition, according to Building and Wood Workers International (BWI), these subcontracted workers were facing very dire circumstances ranging from low wages, delayed payment of wages, unsafe working conditions, poor and substandard accommodation facilities, harassment and a series of human rights violations.

At the height of the crisis, serious confrontation took place resulting in the arrest of 24 workers. Turkish unions including Yol-İş have been actively campaigning for the rights of subcontracted workers and in the construction sector, including the right to join trade unions and negotiate collective bargaining agreements.

We hope the complaints and concerns that workers have rights, we will its resolution, and a substantive long-term permanent solution must be put in place to ensure that fundamental labour and human rights, including freedom of association for subcontract workers in the Istanbul new airport and throughout Turkey, are guaranteed.

Government representative – We have listened carefully to the distinguished spokespersons of the Employers' and the Workers' groups, as well as the other speakers who participated in the discussion. We attach great importance to the work of this Committee and regard it as a platform for constructive tripartite dialogue. However, we sometimes observe with regret that it is also used for political purposes to try to score points rather than to engage in meaningful dialogue. Within the time available to me, I will try to address some issues that have been raised by the previous speakers. I will not respond to the allegations on the issues that fall outside the scope of the Convention.

First of all, I would like to comment on the claims made by KESK, saying that KESK is being targeted for dismissals and also being discriminated against. We have got the figures that show the contrary. As a matter of fact, the distribution of the number of trade union members who were dismissed by the Decree with the force of the Law during the state of emergency by the most representative public servants' confederations is as follows: MEMUR-SEN: 10,600; TOURKiYE KAMU-SEN: 4,454; KESK: 4,269.

Although KESK always alleges that their Confederation is being targeted or discriminated against, more MEMUR-SEN members were dismissed in fact. Even KESK itself informs us in a communication submitted for the report on the Convention that out of 588 decisions given by the Inquiry Commission in KESK members' cases, 199 of them were accepted for reinstatement. It shows a rate of acceptance for KESK members, which is one in three, high above the average rate of less than one in ten decisions.

On the allegation of unlawful arrest and harassment during the construction of the Istanbul Airport: In the Istanbul Airport construction, approximately 30,000 workers were working. I would like to inform you that around 2,000 workers held a demonstration on 14 September 2018 without fulfilling any necessary procedures under the Law on Meetings and Demonstrations. While the law enforcement forces were trying to put the situation under control, negotiations were held between the local governor and the managers and the workers involved, with no success. In spite of all efforts, the crimes of unlawful demonstration and action, violation of the right to work and the damage to property were continued. In the meantime, it was determined that people who were workers or workers' representatives also came to the workers' accommodation camp area to take action. Law enforcement forces intervened because of the disturbance to public order as a result of social unrest and in order to prevent its further spreading and any harm that might cause to the public and to prevent further damages to public property; 360 out of 420 people held were released without any charge by decision of the Public Prosecutor after an identity check, and 62 suspects were detained. While 25 suspects were released under the condition of judicial control, the remaining 37 suspects were charged with crimes for violation of the provision of the Law on Meetings and Demonstrations and the Penal Code.

Six of these suspects were later released by the competent court. It was determined that eight suspects were not employed by the construction company and were in the area to incite unrest. Therefore, the allegations do not reflect the reality.

Another comment about the unionization. A distinguished Worker representative says that conditions make it impossible for trade unions to operate in Turkey. But the figures and the practice tell another story. When we look at the rate of unionization in 2013, just after the new Act on the trade union and collective labour agreement came into force, the rate of unionization in the private sector was 9.21 per cent. But in January 2019, it increased to 13.86 per cent. A similar situation exists among the public servants

in the public sector too. As of July 2018, the rate of unionization is 67.65 per cent while it was 47.9 per cent in 2002 after Act No. 4688 came into force. These figures alone indicate the positive developments taking place in Turkey.

A climate of union liberties and plurality of choice can also be seen from the fact that currently five trade union confederations compete in the private sector while competition for membership in the public sector is among nine public servants trade union confederations making it in total 14 confederations.

On the allegations of excessive use of force by the security forces, in previous years we also commented on this and now we are going to say similar things. The Government has taken all necessary measures to prevent the occurrence of such incidents. These incidents largely occur for two reasons. One is related to the infiltration of the illegal terror organization into marches and the demonstrations organized by trade unions. The second reason is the unnecessary insistence of some trade unions to organize such meetings in areas and squares of the cities which are not allocated for such purposes. Security forces intervened in 2 per cent of the 40,016 actions and activities that took place in 2016; 0.8 per cent out of 38,976 activities in 2017; and 0.7 per cent out of 36,925 activities in 2018. As of 7 May 2019, the intervention rate is around 0.8 per cent.

Intervention of the security forces occurs only in situations where violence and attacks against the security forces and citizens are observed and ordinary flow of life is affected unbearably. Intervention rates show that peaceful legal activities and demonstrations are taking place without any obstacles in Turkey.

In relation to the work of the Inquiry Commission, I would like to add that as an effective remedy, the Commission delivers individualized and reasoned decisions in respect of 1,200 applications in a week, as a result of speedy and extensive examination. With this rate, it can reasonably be expected to finish its job in less than one year's time.

Worker members – We listened carefully to all interventions and I want to say that we appreciated especially the intervention on behalf of the European Union. It was clear and helpful. It is important to reiterate that many of these violations of the Convention that received the attention and observation of this Committee and of the Committee of Experts have persisted prior to 2008 and the declaration of the state of emergency. We recall that already, back in 2008, the ILO sent a high-level mission to Turkey and in 2010 a high-level bipartite mission visited the country. The visits were to provide support to the Government to comply with its obligations under the Convention. Therefore, the Government cannot justify now its failure to comply with the Convention on a state of emergency. In any case, the supervisory bodies have been consistent that the state of emergency does not empower the Government to derogate from its obligations under the Convention. The Government is expected to act in a reasonable manner when taking measures of national security and emergency.

It is in circumstances of national security and emergency when the power of the State to interfere is at its utmost that the safeguards and guarantees provided by the Convention become more relevant in order to prevent an irreversible damage to innocent individuals and workers' organizations. Therefore, any attempt to undermine, restrict or impede these rights, without the necessary guarantees and safeguards must receive the full and serious examination of the supervisory system of the ILO.

As a result of the state of emergency, about 110,000 public servants have been expelled; about 5,600 academics have been expelled; about 22,500 workers in private education institutions have had their work permits cancelled; 19 trade unions dissolved and about 24,000 workers are undergoing various forms of disciplinary action associated with worker protests and so on.

We are concerned that out of the 42,000 decisions delivered by the Commission, only 3,000 have been accepted and 39,000 have been rejected. We are deeply concerned that independent trade union organizations have been targeted to weaken and delude their effects in the protection and advancement of the social and economic interests of their members. This is clearly a disguise process to control or weaken independent and free trade unions in Turkey.

We call on the Government to stop this despicable action. We reiterate that any law or measure that gives the authorities direct or indirect powers of control over the internal functioning of unions, preventing workers' and employers' organizations from realizing their organizational objectives in full freedom and independence is incompatible with the Convention.

The Government must at the very least consult the social partners to adopt a plan of action for the review of all existing legislation not in compliance with the Convention. The Government must equally consult social partners to ensure that there is an acceptable and fair judicial process to review actions taken against unions and their members and that any such process is independent and enjoys the confidence of social partners. And so we call on the Government to accept an ILO mission in order to assess progress before the next International Labour Conference.

And finally, I would also like to respond to some of the comments made by the Employers with respect to the right to strike. We would like to reiterate that our firm position has not changed: Convention No. 87 protects the right to strike. The ILO supervisory system, including the Committee of Experts, has relied upon well-established methods of interpretation to have arrived at this conclusion. It forms part of the right to freedom of association, which is a fundamental right that allows workers to ensure that they have voices – too often ignored by governments and employers – that are heard. Not only is the right to strike governed by Convention No. 87, it is also a customary international law norm as expressed by the Office of the High Commissioner for Human Rights.

With regard to the Employer's comments with respect to the right to strike of civil servants, I would like to highlight that restrictions in this regard may only be permissible for public servants exercising authority in the name of the State and in essential services in the strict sense of the term.

The Committee on Freedom of Association has defined its own mandates in a clear and transparent manner. It consists of the examination of the compliance of national legislation and practice with the principles of freedom of association and collective bargaining as laid down in the relevant Conventions.

Employer members – I would like to begin by thanking the Government for it submissions to the Committee and note particularly the comments that were constructive recognizing that the Committee is a platform for ongoing and constructive dialogue, a statement with which we agree.

We do not have agreement in respect of the Workers' statements regarding the appropriateness of the Committee of Experts' observations on the right to strike and clearly there are extensive observations in this regard; as we do not have agreement that that is appropriate to guide Government action on, those are elements that cannot be included in the conclusions of this case. Clearly we have a slightly different view of this case than the Workers on some of the other aspects of this case and, as a result, we are not in a position to make a joint request for an ILO mission at this time, we do not think that that is the appropriate reaction. Rather we think it is fairly clear what falls within the appropriate follow-up action and direction that should be included in the conclusions.

We think in respect of ensuring that the Government recognizes that respect for civil liberties of workers and em-

ployers is the very basis for the exercise of freedom of association under the commitments in Convention No. 87, and therefore encourage the Government to give its governmental administration instructions that are necessary to ensure that violations of civil liberties will not occur in the future and to provide information to the Committee of Experts of any outcomes of either administrative or judicial remedial channels invoked by union members in respect of the issue of civil liberty violations.

We also think that it is appropriate, in considering this case, that the Government be called on to make the necessary changes to the law, in particular, in section 15 of Act No. 5688, to ensure that all public servants have the right to organize. And, as has been discussed, only the armed forces and police may be exempted, according to the Convention, from these obligations and these entitlements.

We would also note that, as was discussed in some of the submissions, it is important for the Government to take action that its government agencies take measures to ensure regular and efficient – that they do not interfere with the organizations and autonomy of trade unions under the perspective of ensuring regular and efficient functioning, that is outside the proper functioning other than requesting trade union organizations to submit financial statements, or reports. And, in this regard, we request the Government to provide the Committee of Experts with a copy of Decree No. 5, as well as its information on its application in practice, so that the Committee of Experts can conduct a proper examination in respect of this Decree. And, in particular, on this question of both the right of trade unions and employers' organizations to organize their activities without interference from public authorities.

We also, on the issue of the dissolution of trade unions in the allegations in that regard, we call upon the Government to provide detailed information on the grounds and related circumstances for dissolution in all cases, as well as information on the re-establishment of trade unions as a result of decisions made by the Inquiry Commission or by the administrative courts.

So, in closing, we find the information that was submitted by the Government to be helpful today. We would though encourage the Government to submit its 2019 report with this detailed information as it has advised it would do and provide copies of the documents requested by the Committee of Experts together with the 2019 report, so that these issues in particular can be further analysed.

We certainly call on the Government to do this in a constructive way and to continue this constructive dialogue.

Conclusions of the Committee

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

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.

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.**

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.

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)

Discussion by the Committee

Government representative – The Government of Uruguay stands before this Organization, with confidence and conviction, to examine Case No. 2699. Above all, we affirm that we have been, are and will be open to dialogue and negotiation with a view to making any changes to the system of collective bargaining and conflict prevention that are necessary, appropriate and reasonable, in accordance with our current realities and history, with our Constitution and laws, and with international standards, as long as there is a useful consensus that will allow us to progress towards extending and improving the system of collective bargaining and conflict prevention.

We will summarize our presentation in seven points. First, some general comments about our country; second, some background information regarding Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); third, the importance of historical negotiation in private sector activities; fourth, and most notably, the reality associated with the Uruguayan law in question, namely Law No. 18566 of 2009 on the system of collective bargaining; fifth, the decentralization of tripartite negotiations; sixth, the importance of tripartism in Uruguay, as is the case at the International Labour Organization (ILO); and seventh, conflict prevention and labour peace clauses.

In relation to the first point regarding our country, we understand that all topics should be considered within the context of the country where the activities are taking place and to which the topics relate. According to many different qualified institutions, Uruguay is first in Latin America on democracy, rule of law, prosperity, social inclusion, social progress, quality of life, low-level corruption, technological development, fixed broadband subscriptions per inhabitant, average internet speed and e-government; it is second on freedom of press; and third in Latin America on economic freedom. Fundamentally, these were statistics for 2017 and 2018. It is in this context that labour relations are conducted in the country.

It is a country which, for the first time in history, has had 17 consecutive years of economic growth, even during the international crisis of 2008 and 2009. This shows, and it is important to relate this to collective bargaining, that this is a country where a great deal remains to be done, but where global indicators show that collective bargaining and labour relations are improving. Uruguay is fourth in the world in terms of the number of ILO Conventions that it has ratified and enforced.

In the 14 years that our Government has been in power, the first of its kind in history, it has extended collective bargaining to all private sector workers and companies, including, for the first time, to paid rural, domestic and home-based workers. The measure also applies to public servants working, for instance, in the police, local governments, judiciary, electoral council and high courts. Those 14 years have led to a real and significant increase in wages which are now on average 55 per cent higher than the cost of labour. This has also led to a rise in the number of retirements as well as to pension increases in our country.

This period also coincided with a notable increase in formalization. In those 14 years, approximately 50 per cent more companies registered to pay social security and 60 per cent more workers registered for and were paying social security.

This has led to higher revenues, which has in turn increased consumption, brought poverty down significantly, and almost entirely eliminated extreme poverty and destitution. We can say with satisfaction that Uruguay has already achieved some of the 2030 Sustainable Development Goals and is fighting to achieve others.

A recent study carried out by consultants of the International Monetary Fund (IMF) entitled *More Work to Do? Taking Stock of Latin American Labor Markets* emphasizes that, under our Government, collective bargaining went from covering 28 per cent of workers in 2000 to covering 97 per cent of workers in 2005 and onwards. Similarly, the study concludes that collective bargaining seems to have had positive effects on employment and unemployment by helping to bring stability to labour relations, channelling demands in an orderly fashion and encouraging an environment conducive to moderation. We emphasize that this is not a government report, but one produced by a body to which we do not have commitments, as we did previously.

Furthermore, a recent 2018 report of the Organization for Economic Cooperation and Development (OECD) emphasizes that collective bargaining systems that coordinate salaries in different sectors tend to produce less inequality and see better results in the workplace, including for vulnerable groups.

Another recent study based on data provided by the Catholic University, not the State University, shows that conflict was more prominent in Uruguay when collective bargaining bodies were rarely operational or not operational at all, than in the period since 2005 when they were indeed operational and collective bargaining was more widespread.

It is therefore necessary to stop and analyse the second point of our presentation, namely Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), one of the central elements of the complaint. We have read the proceedings from 1949 where Article 4 was discussed. Article 4 reads as follows: "Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements."

The 1949 proceedings emphasized the need to take into account national circumstances and the phrase "where necessary" was added to the Convention. At the time, the Netherlands had pointed out – in relation to the original draft of Convention No. 98, which was later amended following the efforts of the Netherlands – that the standard was too strict, as indicated by the country's representative. It was then that the phrase "where necessary" was inserted in order to give governments sufficient leeway to decide whether to take appropriate measures.

Therefore, in our understanding, the system of labour relations and collective bargaining in Uruguay is in line with the Convention.

In Uruguay, two essential modalities are in place:

(a) bipartite or bilateral negotiation between representatives of the workers and employers, the product of which is a collective agreement; and
(b) tripartite negotiation in the wage councils, which dates back 76 years to 1943, and where participants have the power to fix a minimum wage for each occupational category and branch of activity as well as to make adjustments to salaries. The negotiation is attended by up of three government representatives, two worker representatives and two employer representatives.

Tripartite negotiation in the wage councils is a traditional modality, a national specificity and a way of promoting – not imposing – collective bargaining as a whole.

As the Netherlands argued in 1949, it is necessary to give governments freedom of action in this regard.

Overall, it is our understanding that the law in question is perfectly aligned with the provisions of the Convention, with its 1943 predecessor, as well as with the practices accepted peacefully by the employers and by governments of different political parties, over a 66-year period. It strikes us that these questions are being raised now, when it is our turn to govern for the first time in history. Nevertheless, we are and will be open to consider, through dialogue and negotiation, all the changes required to extend and improve collective bargaining and conflict prevention. Proof of that are the proposals presented successively over the years, but particularly in 2015, 2016, 2017 and 2018 by the Ministry of Labour and Social Security in different consultation processes. Tripartite agreements have been made with the Chamber of Industry and the Chamber of Commerce and the trade union centre PIT-CNT in March 2015 and May 2016, where, for example, the Government proposed solutions to all the points raised by the Committee on Freedom of Association in paragraph 1389 of Report No. 356 of March 2010.

As we mentioned, tripartite negotiation in the private sector has been in place in Uruguay since 1943. In addition to minimum wage fixing by category, other working conditions have always been under negotiation, including the number of public officials, the responsibilities assigned to certain positions, breaks, income schemes, job boards, unemployment insurance schemes, hours, workplace conditions, sanctions regimes and recourse, etc. Such negotiations took place at times when the wage councils were operational: from 1944 to 1968 and also from 1985 to the beginning of the 1990s and to the present day. These practices have never been questioned until now. What is more, business associations have participated in and subscribed to them.

The employers are questioning an issue that Law No. 18566 of 2009 did not introduce. It simply put into statutory law a national practice that has been in force since 1943. The law explicitly states that: "The wage council can establish working conditions if so decided by the representatives of the employers and the workers." Therefore, it seems contradictory that the matter has arisen.

Working conditions are also being negotiated in a meeting of the wage councils currently under way, in which 231 bargaining units are taking part. Topics under negotiation include clauses on peace and conflict prevention in 80 per cent of cases; clauses on gender in 74 per cent of cases; clauses on miscellaneous items in 57 per cent of cases; care systems in 44 per cent of cases, and we could go on. The same happens in negotiations on salaries that are above minimum wage, which is another traditional practice in place since 1943, and to which there are many solutions. If a wage council of a particular sector does not establish or

reach a resolution, only then can the Executive issue a decree. This happens absolutely exceptionally. During the above meeting in which 231 bargaining units have taken part, the Executive has issued a decree in only eight cases, which amounts to 3 per cent of the total.

What happened when negotiation was not promoted? When negotiation was not promoted, workers and employers were not covered or protected. Coverage extended to only 10 or 20 per cent of all workers and employers. Collective bargaining should therefore be promoted to ensure more solid conditions for businesses, increase legal certainty, manage company specificities, organize negotiations and ensure classification of activities, which is also done in a tripartite manner, not decided by the Government.

The law in question, operating in Uruguay since 2009, prioritizes bilateral negotiation over tripartite negotiation, as is clearly indicated in article 12 ("it will not be necessary to convene the wage council for activities and sectors with a collective agreement duly agreed by the representative organizations") and in article 15 ("The parties can negotiate by branch or sector of activity, company or establishment, or at any other level deemed appropriate."). This is how the system works in our country.

They can negotiate externally then simply present their agreement to be finalized and put to a vote, or they can register and publish it without any intervention from the Executive. Many agreements are adopted by majority and the majority can be made up only of employer and worker representatives. This occurs, for example, when agreements are made outside the scope of the guidelines of the Executive. The guidelines of the Executive are not obligatory and in the last few meetings the number of resolutions passed by a majority have increased even when the Executive has voted against or abstained. Once again, this shows that the parties have autonomy.

What has happened in the meeting that is currently under way? Of the 231 groups participating, all but one has concluded with certainty that they will sign the agreements next Monday. What has this meeting achieved? A total of 85 per cent of bipartite and tripartite agreements, that is to say that workers and employers have signed agreements in 85 per cent of cases. And only eight decrees were issued, as indicated above. The wage councils operate in a highly intensive, long-term and democratic way. They are usually operational for four months on average.

Tripartism is part of the history and essence of Uruguay, as it is of the ILO, not only in terms of collective bargaining, but also in terms of the labour framework agreement that we approved two years ago with the hope of securing the biggest investment in the history of Uruguay. The labour framework agreement was produced together with business associations of the metal and construction industries, their respective trade unions, the trade union centre, the investing company and the Government. This is how we work in Uruguay. This is how we work towards reform, ensure the day-to-day executive management of social security and health, promote professional development, and develop projects and laws. Participants include employers, workers, and, where appropriate, pensioners and beneficiaries of these important social protection systems.

Lastly, conflict prevention, peace clauses and workplace occupations are recognized by the Committee on Freedom of Association, for example, in Report No. 356 of March 2010, and in Uruguay by the chair in labour rights at the University of the Republic. We emphasize that, in the current meeting that is taking place, agreements have been signed in 80 per cent of cases, including agreements on conflict prevention and peace clauses, in addition to those that are already in force and have previously been signed.

Uruguay guarantees the right to strike in article 57 of its Constitution. We also guarantee and defend the rights of businesses and business people. The Government has been expressly pushing proposals in that regard. We emphasize, in particular, the proposals of September 2016 and March 2017, ratified in May 2018. Business associations responded negatively to these proposals. An agreement was announced publicly by the then Presidents of the Chamber of Industry, the Chamber of Commerce and the PIT-CNT on the occasion of the official presidential missions of the Republic of Germany and the Russian Federation but this was also rejected by trade union directors. Another preliminary agreement had been previously negotiated in Geneva in 2011 which was not ratified by the workers. Our legislation neither prohibits nor promotes occupations. Occupations should occur exceptionally, while, undoubtedly, at the same time protecting the freedom to work and company management. In Uruguay, occupations are given effect through summary proceedings in the judiciary which last three days.

In the last few days, some cases have attracted attention and rightly so. However, we have complete peace of mind because the Government has expressed itself publicly, in contrast to others. For example, in the case of a company that had received a court ruling prohibiting an occupation under workers' control, the Ministry of Labour spoke out against such action one month before the judiciary.

We conclude by thanking those who have listened so attentively. We reaffirm the position of the Government of Uruguay: we have been, are and will be open to dialogue and negotiation with a view to making any changes to the system of collective bargaining and conflict prevention that are necessary, appropriate or reasonable, in accordance with our current realities and history, with our Constitution and laws, and with international standards, as long as there is a useful consensus that will allow us to progress towards extending and improving the system of collective bargaining and conflict prevention.

Employer members – We would like to thank the Government representative for being here with us and the rest of the delegation. We have listened attentively to their intervention and thank them for their remarks. This matter is not unimportant; it is a legislative matter on which this Committee already carried out an analysis in 2010. The Committee of Experts also presented observations in 2010, 2011, 2012, 2015 and 2018 precisely in reference to the Convention in question, which is a fundamental Convention. It is concerning that national legislation is not aligned according to the bodies overseeing this case. Furthermore, as indicated by the Minister, an opportunity had already arisen to evaluate the situation within the framework of the Committee on Freedom of Association, as part of Case No. 2699, which is still ongoing. The involvement of the two supervisory bodies in addition to the Committee on Freedom of Association means that the Government of Uruguay is obliged to listen to our different observations and recommendations.

In 2010, a number of issues were addressed, but the conclusions stated, and I quote, that tripartite negotiations regarding the matters in question should continue at the present Conference. It was also announced that a mission would be sent to Uruguay in August 2011 to determine concrete areas where progress could be made. Lastly, the Committee expressed hope that the necessary measures would be taken without delay to prepare a draft law that reflects the comments of the supervisory bodies, and thus aligning all legislation with the Convention.

In 2010, they said to do this without delay. We are in 2019 and the information contained in the report of the Committee of Experts is once again being brought to the fore. This is not a capricious matter but one which has been left unresolved for ten years. Therefore, we would like to amicably address some of the points in question.

The Committee on Freedom of Association, in paragraph 1389 of Report No. 356 of March 2010, analysed a number of topics in detail, some of which have improved while others are in exactly the same condition.

First, one topic is that pertaining to article 4 of Law No. 18566 on duty of information in the framework of the collective bargaining process. The Committee had the opportunity to refer to some points that I will not repeat. In the view of the Employers, information on many of those points can only be requested from trade unions with legal personality. The Committee says that it can be both those with and without legal personality in accordance with the new law. It should be possible to establish and determine the type of information that can be requested by trade unions wherever necessary or relevant.

Why are we referring to this? Because there are three levels within the framework of a negotiation by branch of activity, which is the type that is prioritized in Uruguay, as indicated by the Government on previous occasions. Given the branch of activity is almost exclusively prioritized, as the Minister has just demonstrated, the information provided should be limited to basic information and should not include detailed information company by company. The Employer members of Uruguay have a reasonable and justifiable concern in that regard. Why? Because negotiations in Uruguay are run by the so-called wage councils. It is precisely in this framework that companies can be put at risk if specific and detailed information is known about them, particularly because competition is what reigns in free enterprise. So, we dispute the matter in that regard.

A second topic has to do with the powers of the Higher Tripartite Council, which is the highest body governing labour relations in the private sector, precisely in the area of collective bargaining. The topic relates to article 10(d). The supervisory bodies have demonstrated points such as those described there. The Government is requested to take the necessary measures, including measures to amend existing laws, to ensure that collective bargaining is established by the parties and is not subject to voting under the auspices of a tripartite entity. We have clearly requested that the Higher Tripartite Council does not intervene in negotiations.

Competition is the third issue we would like to raise, as contained in article 12 of the Law. The Committee on Freedom of Association made some statements in that regard, followed by the ILO secretariat which also made some observations after providing assistance in 2017. It is incomprehensible that the Ministry of Labour maintains an in situ position arguing that:

"The current draft of the law does not affect the freedom to negotiate nor does it undermine ILO principles in that regard. For that reason, there is no reason to abolish it. In addition, abolishing it would greatly restrict the ability of the actors involved to reach agreements since the topics they could discuss would be limited to minimum wages, and there would be fewer bargaining tools."

Yes, they would be limited to the minimum wage, but I would like to respectfully draw the attention of the Government of Uruguay to one point. The Government of Uruguay ratified the Minimum Wage Fixing Convention, 1970 (No. 131). Convention No. 131 relates to minimum wage fixing with special reference to developing countries. It is precisely within that framework that a tripartite intervention can take place, not in any other. In other cases, the will of two parties, the employers and workers, is required in an agreement. Going beyond the two parties, probably because it is customary to do so in Uruguay, is not compatible with the spirit of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and in particular, Article 4, as cited by the distinguished Minister. We find this point concerning because the Article allows for inappropriate interventions in the area of wage fixing. The wage councils have become an exercise in a kind of compulsory arbitration where representatives of the Executive set out and define the guidelines for negotiation. The reality is that the meetings are structured and guided by the wage councils.

In reality, the meetings, which are structured and guided by the wage councils, have shown that tripartite negotiation has eliminated space for free, voluntary, bipartite negotiation.

The law clearly favours tripartite negotiation, and this has, in practice, almost completely eliminated bilateral negotiation. Some argue that it is in the interests of small enterprises to ensure negotiation by branch.

We are gravely concerned by three factors. First, the Ministry is the body that sets the guidelines of negotiation for every meeting. Second, the role played by the Ministry gives the trade union movement a space to receive support for all of its stances. Third, working conditions have been proposed which, as I mentioned previously, do not fall under the above-mentioned tripartite framework. Therefore, we are gravely concerned by this issue, and it is absolutely vital to amend legislation in that regard.

The supervisory bodies highlighted some important points on article 14 of the Law on parties who can bargain collectively. The secretariat also gave a statement in its technical assistance report with which the employers disagree. We believe it is incorrect to suggest that the position of the employers would significantly change the system of collective labour relations in Uruguay, when it is simply about returning to the situation that existed before the law was approved.

Since 1966, labour law laid down rules on licences, and by extending them unanimously to all collective agreements, workers can now be represented by specially appointed delegates in the event that a trade union does not exist.

Lastly, I would like to refer to the automatic extension of collective agreements, as referred to in article 17.2 of the Law. The Committee, that is the Committee on Freedom of Association, has recalled that the duration of the collective agreements is, first and foremost, the decision of the parties concerned. But if the Government is considering taking action on this matter, legislation should be amended to reflect a tripartite agreement.

In this context, given that the complainants do not agree with the automatic extension of collective agreements, the Committee is inviting the Government to discuss with the social partners an amendment to the law with the aim of finding an acceptable solution for both parties.

Therefore, the employers are in favour of a rule ensuring that collective agreements are temporary. Collective agreements should not last for an indefinite period of time, they should have a time limit, and, as with all contracts, they should expire on a certain date. The social partners, not any third parties, should negotiate the terms and any extension to those terms. The time frame is one of the most important elements of a collective agreement. It is improper and inappropriate that the above-mentioned law regulates this topic. The rule should stipulate that once the time frame for the collective agreement expires, its provisions also expire, and the parties are free to negotiate a new collective agreement.

We believe that this last point, the last paragraph that I have just delivered, should be a guiding principle for all actions.

Lastly, some points highlighted in the above-mentioned law are relevant to the issue of strikes and picket lines. We will not refer to this topic because we, as the Employers' group, do not believe it is covered in the Freedom of Association and the Protection of the Right to Organise Convention, 1948 (No. 87) or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). But we would like

to draw your avid attention to the fact that a law relevant to workplace occupations was repealed, which has generated strong feelings in the business world, particularly among business people in Uruguay.

As a result, we would like to cordially invite the Government to consider this issue in the draft law that it will present for the consideration of Parliament.

These are, broadly speaking, the general topics that we wished to highlight. We cordially invite the Government of Uruguay to seriously consider presenting a legislative reform on the above-mentioned topics to the Congress or the Parliament as soon as possible.

Worker members – Firstly, we would like to thank the Government representative who has reported extensively on this situation, on implementation efforts, and on the situation in Uruguay. We have been analysing the implementation of the Convention in Uruguay. Since the Convention was ratified in 1954, the Committee of Experts has made ten observations on its implementation in law and in practice, but this is the first time it is subject to analysis by the Committee.

Protecting the right to organize and to bargain collectively in law and in practice is a fundamental pillar underpinning ILO Conventions and the legal system as a whole. In a country with a history such as that of Uruguay, balanced and fair governmental oversight of key issues, such as salaries and working conditions, is fundamental for debate and productive policymaking.

As representatives of the workers, we recognize the importance of tripartite and bipartite dialogue done in good faith, as the basis for maintaining a balance of power between employers and workers. We reaffirm that maintaining this balance is key to protecting the interests and rights of workers and the economy as a whole. Collective bargaining is a fundamental tool for constructing a fairer and more equitable society. In this way, the data from Uruguay is promising compared to other countries in and beyond the region.

In Uruguay, trade union density is high with 30 per cent of workers having joined a trade union and, as we have already heard, collective bargaining coverage stands at 90 per cent of workers, which is comparable to some of the more advanced countries in Europe. When collective bargaining was re-established through the wage councils in 2004, social and economic change took place in Uruguay. Poverty fell from 39 per cent to 10 per cent, real wages grew by 55 per cent, the unemployment rate dropped by 7 per cent and, as we have heard, informal employment fell significantly. These economic indicators are clearly a big improvement on the period from 1992 to 2004, when the Government at the time stopped convening wage councils, thereby restricting negotiations even in companies.

For the workers, the concrete results of collective bargaining in Uruguay are promising. The statistics and the facts show that collective bargaining is effective in practice. It is also having a dramatic impact on working conditions. It is through collective bargaining that trade union membership and representation become meaningful for workers. We note that this has been possible because the Government of Uruguay has made it a priority to establish strong collective bargaining institutions. We must ensure that this successful system continues to exist as any measure of significant change could destabilize it. The loss of one of its components could topple the entire model which is currently very effective.

It is quite clear that the social partners have complete autonomy to bargain collectively in a free and voluntary manner with the aim of improving salaries and working conditions. Indeed, this is exactly the objective of collective bargaining: to establish more favourable conditions for workers and in autonomous processes.

Uruguay has well-developed tripartite institutions, such as the wage councils. The workers support tripartite dialogue, including on the fixing of wages, according to the provisions of the Minimum Wage Fixing Convention, 1970 (No. 131). This Convention has been ratified by the Government of Uruguay and requires tripartite consultations to take place so that the parties can establish minimum wages in accordance with Article 4.

We take note of the comments that the Government made to the Committee of Experts, indicating that collective bargaining takes priority over the wage councils. It is worth noting that the wage councils are not able to convene when a collective bipartite agreement is already in place. Granting priority to collective agreements that offer better protections and conditions to workers than those established in other instances, should be considered an important measure to promote collective bargaining. At the same time, we take note of the fact that employers have expressed concern over the wage councils and the autonomy of the social partners in Case No. 2699 of the Committee on Freedom of Association. We also take careful note of the fact that the Government had responded to these concerns in a satisfactory manner by proposing various legislative amendments which are currently being discussed at national level.

The Workers' group notes that the Committee of Experts considers that many of the amendments to Law No. 18566 are in line with commitments outlined in Article 4 of the Convention on promoting collective bargaining in a free and voluntary way. We welcome the fact that the Government of Uruguay has been proactive in discussing the concerns of the employers at national level as a result of the case before the Committee on Freedom of Association. This shows the importance that is attached to ILO standards and the supervisory system. Therefore, we join the Committee of Experts in noting with satisfaction the use of tripartite consultations and social dialogue to discuss the amendments with the most representative organizations. We hope that the Government continues to ensure that comprehensive and frank consultations are held, above all on topics related to the promotion of collective bargaining. The Committee on Freedom of Association has made it clear that draft laws that affect collective bargaining or work conditions are preceded by comprehensive and detailed consultations with the workers and the employers. However, as I mentioned before, it is important that any changes to the system of collective bargaining are made on the basis of a tripartite consensus. Any changes must be made with the aim of further improving coverage for the workers through the practice of collective bargaining. Therefore, we trust the Government to listen to all parties interested in improving access to collective bargaining. Throughout this process, we believe it is very important that the Government continues to keep the Committee of Experts informed of the progress made in consultations.

Approximately 100,000 private companies and 1 million workers are represented by chambers and trade unions in collective bargaining processes in Uruguay. It must be emphasized that collective bargaining has, for ten years, included domestic workers, which has, during this time, helped to increase the salaries of people working in this sector as well as to register and formalize this type of work in Uruguay's state-owned social security institute, *el Banco de Previsión Social*. Another sector that participates in negotiations at the wage councils are rural workers. We consider this very important, especially if we take into account the fact that rural workers have been disadvantaged due to a lack of bargaining power and a lack of social dialogue.

To conclude, the data and figures presented here show that the system of collective bargaining in Uruguay has fa-

cilitated social dialogue, cooperation, stability, social cohesion, and has promoted a fairer distribution of wealth. Collective bargaining in Uruguay is a rights-based model which has allowed unionized workers to ensure a better distribution of economic growth, as all the indicators show.

Worker member, Uruguay – We are going to be completely honest or it will seem like we are hiding something from the audience of this gathering for the world of work. Some trade union movements are repressed, which not only undermines freedom of association but also puts the lives of some of our colleagues at risk. These are colleagues who have dedicated their whole lives to the workers' cause, and we see how they are killed day in and day out in situations where their most basic rights are violated. Bearing that in mind, it strikes me as immoral to question the democratically adopted system of labour relations and collective bargaining in Uruguay.

Universal values are not just about class. If it were the employers who had endured the conditions that we have known, what the Colombian trade union movement has gone through for example, we would also be raising our voices in defence of human rights.

I am going to raise four issues from the point of view of the Uruguayan workers. Firstly, collective bargaining in Uruguay has a long history. Collective bargaining surged during periods of greater democracy in the country but became obsolete in the face of authoritarian style cuts. Secondly, I would like to point out that, during this long history, some of the elements inherent to "business sector complaints", as we say in Creole, in the language of the workers, were much more consistent in other periods of collective bargaining in our country than they are today. Thirdly, there is a relationship between human development indicators in general and the productivity of workers at different levels of employment. This shows that there is a relationship between collective bargaining and the lives of the overwhelming majority in our country. Fourthly, if the situation is subject to criticism, which is to some extent penalizing, it means that we are being penalized for having a higher level of collective bargaining than the average. These are the four points that we are going to lay out.

First, the correlation between collective bargaining, democracy and long tradition has already been mentioned. The law on the wage councils, which introduced tripartite forms of negotiation in our country, was put in place in 1943. Industrial negotiation developed over a long period of time, in view of which the social partners were formed, not only among workers but also in business associations, through the introduction of collective bargaining by branch of activity, as established in law of 1943. But it came to an end in 1968 with the rise of authoritarianism and later the fascist dictatorship when the wage councils were suspended.

I would like to point out, and the agreement among delegates must emphasize this, that once democracy was recovered between 1985 and 1992, particularly under the Government of Mr Julio María Sanguinetti, but also at the beginning of the Government of Mr Lacalle, the wage councils were also operational but in their own unique way. They were not exactly the same as those established in the law of 1943, where, for example, the worker representatives and the employer representatives voted in the workplace. In this case, trade union membership was more representative. Between 1985 and 1990, tripartite negotiation was in place, but the so-called guidelines existed at that time, and the Executive had imposed criteria and ways to develop a collective agreement. This is very important because these were components of centralization and authoritarianism. The Executive did not approve any agreement signed freely and voluntarily by the parties if that agreement did not conform with the guidelines. Therefore, if any agreement was made privately between the business associations and the workers and their trade unions, it did not have an erga omnes effect, that is, it was not valid for all branches of activity.

During this period, the business sector did not file complaints. I imagine that mechanisms began to be developed in that regard so that businesses could complain about unfair competition. In the 1990s, under the pretext of free and voluntary negotiation, collective bargaining disintegrated and broke down almost entirely as a result of neoliberal policies that deregulated the economy, fostered indiscriminate trade liberalization, allowed for permanent workers to be substituted by one-man businesses, proliferated supplier companies with a temporary workforce, and gave barely 20 per cent of workers the right to collective bargaining.

Since 2005, a system of collective bargaining has been in place which, as already mentioned, is made up of two complementary systems. It is possible to reach a collective, bipartite agreement by branch of activity, and it is possible to have tripartite negotiations in the wage councils. There is nothing to prevent a bipartite agreement from being signed and there is nothing even to prevent companies from signing agreements. The level at which negotiations are held is determined by the parties. It is true that real wages cannot really decrease because there are three ways in which workers can get an increase: through a collective, bipartite agreement, through a wage council resolution, or through an executive agreement, vote, or decree. However, this already existed between 1985 and 1990 when the employers did not file any kind of complaint.

In effect, no agreement on working conditions can exist unless there is an agreement between workers and employers. The State cannot in itself make changes to working conditions. Indeed, for every wage council negotiation made in the wage councils, by branch of activity, there are thousands of company negotiations. The level of social dialogue and collective bargaining in Uruguay is enormously high.

In effect, we have requested that the right to information be enshrined in the law on collective bargaining. What information? Information which allows for industrial espionage? No, absolutely not. We mean information related to the economic performance of a particular branch and allows for the parties to negotiate in good faith with all the information on the table. We mean information that is necessary at the branch level, which is not the same as that at the company level, so that an agreement on working arrangements or on productivity can be signed in confidence, as the other side would request, and with the desire to manage things responsibly.

Generally speaking, we do not have problems with the automatic extension of collective agreements made with business associations. For example, the association for the metal industry in Uruguay and our trade unions agreed with permanent effect that 14 March would be a paid holiday.

Now, if a benefit is established within a collective agreement, that benefit is only valid for the duration of the collective agreement, usually two or three years. This is absolutely possible.

Therefore, I believe that there is a link between collective bargaining and democracy, given that we went from a complete absence of collective bargaining to representing at least 40 to 60 per cent of workers. Today, the level of employment is solid, the rate at which, let's say, salaries are improving is solid, the level of formalization, social security, and decent work is also solid. Any attack on collective bargaining is an attack on people's lives.

Independently of these opinions, as always, I conclude with the following thought: our trade union is open to participate in all conversations necessary to improve the collective bargaining system of our country.

Employer member, Uruguay – We are going to refer to the complaint to be presented in due course by the National Chamber of Commerce and Services of Uruguay and the Chamber of Industry of Uruguay, as the most representative employer organizations, and the International Organisation of Employers, regarding the collective bargaining law in Uruguay and its alignment with the Convention.

As previously mentioned, this case was first presented in 2009. Various supervisory bodies have issued decisions in relation to the case. For example, the Committee on the Application of Standards, which has a tripartite structure, dealt with the case in 2010, thus putting forward a vision on the observations made. The case also passed through the Committee on Freedom of Association which has a similar composition and similar guarantees for social partners. If we add the decisions of the Committee of Experts, a technical and independent body, we can be certain that Uruguay's law is not in line with this Convention, which is essential and fundamental for this case.

Employers have not made this complaint on a whim; they have made it to ensure compliance with the Convention that our country ratified voluntarily. Ratification comes with the responsibility to align national legislation and practice with the Convention. Therefore, today we are not going to refer to the system of labour relations in Uruguay as a whole but to the collective bargaining law which was adopted by our country in 2008 but which is not in line with the Convention. The idea, and we thank the Government of Uruguay for presenting information before this Committee today, is to improve our legislative system and improve the practice of collective bargaining in our country. We would like to highlight this point unambiguously.

The case has been under the consideration of the supervisory bodies for many years. Unfortunately, the Government of Uruguay has not put forward a draft law that improves on the collective bargaining law in question. It is true that different negotiation bodies have been developed, fulfilling the tradition that the Minister himself referred to, and which are now in place in our country. However, there are no concrete results.

Although the Government has a majority in Parliament, it has not introduced a draft law amending the collective bargaining law, which should be the basis for the system. This is where the difficulty lies. Social dialogue should be effective and productive, it should not be subject to vetoes. Without doubt, the Government has the responsibility to take the above decision and fulfil the responsibilities to which it has committed by ratifying the Convention.

It is very bad that this case is taking so long to resolve. It is bad because, as mentioned before, it relates to a fundamental Convention. In our opinion, collective bargaining in our country prioritizes tripartite negotiation over bipartite negotiation, which is not in line with the Convention. Proof of that, and the Minister already said this, are the high levels of tripartite negotiation in Uruguay. It is necessary to analyse the marked and significant fall in bipartite negotiation in our country.

In addition, we object, and the observations of the supervisory bodies also point this out, to any intervention from the Government, the State, in the different areas of negotiation. One such intervention is fixing the levels at which the negotiations take place in the Higher Tripartite Council. Another is the idea of not referring exclusively to the negotiation of minimum wages and categories but instead establishing procedures to update them and setting salary increases for categories that do not receive the minimum wage. In those cases, strong intervention from the Government, the State, is inevitable, which is not in compliance with the Convention.

However, even though it is not subject to review in this case, there is also the issue of the occupations, which completes the picture on collective bargaining. We reject the notion that occupations are an extension of the right to strike. Since 1966, and for more than 50 years, occupations were understood by a decree adopted by the democratic Government as a violation of the right to property and to public order. Today, in line with a decree that we have disputed, we are told that it is an extension of the right to strike. Occupations are always violent, there are no peaceful occupations, at the very least, there is moral violence. Situations in which workplaces are occupied are part and parcel of the practical framework for collective bargaining in our country; as a result the employers are often forced into signing agreements in the wage councils. Therefore, the results of the negotiation are often neither free nor voluntary, but imposed.

We understand that Uruguay has a problem in light of all this. The stages of development highlighted here in this room point to an additional obligation: that of improving the system. In that regard, the Employers are committed to finding a solution that improves on the collective bargaining law.

By contrast, we understand that the supervisory system itself is being, indirectly, put into question in this case. This is a case where different supervisory bodies have ratified certain observations concerning a fundamental Convention, where those observations have been communicated to the Government concerned, where a direct contacts missions has been established and technical assistance provided, but where there has still been no change ten years on. It would seem that the observations and the supervisory system hold contempt for the facts of this case. We appear today in the best of spirits to find a solution, but we understand that the time has come to invite the Government of Uruguay to consult with the social partners and very swiftly present a draft law to amend the collective bargaining law. The law must also widely take into account the observations of the different supervisory bodies in relation to the full and effective implementation of the Convention not only in law but also in practice.

Government member, Mexico – On behalf of a significant majority of the Group of Latin American and Caribbean Countries (GRULAC), we thank the Government representative as well as the social partners for taking the floor. First, we reiterate once again that key criteria have not been respected in developing the list of countries. The list is based on a geographical imbalance which is consistently affecting our region. This system is far from aligned with the best practices of the multilateral system. It is neither transparent, impartial nor objective. It is not tripartite in the house of tripartism nor does it foster social dialogue in the house social dialogue.

We have listened carefully to the intervention of the Government of Uruguay in which it outlined the different actions implemented to resolve the complaint of the Employers. We especially welcome progress made in relation to existing social and labour protections in Uruguay as well as the mechanisms of social dialogue and collective bargaining. The Government of Uruguay has promoted these practices at all times with a view to reaching a tripartite agreement on the points raised in the complaint, in line with ILO standards and principles. Similarly, we recognize the culture of dialogue and collective bargaining that traditionally exists in the country with the aim of finding solutions that are mutually acceptable for the social partners, in line with the principles of any democratic country and respectful of the national legal system and international standards. We encourage the parties to continue on this road so that they can find a definitive solution to the problem.

Government member, Spain – First, we would like to say that Spain strongly believes in the system of international standards of the International Labour Organization as well as the supervisory system. We also think that international

standards require a supervisory system that is strong and independent. The supervisory system is key to ensuring compliance with the international standards of the ILO. Having said this, we would like to make two points with regard to this case. The first is that Spain supports and very much welcomes the efforts and initiatives carried out by the Government of Uruguay to amend Law No. 18566 of 2009, some of which are already in place, such as the establishment of the Higher Tripartite Council and other initiatives still under discussion. These amendments were put forward to address the different observations made by the supervisory bodies of the ILO in conformity with the Convention with a view to promoting free and voluntary collective bargaining.

Furthermore, Spain also welcomes the initiatives of the Government of Uruguay aiming to encourage discussions among social partners on new legislative measures to promote social dialogue and regulate other aspects related to strikes in the workplace. We know that Uruguayan law does not block bilateral or collective bargaining. Spain encourages the Government of Uruguay and the social partners to redouble their efforts to consolidate the existing legislative framework, thereby making it more clearly in line with the Convention. Technical assistance from the ILO secretariat would without doubt be helpful in that regard.

Worker member, Portugal – This statement is supported by the Galician Unions Confederacy (CIG) and the Basque Workers' Solidarity (ELA). Uruguay is known and recognized today for its system of collective bargaining and social dialogue which is effective and in compliance with the fundamental principles and standards of the ILO. This system of collective bargaining and social dialogue is so effective that sectoral salaries have grown consistently since 2005 by 55 per cent. The minimum wage has also increased by 276 per cent.

It is worth emphasizing that growth in earned income is sustained by national economic growth, which has grown annually at a rate of 4.67 per cent. This shows that this system is not incompatible, nor does it compromise national development.

There is 100 per cent coverage of collective bargaining under the voluntary system currently in place. This statistic shows clearly that the system is inclusive, as it leaves no one behind.

In order to discuss the system of social dialogue established in Uruguay, we need to raise questions around the social dialogues that are in place in Europe. We know that introducing a system of collective bargaining which is not based on sectoral negotiation in countries with micro or small enterprises, as is the case in Uruguay, can reduce collective bargaining coverage among workers.

This system led to a fall in annual coverage which went from more from 1,800,000 workers to 250,000 workers between 2011 and 2015. Earned income levels also dropped with numbers in 2018 falling below those in 2009 according to a study carried out by the ILO itself which analysed the effects of austerity measures in Portugal.

The measures imposed had a devastating effect on the lives of workers leading to an increase in the level of social exclusion and working poverty. From 2005 to 2018, the sectoral system in Uruguay improved working conditions for more and more workers and integrated a large part of informal workers into the formal economy.

The system of social dialogue and collective bargaining in Uruguay operates on a sectoral basis and is inclusive of all. It prevents unfair competition among companies, guarantees protection of workers and ensures sustainable economic growth. It also respects the fundamental standards of the ILO, the Convention, and Article 4 in particular.

Employer member, Brazil – I would like to say in this short intervention that we are not happy to be discussing this case as it should already have been resolved constructively by the Government of Uruguay.

The Convention sets basic principles to ensure that collective bargaining is sustainable, feasible and effective. This is only possible if the parties are independent and autonomous, if the principle of free and voluntary negotiation is respected and if intervention from the public authorities is minimal.

The Worker members said at the outset that government oversight is acceptable. And I say, yes, government oversight is acceptable, but intervention is not. Despite the recommendations of ILO supervisory bodies, the Government of Uruguay insists on retaining legislative provisions that allow state intervention in bipartite dialogue, including in defining the terms and conditions of work.

We know that was not the objective of the ILO when it drafted the principles contained in Article 4 of the Convention. It is a historic undertaking for the ILO and its supervisory bodies to recommend that Uruguay change its law with a view to encouraging and stimulating free and voluntary negotiation. But ten years have passed, and the employers are yet to be granted appropriate conditions for negotiations, in line with the principles outlined in the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Collective Bargaining Convention, 1981 (No. 154).

Last year, in a case similar to that of Uruguay, this Committee expressed concern over compulsory arbitration mechanisms, such as those in Greece. In the conclusions, the Committee recommended that the Greek authorities refrain from interference that restricts the right to free and voluntary negotiation. It cannot be the case in the world of work that the State is a participant in bipartite dialogue. Effective collective bargaining systems ensure that workers and employers participate equally in negotiations. Otherwise, the outcome will not be fair or equal.

Therefore, the employers of Brazil are concerned that negotiations in Uruguay are subject to disruption and interference and request the Committee to recommend that the Government align its practices with the principles governing Article 4 of the Convention.

Government member, Paraguay – We thank the Government of Uruguay and welcome the efforts it has made in recent years to find a solution acceptable to all parties within the framework of true tripartism and in line with the best traditions of this Organization. We welcome the 2019 report of the Committee of Experts which highlights the outcome of some of these efforts. Examples include the preparation of draft laws in 2016 and 2017, taking into account the employers and workers, as well as substantive consultations regarding legislative reforms on collective working relations, including an exchange of views on different draft texts. In this context, we support tripartite social dialogue and urge the Government, the employers and the workers to continue working towards a bill that reflects the interests of all those involved.

Worker member, Spain – The powers awarded to the wage councils in the Uruguayan collective bargaining law do not turn collective bargaining into a form of compulsory arbitration nor do they restrict the topics that can be negotiated. They do not infringe upon the right of workers' organizations to negotiate working conditions freely with employers, let alone facilitate intervention from the authorities in negotiations. This is true for three fundamental reasons. First, the meetings of the wage councils, which are a space for tripartism and social dialogue, never prevent employers and workers from freely and voluntarily initiating a process of bipartite collective bargaining by branch of activity or production chain, as expressly established in article 11 of Law No. 18566. Second, it is only possible to regulate working conditions within the framework of the wage

councils if it is so agreed voluntarily and freely by employers and workers at a prior date, as indicated in article 5 of Law No. 10449. Third, government actions in the wage councils is limited exclusively to fixing minimum wages and making general adjustments. This is true unless the parties conclude tripartite negotiations within the branch.

It seems that those who have pushed for this case to be debated by the Committee are trying to go back to a time in Uruguay where wage councils did not exist, where collective bargaining became so scarce that it was practically inexistent, where real wages fell by 50 per cent in some cases, where informal work reached unprecedented levels of 40 per cent, where employment increased and where working conditions for the working class deteriorated.

As a result, it is surprising that we are questioning in this case the actions of a Government that promotes tripartite social dialogue, minimum wage fixing, and sectoral collective bargaining, as the most appropriate way to ensure improved working conditions for Uruguayans.

We urge the Committee to consider all these questions in relation to a country that has ratified the highest number of ILO Conventions in the region and as a result has the highest level of prosperity and wealth per capita in Latin America.

The Government of Uruguay is clearly committed to the ILO which makes us sure that it will continue making efforts to align Law No. 18566 of 2009 with the Convention where it is objectively necessary.

Employer member, Mexico – Although my colleagues have expressed their points clearly, I must intervene to say that I am frankly surprised. I am surprised, first, by the defiance of the Government in light of the efforts, suggestions, demands and conclusions of the most important supervisory bodies of this Organization. Second, I am surprised by the complacency and compliance of this Committee of which we are all a part. I say this because it cannot be that the Government of Uruguay has maintained a position of resistance for almost 11 years, or rather, openly and clearly expressed its opposition to complying with the resolutions of this Committee. The Government has persistently failed to meet its obligations, which challenges and puts into doubt the effectiveness of all that we believe in.

If the point raised by the Government and supported by the Workers was valid, it is like saying that the practices of a country work well if any of the social partners consider it to, regardless of whether they are in line with regulations, or even of whether they violate ILO Conventions. Such a position is inadmissible.

Government intervention in collective bargaining affects and subverts social dialogue, and creates tension in relations between workers and employers, including within the groups themselves. This is unacceptable. The Convention ratified by Uruguay is clear. Unfortunately, the Government's lack of will to fulfil the Convention is also unacceptable. With all due respect, the Government representative has incorrectly interpreted Article 4 of the Convention and is not in a position to justify a clear and deliberate lack of compliance with the Convention. This discussion has been and gone. This Organization has made it clear that working conditions must be set through an agreement between employers and workers. This is not in doubt. The Government should not raise this point again as it is not in question. The supervisory bodies have resolved and finalized it. That is, unless you wish to disregard what has already been decided.

Despite clear recommendations, the Government continues to ignore reality. As a result, I urge the Committee to strongly request that the Government of Uruguay adopt measures to ensure compliance with the Convention and the related observations as quickly as possible.

Worker member, Argentina – I have the honour of speaking on behalf of the three trade union centres in Argentina. The Committee is addressing the above-mentioned complaint of the Employers which suggests that tripartite negotiation within the framework of the wage councils is, in practice, a form of compulsory arbitration. The wage councils were established as a tripartite labour mechanism with the aim of fixing minimum wages by category and branch of activity. It is a body responsible for promoting social dialogue with a particular emphasis on collective bargaining and on the prevention and resolution of conflicts.

The Employers have wrongly said that tripartite negotiation carried out within the wage councils in practice amounts to compulsory arbitration, extending beyond the fixing of minimum wages. Article 12 of Law No. 18566 stipulates that the wage councils are tasked with fixing minimum wages by occupational category and upgrading the salaries of workers of a particular activity. The wage councils can also establish working conditions if so agreed by the employers and the workers of the respective wage group. These rules show above all that the most important principle and objective of the wage councils is to boost collective negotiation. In the event that the employers and workers do not reach an agreement, the fixing of minimum wages by occupational category and by wage increase is the only matter determined in a tripartite manner. For other issues subject to collective bargaining, the law states that wage councils are only able to establish working conditions if it is so agreed by the employers and the workers of the respective wage group. By no means is it possible to say that this is compulsory arbitration. The decision is put to a tripartite vote only after the State has encouraged negotiation between the workers and employers. The absence of wage councils weakened the trade union system and the individualization of labour relations which inevitably lead to a drop in real wages and to precarious working conditions.

I would like to remind the Employers that article 19, paragraph 8, of the ILO Constitution states that international standards are minimum standards and that nothing stops the parties from exceeding those standards. In Uruguay's case, the situation does not go against the Convention but rather exceeds it since the most favourable standards are applied.

We should not lose sight of the fact that the wage councils have significantly improved the wages of workers with substantial increases in real wages and minimum wages. This has in turn led to fewer people working in the informal economy. These are achievements that are a direct consequence of labour relations in Uruguay, which should be an example for other countries in the region, and of the Trade Union Confederation of the Americas (CSA). We call on other countries to adopt a similar system with a view to improving productivity, decent work and social justice.

Government member, China – The Chinese delegation listened carefully to the intervention of the Government of Uruguay. We noted that in recent years the Uruguayan Government conducted reforms in regard to labour and social security legislation, promoting collective bargaining at national, industrial and enterprise level, signed collective agreements, and also achieved positive progress in health and employment, enhancing workers' wages and reducing informal employment for the promotion and protection of workers' rights.

We also noted the political willingness of the Government in promoting collective bargaining, and its efforts in bridging agreements between different parties with the assistance of the ILO.

We support the Uruguayan Government to continue to extensively communicate with the relevant parties to find solutions jointly. We also hope that the ILO can provide the necessary technical assistance to the Uruguayan Government to better fulfil its obligations on the Convention.

Observer, International Organisation of Employers (IOE) – I make this intervention in my capacity as Secretary-General of the International Organisation of Employers (IOE) which is a complainant in the case before the supervisory bodies. I would like to emphasize that, in contrast to what we have heard from some of the speakers, this is not a minor case requiring a small technical adjustment in the way that collective bargaining is currently regulated in Uruguay.

This case has arisen because the Government of Uruguay has deliberately and repeatedly failed to comply with the recommendations and guidelines of ILO supervisory bodies. It is a case which, I would say, shows a complete disregard for the supervisory bodies and a failure to comply over a ten-year period, despite calls from this Committee in 2010 to change and amend legislation in practice.

Collective bargaining legislation and practices in Uruguay are a clear example of the attitudes facing the business sector, namely attitudes that promote inference, meddling and even bullying. This interference obliges business organizations to support government dictates on salaries; salaries which should be freely negotiated by the parties, as is the case in all countries which fully respect the provisions, principles and basic rights promoted by the ILO, in the context of collective bargaining.

This interference determines and imposes realities that are above and beyond what has been decided by the parties, above and beyond the scope of the collective agreements. This interference denies legitimacy to the freely elected worker representatives and imposes external representatives indirectly onto businesses. Prolonged interference of this nature is having serious consequences: (1) the elimination of bilateral collective bargaining; (2) a climate of social dialogue that is deeply damaged; (3) a growing climate of conflict that is having adverse effects on social order; (4) a climate of conflict that is affecting investment, decent work, and above all, freedom of enterprise.

Prolonged interference of this nature is giving rise to radical protests and collective unionized actions that are completely unacceptable. They consist of systematic occupations in the workplace, which deny businesses the capacity to determine and organize their own operations.

It is therefore a very concerning and serious case, and this should be taken into account when preparing the conclusions. The IOE feels obliged to request further discussions on this case in the future, including within the framework of other supervisory mechanisms, if immediate progress is not made.

Worker member, Colombia – I am speaking on behalf of the workers of Colombia and Nicaragua. For the workers, it is completely incomprehensible that, on the occasion of the ILO Centenary, one of the countries most committed to the objectives and principles of this Organization, instead of being presented as an example of progress, as an example of a country which complies with international standards and promotes basic rights in the workplace, has been called before this Committee for fully respecting the right to unionize, for having one of the highest levels of collective bargaining in the world, the highest in the Americas, and for promoting and guaranteeing freedom of association itself. Reprimanding the country in this way is equivalent to reprimanding a country for abolishing forced or child labour. I would not know how to explain this to my children let alone to Colombian workers who are literally giving up their lives to defend workers' rights and who are hit hard by the absence of freedom of association which has arisen as a result of state and business sector complacency. Summoning Uruguay in this way goes against the role of tripartism, as promoted by the ILO.

The Convention stipulates that States should promote and boost voluntary negotiation procedures, a mandate to which Uruguay has attached great importance, not only by respecting the guarantees outlined in the Convention but also by taking effective measures to raise collective bargaining levels. By doing so, Uruguay has effectively managed to improve coverage of collective bargaining, raise incomes for active and retired workers, achieve the lowest levels of inequality in Latin America, enhance relations between trade unions and employers, and attain a level of social dialogue that other countries in Latin America can only dream of as it seems impossible to achieve.

This situation has not only promoted the well-being of the Uruguay population but also advanced progress for businesses in the country. Collective bargaining in Uruguay is not only done by company, as is the case in most countries, but also by economic sector. This means that collective bargaining covers almost all workers and companies. This is in contrast to what happens in Colombia, for example, where barely 2 per cent of economically active people are protected. It is precisely this to which they are objecting.

It does not make sense to include Uruguay on the list of this Committee following a complaint from the employers when, along with trade unions and companies, employers themselves have been negotiating salaries and working conditions in the country for decades. It was the will of the employers and the outcome of social dialogue that enabled the country to achieve such advancements in negotiations. The employers should not be alleging violations to the Convention if they themselves have participated in those violations, while also enjoying protections and making progress that should be celebrated.

We welcome the fact that the employers are requesting, before this Committee, that the Government of Uruguay ensure immediate compliance with the recommendations issued by ILO supervisory bodies. We hope that they make the same request equally as passionately to other governments, such as those of Brazil, Argentina and Colombia, which have, repeatedly for years, been the subject of dozens of ILO observations, direct requests and conclusions on freedom of association but continue to flout them.

Government member, Bolivarian Republic of Venezuela – The Government of the Bolivarian Republic of Venezuela thanks the Government representative for the information provided. The Uruguayan case is another example of the over-representation of Latin America and the Caribbean in the work of this Committee: six of the countries on the list are from our region, almost 60 per cent is from South America. As on previous occasions, the criteria for the selection of countries is not clear in this case. The list does not respect the principle of geographical distribution.

We emphasize in particular the efforts made by the Government of Uruguay to promote social dialogue and collective bargaining as a means of guaranteeing the rights of all parties. We also welcome the progress made by the country in the areas of social protection, labour relations and protection of rights.

As a result, we invite the Government of Uruguay to continue promoting tripartism, collective bargaining and social dialogue, as it has traditionally done, and I stress, as it has traditionally done.

Employer member, Guatemala – We are once again examining the case of Uruguay in relation to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). We are doing so because both the Committee of Experts and the Employers' group have repeatedly expressed concern in that regard; because the ILO supervisory bodies have repeatedly asked this country to align its laws with this fundamental Convention. So far, this has not happened despite setting up tripartite dialogue, which did not produce the expected results. This obliges the Government of Uruguay to take the necessary steps to ensure that the observations of the supervisory bodies are finally put into statutory law.

The Committee of Experts has highlighted the need to ensure compliance with Article 4 of the Convention, that is, to promote free and voluntary collective negotiation. In that regard, we are particularly concerned that the legislation and practices in place in Uruguay allow for workplace occupations when there is a conflict. It is evident that this does not in any way promote free and voluntary negotiation. How can there be a free and voluntary negotiation if one of the parties is stripped of its property and the future of the company is put at risk? Clearly, this puts unfair pressure on one of the parties, in this case on the employer, to sign an agreement on the basis of expectations which would be unacceptable in the absence of such pressure. Therefore, I am wondering what freedom we are talking about. We are talking about a serious violation of one party's right to property and freedom by forcing them into collective negotiations. It is crystal clear that the abovementioned law on promoting free and voluntary negotiation is being violated. The violation not only affects the employer, but also, of course, seriously impacts workers who do not support the movement in question and who wish to continue working. This, therefore, has a harmful effect on the right to work, which should be guaranteed for all.

With these concerns in mind, we call on the Government of Uruguay to meet the obligations expected of them as Members of this Organization and as parties to the Convention, which is a fundamental Convention, and to align its laws and practices with that Convention, so that voluntary and free collective negotiation can take place effectively. The Government should do so without delay given that many years have passed since this case was examined for the first time by the supervisory bodies.

Worker member, Brazil – I am speaking on behalf of the worker members of Brazil, the United States, Cuba and the Latin American Association of Labour Lawyers. This case is a success case, despite what some might think. It is a success case because of the progress made by the Government of Uruguay in promoting collective bargaining in the country, because of the way in which the Government has acted in relation to the observations and requests made by the supervisory bodies.

We should recognize, just as the Committee of Experts did, the intense and productive nature of the social dialogue process and the tripartite agreements carried out in 2015. We urge all countries to use this case as a reference point.

Uruguay has widely and consistently redistributed its growing prosperity since 2005 and has reduced inequality and informal labour.

Key to those changes was the restoration of a robust system of collective bargaining which offers wide coverage for the productive sectors and includes groups previously excluded from the workforce, such as rural and domestic workers.

Meanwhile, the United States, a prosperous country in which only 7 per cent of the private workforce is covered by collective bargaining, and where there is no sectoral bargaining, has moved in the wrong direction when it comes to salaries, causing inequality and informal work over more than 30 years.

Additionally, while in many other countries, rural and domestic workers continue to be largely excluded from collective bargaining, they are included in Uruguay.

On the Centenary of the ILO, we should be recognizing countries which have adopted social dialogue and tripartite mechanisms to advance towards better social justice.

We wish to fervently reject the argument that the wage councils are a form of compulsory arbitration. No provision of Law No. 18566 makes it obligatory to hold bilateral negotiation in the tripartite council. The parties have a right to use the wage councils but are not obliged to.

Furthermore, article 19(8) of the ILO Constitution assures that the ratification of international standards does not prevent countries from developing other forms of law, whether from customary law or judicial decisions, which promote more favourable conditions than those outlined in international law. Therefore, it is not acceptable to argue that rights are being suppressed as this suggests that the conventional standards are being used as a tool to subvert more favourable local laws.

Government member, Costa Rica – The Government of Costa Rica thanks the Government of Uruguay for the timely information provided in relation to ensuring compliance with the Convention. We recognize the will of the Government of Uruguay to improve relations between workers and employers through tripartite dialogue. We value the efforts made towards reaching a social agreement that satisfies the interests of the workers and employers. Uruguay is one of the longest standing democracies on the continent with a proven record of respect for human rights, international law, dialogue and peaceful settlement of disputes.

Recently in 2009, Uruguay underwent its universal periodic review on human rights. We saw that its public policies and judicial and institutional system were protective of human rights, including the right to work. We were also informed about the most recent measures put in place to strengthen social policy and the labour market.

We trust in the Government of Uruguay to continue taking action to strengthen the implementation of internal standards, of principles outlined in the Convention and of ILO regulations.

Employer member, Chile – The Uruguayan case is interesting for all the constituents of the ILO because it refers, among other things, to a topic that is at the heart of this very important international organization: social dialogue.

This Convention is a fundamental ILO Convention that promotes and recognizes the value of social dialogue, but not just any social dialogue, one that is carried out collectively in a free and voluntary way.

Since 2010, the Committee of Experts and the Committee on Freedom of Information have been requesting the Government of Uruguay to revise Law No. 18566 of 2009 which establishes the principles and fundamental rights within the collective bargaining system, as well as to take concrete measures to fully align legislation and practice with the Convention, particularly with Article 4. Unfortunately, this has not happened yet.

With respect to the powers of the Higher Tripartite Council on collective bargaining, the Committee on Freedom of Association has asked the Government to take the necessary measures "to ensure that the bargaining level is established by the parties and is not subject to voting in a tripartite body".

With respect to the powers of the wage councils on salaries and working conditions, the Committee on Freedom of Information has highlighted the following: "recalling that it is up to the legislative authority to determine the legal minimum standards for conditions of work and that Article 4 of Convention No. 98 seeks to promote bipartite bargaining to fix conditions of work, the Committee hopes that in application of those principles, any collective agreement on fixing of conditions of employment will be the result of an agreement between the parties".

It is a fact that the wage councils in Uruguay have become a form of compulsory arbitration, where the representatives of the Executive define the rules for negotiations and make proposals on working conditions, which makes it practically impossible for the parties to negotiate in a free and voluntary way.

In sum, the two above-mentioned situations are not in line with the Convention, because, not only do they fail to promote negotiations that are voluntary, free and bipartite,

they also leave the door open for undue interference from the government in power.

Lastly, we join calls for the Committee of Experts to issue another observation for 2018 and respectfully ask the Government of Uruguay to propose a draft law in Parliament to guarantee that its laws and practices comply fully with the provisions of the Convention.

Government member, Dominican Republic – The Dominican Republic aligns itself with the statement delivered by GRULAC and supports the report presented by the Ministry of Labour of Uruguay. The Government of the Dominican Republic recognizes the will and actions carried out by the Government of Uruguay through its Ministry of Labour, which expressly show that the Government is complying with the provisions of Freedom of Association and the Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The information provided shows Uruguay's commitment to complying with international labour standards. As a result, we recognize the country's efforts to reform national laws and administrative practices with a view to advancing labour principles and strengthening fundamental workers' rights in different areas, thereby promoting tripartism in line with the provisions of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Employer member, Bolivarian Republic of Venezuela – We welcome the fact that dialogues and tripartite agreements are in place in Uruguay to address proposed legislative reforms, in this case regarding occupations in the workplace, the scope of the wage councils, and whether the Government should accept technical assistance from the secretariat. These are circumstances which do not exist in Venezuela.

However, we are concerned that the Government is using subterfuge to interfere in labour relations and to promote a form of compulsory arbitration, setting out the rules of the negotiation or ultimately determining working conditions through mechanisms that should have the healthy and legitimate objective of promoting constructive and effective tripartite dialogue. This goes above and beyond the powers of the Government and is a violation of the Convention.

The right to organize and the right to free and voluntary collective bargaining should be prioritized in any effort to pursue tripartite dialogue. It is not for the Executive to approve, standardize or interfere in that dialogue as this would weaken agreements arising from collective bargaining. The role of the Government should be, above all, to promote bipartite dialogue with a view to fixing working conditions and facilitating the harmonious development of labour relations, in accordance with Article 4 of the Convention. The Convention seeks to prevent employers' organizations from interfering in the affairs of workers' organizations during the adoption of agreements. Therefore, it would never allow for the Government to interfere in or impose labour conditions. Dialogue and tripartite agreements cannot put free and voluntary collective bargaining at risk.

It would be absolutely absurd for the Government to impose working conditions through tripartite dialogue or arbitrary mechanisms, especially if the employers have found them to be unreasonable. Doing so would eventually impact the workers by limiting the capacity of the employers to offer them higher-standard, equitable and permanent working conditions, or worse, by affecting the sustainability of the company.

Let us hope that this practice is not repeated. Let us hope that Uruguay stops distorting tripartite mechanisms and begins using its resources in a healthy way to ensure balanced labour decisions, instead of finding creative ways to facilitate government interference that weaken or render illusory the true exercise of freedom of association and the right to free and voluntary collective bargaining.

We remind the Government of Uruguay of the need for constructive and effective tripartite dialogue. This should be enshrined in legislation in a way which always ensures compliance and full respect for freedom of association and for voluntary collective bargaining, in conformity with the Convention.

Government member, Argentina – We thank all the representatives and especially the Government of Uruguay for the information provided to us as well as all the Governments and social partners that have taken the floor. We would like to make two points during our intervention. The first has to do with the importance of the ILO supervisory system which is already guiding countries in their efforts to ensure compliance with international standards. We emphasize and agree with the statement by the representative of GRULAC who suggested that the list was not balanced geographically, and that our region was particularly affected. In the future, we would also like to see the Organization review the methodology used for preparing the list through tripartite social dialogue. Doing so would ensure that all those involved have the opportunity to improve the methodology by making it more transparent and objective. In this way, we can undoubtedly ensure that the most urgent, complex and important cases are brought forward based on the criteria and methodology. This would most certainly make the process fairer.

The second point we would like to make is that we have listened carefully to the intervention of the Government of Uruguay in which it detailed the actions it has implemented. For instance, it has ensured worker representation and prepared a report on the positive impact that its particular model of collective bargaining has had thus far. The Government of Argentina understands and values the effort made by the Government of Uruguay to attend these discussions and address the recommendations and considerations of the ILO. As has been already pointed out, we believe that all changes to the current system should be processed and made within the framework of tripartite social dialogue so that the positive aspects can be maintained. There is also, without doubt, a need to work through the methodology used to make those changes. We encourage the Government of Uruguay to continue working in the way it always has.

Employer member, Argentina – Collective bargaining is a fundamental pillar of decent work, it makes it possible to create trust and mutual respect among employers, workers and their organizations and contributes to maintaining stable and productive labour relations.

Our intervention is about the duration and validity of collective agreements. These two elements are essential and should be agreed by the contracting parties. The decisions made in these processes have special legitimacy and should never be undermined by standards which allow for the automatic extension of collective agreements.

Today the various forms of work are rapidly evolving. This emphasizes the need for effective social dialogue mechanisms to update labour relations and ensure respect for the principles and fundamental rights safeguarded by this Organization, without jeopardizing the creation of jobs linked to new technologies.

The Committee on Freedom of Association has recalled the following on this matter: "the duration of collective agreements is primarily a matter for the parties involved, but if government action is being considered any legislation should reflect tripartite agreement". The amendments proposed by the Uruguayan Government to article 17 of Law No. 18566 were not the result of a tripartite agreement nor do not resolve the observations of the supervisory bodies since they propose that automatic extension be negotiated for all collective agreements. This can be interpreted

as a new form of undue interference in collective bargaining.

Our sector would like to highlight the general rule which deems collective agreements temporary in nature. These agreements should have a prescribed time frame, this is one of their key characteristics. As with all contracts, once the time frame agreed by the contracting parties expires, so do its provisions, and the parties are then free to negotiate a new collective agreement.

In conclusion, we hope that the Committee will urge the Government of Uruguay to revise the benchmark standards with the participation of the social partners and take on board the comments of the supervisory bodies, guaranteeing respect for the autonomy of the contracting parties and compliance with the remaining principles and rights outlined in the Convention.

Employer member, Honduras – We are concerned that Uruguay is yet again the subject of complaints as a result of the Government's failure to comply with a Convention that forms part of the very essence of the ILO. The Convention in question establishes the rules and guidelines for collective bargaining, ensuring it is trustworthy, actionable and effective. It also establishes the independence and autonomy of the parties who should be able to participate freely and voluntarily in negotiations.

Ten years after the case against the Government of Uruguay was first presented, the case is yet again subject to review because of a lack of engagement from the Government of Uruguay. The complaint was filed because the negotiation of wages by branch of economic activity in Uruguay does not comply with the principles of the Convention. It does not comply because the freedom to negotiate does not exist. The Government is therefore violating a fundamental right by denying employers and workers the right to reach agreements through collective bargaining. The labour administration system has in fact taken over this right.

With respect to the effects of the wage councils on salaries and working conditions, the Government has not proposed any legislative amendments and persistently refuses to recognize that the tripartite negotiations carried out within the framework of the wage councils are a form of compulsory arbitration, where representatives of the Ministry of Labour and Social Security set out and define how negotiations are carried out.

The Government has not been able to reach a tripartite agreement on the reforms requested eight years ago by the Committee on Freedom of Association and the Committee of Experts. The Government of Uruguay must now fulfil the obligation to present a draft law to Parliament which puts an end to its disregard for the principles outlined in international collective bargaining Conventions that it itself has ratified.

Despite the recommendations of the Committee of Experts, the Government of Uruguay continues to close its ears and keep the standards in question in force. We therefore request the following measures from the Committee. First, the Government of Uruguay must adopt, as soon as possible, the measures required to close the observation of the Committee of Experts. Second, the Government of Uruguay should hold tripartite meetings which lead to a draft law that aligns national laws and practices with the Convention. Third, the Government of Uruguay must report on the progress made on this case at the next session of the ILO Governing Body in November 2019.

Government member, Russian Federation – We are grateful to the representative of the Uruguayan Government for the information provided on the measures to comply with its obligations under the Convention. We have listened carefully to the explanations given about labour reforms carried out by Uruguay over many years. The figures speak for themselves. A considerable amount of work has been put into reinstating workers' rights, to improving social security and to bringing down the number of jobs in the informal sector. We note with interest Uruguay's experience in promoting collective bargaining at three levels in the High Tripartite Council, at branch and sectoral levels and in individual businesses and enterprises. As far as we can understand, the national legislation of Uruguay guarantees the right to collective bargaining. Furthermore, the holding of such negotiations in collective bargaining appears to be a traditional practice in the country. We agree with other delegations that consideration of questions of compliance with ILO Conventions is something that, while we are doing, we should take into account the law and practice of a country and the specific features of the legal system in that country.

It is important that the Government is demonstrating openness and a constructive approach to cooperation with the ILO and is conscientiously working to implement the recommendations made when this issue was considered last time. This is something which we should encourage. We urge that efforts be continued to strengthen social dialogue in Uruguay through cooperation with the ILO.

Employer member, Plurinational State of Bolivia – I will begin by pointing out that it is not about questioning or objecting to collective bargaining as an appropriate way of resolving conflicts. Indeed, allowing those who are involved in the conflict to exercise free will, should logically make it easier to reach agreements that are healthy, appropriate, and in line with the realities of all companies. Such a situation is not foreign or unknown to Uruguay.

However, in the case we are discussing today, it is sadly but strikingly clear that the concept of "conciliation" has become "imposition". This is a serious matter on which everyone should reflect given that this has become the normal way of reaching agreements. It, of course, leaves the employers defenceless, making them susceptible and vulnerable to different levels of pressure, through strikes and other measures, which, far from facilitating agreements, only damage the integrity of companies and therefore of sources of employment.

The employers of Bolivia have complete empathy for the employers of Uruguay. Like them, we are also being forced into signing time-limited agreements every year with a view to expanding on the baseline set by the national government annually. It is precisely because of this unfortunate experience that we understand the effects of pressure and even extortion from the trade union representatives who are not acting in line with the legal implications of free and voluntary negotiation.

It is precisely because of this that governments cannot deny that the employers are essential actors in labour relations. Consequently, while it is known by all that labour standards are protectionist in nature, this should not prevent governments from offering the employers the same legal security and certainty required to reach agreements freely in accordance with all legislation. Governments should establish conditions and labour relations through free negotiation.

As soon as a party is coerced into signing an agreement, even if that coercion is simulated, as is the case when one party forces another into discretionary submission through labour arbitration, it undoubtedly perverts the objective and purpose of the Convention. As a result, it is essential that all laws are in line and in accordance with the Convention. In the case of Uruguay, an observation of the Committee of Experts has been reoccurring since 2010 because, unfortunately, the Government has thus far failed to review and align legislation accordingly.

Government member, Panama – The delegation of the Government of Panama thanks the Government representative for the comments. With all due respect, we be-

lieve that the present case reveals that the procedure for selecting cases to appear before the Committee is inadequate from the perspective of geographical equity. Indeed, five out of the 11 countries on the long list of cases before the Committee on the Application of Standards are from South America, which amounts to almost 50 per cent. Three of them were also then put on the shortlist, which amounts to 60 per cent of those named. Latin America and South America is over-represented compared to other regions and subregions. Furthermore, the procedure does not take into account other criteria for determining serious cases requiring immediate attention. Equally, we emphasize the efforts made by the Government to promote collective bargaining and social dialogue as well as to make progress on social protection.

We encourage the Government of Uruguay to continue using tripartism, consultation and other mechanisms of dialogue.

Government member, Plurinational State of Bolivia – The Plurinational State of Bolivia thanks the Government of Uruguay for the information presented regarding the Convention. In addition, we welcome the efforts made by Uruguay to extend different workers' rights, including such rights as freedom of association, collective bargaining, outsourcing, and the labour process. We also highlight the uninterrupted growth in the real wages of workers, advances in job creation and improved social security. These important achievements are reflected in lower levels of poverty in Uruguay.

In light of the information provided by the Government of Uruguay, we consider it unfounded to be reviewing this case before the Committee. Therefore, we encourage the Government of Uruguay to continue taking measures that promote and protect the right to organize and the right to collective bargaining in the country.

Government representative – We thank the various representatives for their insights regarding the case of Uruguay. First, we would like to once again reaffirm our Government's commitment to dialogue and collective bargaining in practice, in our convictions and in our political resolve, and are ready to make any appropriate and reasonable changes, if met with social consensus, as they say at the ILO, to extend and improve the system of collective bargaining and conflict prevention.

We support the reports of the ILO supervisory bodies, including the Committee of Experts, the Committee on Freedom of Association and the Committee on the Application of Standards and will listen, respond and do as they say. We have already acted in that regard. However, as we have expressly shown, in order for there to be social consensus, the parties have to be in agreement. In our first presentation, we explained how the Government has received a negative response to the many proposals that it has made, preventing us from reaching the social consensus needed to make changes. But, as noted, we have proposed solutions to every single recommendation made by the Committee on Freedom of Association in its report of March 2010, specifically in 2015, 2016, 2017 and 2018.

We would like to thank the Governments of Latin American and the Caribbean in particular which were almost unanimous in providing us with such important support at this meeting, which we were honestly not expecting. We are honoured, satisfied and proud that the governments of our region have supported our position and actions.

We would also like to thank the countries of other regions, such as Spain, China and the Russian Federation for their support and for their presentations. We did not expect this either and are honoured and thrilled in that regard. We are particularly grateful that these very important countries have devoted part of their very valuable time to our small country, which has, in our opinion, been unfairly placed on the list of cases to review. We come here with confidence, absolute conviction and peace of mind, and use the opportunity to demonstrate what we have done and what we are doing in Uruguay.

We would also like to thank workers around the world who have unanimously supported Uruguay. Honestly, dear workers, thank you very much because you have supported a country that is constantly seeking to improve, even though we make mistakes and are still lacking in certain areas. We urge you to support the system of collective bargaining, labour protection, social protection which we are developing in our country and which has been unfairly attacked by some today.

We would also like to highlight, and I say this with absolute conviction and sincerity, the presentation made by the employers of Uruguay. We believe that the presentation by the employers clarifies the expectations to take forward. In the same way, we regret and reject equally as forcefully, all presentations made by other Employer representatives who are unfamiliar with Uruguayan realities, and who have said things that are not true. They have not read the documents that we have presented, instead basing their views on ideological questions to attack a system of social protection and labour relations which, as has been shown, is creating and will continue creating better working conditions for both the workers and employers of Uruguay.

If this system of labour relations had failed, the number of companies registered to pay social security in Uruguay would not have risen by 50 per cent, and we would not have had 17 years of continuous economic growth for the first time in the history of our country. Growth rates rose above those for Latin America for most years.

We want to continue in the same vain. We are ready because we know that we need to make changes. We have made changes and proposals, and sometimes they have been blocked by one side and sometimes by another. Some speakers have said things that are not true. For example, it is not true that the Government is imposing working conditions in Uruguay. Working conditions in Uruguay can only be set by the workers and the employers.

Some have said that the Government is imposing guidelines on salary increases but this is not true. The Government proposes guidelines to discuss but it consults the parties before doing so and the guidelines are not obligatory. Where is the proof that the guidelines are not obligatory? Proof is the outcome of the current round of collective bargaining as well as that of previous rounds. What has happened in the current round of collective bargaining? A total of 85 per cent of agreements are agreements between employers and workers, and this is very important. But let's do a more thorough analysis of the data. Out of the abovementioned 85 per cent, 47 per cent is made up of tripartite agreements and 38 per cent of bipartite agreements, where both the employers and workers wanted to negotiate in a tripartite manner knowing that the Government was going to vote against or abstain. This shows that collective bargaining is free in Uruguay.

With regard to impartiality, the Government has, coincidentally but not by coincidence, voted with the employers in 5 per cent of cases and with the workers in 5 per cent of cases whenever it has had to vote with one party or another in this round of collective bargaining. This is the truth of what happens in Uruguay.

Some have spoken of pressure, but there is no record of the employers complaining about pressure in the proceedings of the wage councils or of other meetings. The employers did, however, make a statement in March 2018, a statement which we greatly appreciate, in which they say the following: "we have received the government guidelines, but, if it is true what the employers are saying, we will discuss it in the wage councils as long as it is recorded in the proceedings of the session of the Higher Tripartite Council in March 2018".

Lastly, we would like to highlight the significance of what we have proposed. We have made long-standing proposals to progress on this issue and will continue doing so. It is for that reason that we welcome the statement by the Employer representative of Uruguay who highlighted the group's willingness to work towards new measures that would make changes to the system of collective bargaining and conflict prevention, in consultation with the social partners. I repeat, the aim would be to extend and improve the system of collective bargaining and conflict prevention.

We are also pleased that there is a desire to discuss the right to strike before this Committee in Uruguay. We know that the employers do not want to discuss the right to strike at the ILO, they do not want to acknowledge it. And when we speak about occupations, we speak about the right to strike, therefore we welcome this development.

Therefore, we repeat that, in Uruguay, we prioritize bipartite negotiations, as is clearly indicated in Law No. 18566 and its articles. And proof of that is when we all meet here, we see how it works.

Therefore, we are and will be open to dialogue and negotiation with a view to changing and progressing, and we will continue doing so, with the help of the ILO wherever necessary, which we greatly value and appreciate. For us, it is also fundamental to respect the realities and history of our country.

Worker members – Uruguay shares fourth place with Norway in the ranking of member States with the highest number of ratified ILO Conventions. It has also been singled out on endless occasions as an example for others to follow on social dialogue.

It is our understanding that in the current system, the State does not force the parties to negotiate in the wage councils, nor does it impose so-called compulsory arbitration. We are pleased that, in its statement, the Government has assigned priority and importance to bipartite collective bargaining as well as to the Convention. Furthermore, it recognizes the possibility for the parties to negotiate bilaterally outside the wage councils. Any pre-signed agreement can then be presented before this body without any amendments from the Government. In addition, the social partners have the right to reject any call to appear before the wage council. They simply need to express their desire for bilateral collective negotiation or show that they are covered by another collective agreement that is still in force. Furthermore, even if the issue is called before the wage councils, the government representative cannot cast their vote if one of the parties does not attend, making it impossible to make a decision regarding the bargaining unit that was summoned.

One of the effects of this system is that it has given a strong boost to collective bargaining in general. In more concrete terms, outside the wage councils, the number of bargaining units increased substantially, the contents of the collective agreements became broader and, as we have previously mentioned, the right to collective bargaining was extended to sectors that previously did not have access to it. We reiterate the importance of the latter move for rural and domestic work.

As we have heard in the Government's intervention, the system in Uruguay has also strengthened the purchasing power of wages and salaries, which has had a favourable effect, generating an upward trend in the periodic adjustment of retirements and pensions, as well as a notable increase in employment levels and in employment formalization with very positive impacts on the country's economy.

The above-mentioned points lead the Workers' group to ask the Government of Uruguay to redouble its efforts to promote tripartite consultations with the aim of reaching a consensus. I repeat, with the aim of reaching a consensus. However, the Government has indeed taken action and expressed commitment in that regard. The Workers' group has also observed that it would be beneficial for the Committee of Experts to receive a more detailed explanation of the way the collective bargaining system works in Uruguay in law and in practice. Therefore, we would like to encourage the Government to provide the Committee of Experts with the data that was presented here and keep it informed of any progress made in tripartite consultations regarding potential legislative amendments.

Lastly, we take careful note of the comments made by the spokesperson of the Employers who rose questions related to the right to strike and how it is regulated by national legislation. The Employers stated that these discussions, these issues, are related to the right to strike and are relevant for the Committee on the Application of Standards. This is all fine, but it is also worth expressing the position of the Workers. We argue that the right to strike peacefully is protected by the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and also includes all other peaceful trade union measures, such as occupations.

Employer members – We are extremely grateful to all the participants of this rich discussion which has demonstrated the importance of this case. If it was a simple matter, as in other cases, it would have gone relatively quickly. The rich interventions clearly set forth the need to ensure compliance with the Conventions. They also highlight the interest of this Committee to ensure that governments address the recommendations of the supervisory bodies.

Hopefully the distinguished Minister will understand, because he does not often come to these sessions, that when we give messages of this nature, it is because we very much hope that substantial changes will be made.

Ten years have passed, and although goals have been set, there have been no results. I would also like to ask the Minister to take into account the views of those who did not make an intervention. Many Government representatives from other regions did not make an intervention, despite often doing so within this Committee, and this silence is worth a thousand words. It is necessary to implement change because much time has passed without any substantial improvement.

Furthermore, we would have liked the Government of Uruguay to have given us specific details on each of the issues that we have presented and not to have simply provided general statistics on progress made in the country. We do not deny this progress, but it does not mean that the country is in alignment or in compliance with the Convention. Uruguay is not complying with the Convention, and this Committee should emphasize the need to ensure compliance as soon as possible.

Language is not only expressed verbally but also in gestures. In this debate, we noticed many derogatory looks and messages directed at the spokesperson for the IOE during his statement. Similarly, we believe that the reply by the Minister was clearly false. I do not want to repeat that the representatives of the employers of Uruguay standing before his Committee are concerned that they will go back to our country and be treated in the same way as our spokesperson was treated here. It is clear that this legislative instrument that has been put in place inhibits social dialogue and understanding. Employers in Uruguay are somewhat fearful of the statistics related to the agreements in case they are forced to sign those agreements or face other reprisals.

Therefore, we reaffirm each and every word expressed by the spokesperson of the IOE. In the year of the Centenary, a violation persists, as it has done for a period of ten years. The regulation of collective bargaining in Uruguay is, in practice, a clear example of the attitude taken towards

the employers: an attitude of interference, meddling and bullying.

As a result of interference, the employer organizations are being forced into supporting government dictates and are therefore losing the ability to determine salaries which should be freely negotiated by the parties, as is the case in all countries that fully respect ILO principles and fundamental rights, such as the right to collective bargaining, as outlined in the fundamental Conventions.

In this way, we would like to request, in an amicable but authoritative manner, that the Government of Uruguay adopt clear and precise attitudes. The conclusions of this Committee should urge the Government to develop and submit a draft law to Parliament which ensures that Law No. 18566 as well as all national practices are in full compliance with the Convention and with other fundamental standards, fully taking into account the decisions of the various supervisory bodies. It should do so before the next session of the Governing Body in November 2019 and following comprehensive and effective consultations held in good faith with the most representative social partners.

We also urge the Government to send a report to the Committee of Experts before 1 September 2019 outlining all the actions taken so that the Committee can evaluate the information this year.

We have the best intentions and always an attitude of goodwill, which is what this Organization considers as the basis of social dialogue. Social dialogue arises from harmonious and peaceful relations. But we feel obliged to defend our suggestions for the future which, crucially, are in line with the Constitution of this Organization so that the ILO supervisory bodies can make immediate progress, as we have requested.

As I already mentioned, strikes are not addressed under any of the ILO standards, but that does not mean that the right to strike does not exist. It is perfectly possible for Uruguay to address the issue, but not within this Committee. The Employers recognize the right to strike under national legislation, but not within the framework of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Our position has not changed, and it is shared by the majority of Governments that consider that the methods and practices used to exercise the right to strike should be regulated by each individual jurisdiction. In this way, Uruguay's law on this matter should be subject to internal review within the country, but not to the ILO supervisory system, at least not to the Committee on the Application of Standards, and I would also add the Committee of Experts.

I would like to conclude by saying that, although we did not wish to do so, we are obliged by the attitude of the Government of Uruguay towards the Employers' group today to request that the conclusions of this case are included in a special paragraph.

Conclusions of the Committee

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

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 the 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.**

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.

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)

Discussion by the Committee

Government representative – We would like to emphasize that the Government of Yemen has provided information about the efforts it is undertaking to address the issue of child labour. We have done a number of things in recent years.

Firstly, we have implemented an action plan to put an end to child labour. This has involved cooperation with the ILO and with employers' and workers' organizations. We have implemented a number of programmes intended to withdraw children from the labour market. We have done that by seeking to encourage schools, to have children attend schools rather than work, and we have also trained inspectors to ensure that they are aware of our policies and that they too are seeking to put an end to child labour.

Then we have the 2002 Act No. 45 on child labour and we also have a Ministerial Decree that prohibits the employment of children under the age of 18. Information is provided to inspectors, to civil servants and to imams in mosques to ensure that this information reaches as many people as possible. In addition to that, we have organized workshops, a kind of children's parliament, and we have got local authorities fully on board with this policy.

Another thing that we have done is to implement a programme for street children, to get them into schools, and we are analysing the data and the information that we have about street children. We recognize this as something that has worsened in recent years because the economic situation in our country has become more difficult and there is more poverty.

We have also conducted a number of studies and surveys to get information about human trafficking and to address that issue. Furthermore, we have done more to train inspectors so that they are more aware of all of the issues in this area and so that society as a whole becomes more conscious of the dangers of child labour, and we are trying to mobilize people to combat it in all parts of the country. In addition to that, the Ministry of Labour and Social Affairs is taking measures to mainstream this issue in most of the policies promulgated.

However, we are still facing a number of challenges. One of the challenges is that we see a lot of children being abandoned. There is also an increase in begging, in children using narcotics and we observe that civil society is weaker and weaker in our country. For that reason, we have adopted an Action Plan for 2019–26 which aims to bring an end to child labour, especially focusing on the worst

forms of child labour, by 2026, the purpose being to protect children and their families. We have set ourselves eight goals: (1) to prevent child labour and to protect children; (2) to ensure social protection for children who end up in the labour market; (3) to ensure that our monitoring bodies are better able to intervene in cases of child labour; (4) to take further measures to put an end to the recruitment of children into the armed forces; (5) to increase vocational training; (6) to provide information about child labour; (7) to undertake a number of studies on the phenomenon in our country so that we have accurate information; and (8) to adopt a national policy programme to combat this scourge. A copy of this programme was sent to the ILO yesterday, and let me emphasize that we really look forward to the ILO helping us in implementing this Plan so that we can achieve all of the goals previously enumerated.

Worker members – Our Committee already assessed the Yemeni case in 2014 with regard to its compliance with the Convention. The discussions that we held that year showed how serious the situation was for children on the ground. Five years later, we return before our Committee to address the situation in Yemen, a situation which has far from improved.

How can we not compare the Yemeni case with the case addressed yesterday? Indeed, both face similar problems. We see, and this is a constant, that children are extremely vulnerable victims in times of war. Implementing measures that aim to meet the obligations contained in the Convention could significantly improve the fate of children in conflict. We understand the difficult circumstances that Yemen is currently going through. Nevertheless, the Yemeni Government cannot renounce the obligations set forth in the Convention.

The Committee of Experts has highlighted three problems in its report:

(1) compulsory recruitment of children with a view to using them in armed conflict;
(2) lack of access to free basic education; and
(3) rehabilitation and social integration for child soldiers and children working under hazardous conditions.

I will begin with compulsory recruitment in armed conflicts. As laid down in Article 3(a) of the Convention, this is one of the worst forms of child labour. A 2017 UNICEF report shows that more than 1,500 children were enlisted for conflict. The report also identified that more than 1,500 children were killed and more than 2,400 were injured. Other reports demonstrate a substantial increase in these numbers as the conflict has persisted and intensified. We are talking about a tenfold increase in the number of children enlisted for the conflict, which takes the number up to more than 15,000. This increase can be attributed to the Houthi militias.

Although these militias are not government militias, their failure to respect the Convention should be considered by our Committee so as to evaluate the extent to which the situation in Yemen conforms with the Convention. It is worrying to see these children become actively involved in conflict. They are trained in the use of heavy weapons and in the laying of landmines and explosives. It is also deeply shocking to see these children serve as cannon fodder as they are sent to the front line and used as human shields. To do so, these children are often forced to take drugs, which we worry may have serious long-term effects.

During the 2014 session of our Committee, the Government said that it was developing an action plan in collaboration with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict. This action plan aimed to end child recruitment in the armed forces. Today, it seems from the report of the Committee of Experts that implementation of this plan was delayed after the conflict intensified in 2015. This is unfortunate. The plan contained a number of concrete measures to combat the worst forms of child labour. We will incidentally come back to these measures in our recommendations to the Government which we will make in our concluding remarks. The report states that a presidential decree was adopted in 2012 banning child recruitment in armed conflicts. It must be noted that this decree has in no way been applied in practice. In fact, the use of children in armed conflicts in Yemen persists and is particularly alarming.

Similarly to the Committee of Experts, we regret the serious violations of Article 3(a) of the Convention. As stipulated in Article 1 of the Convention, Yemen should take immediate and effective measures to ensure that the worst forms of child labour are banned and eliminated, and it must do so urgently. It is essential that those who have enlisted children under 18 years of age for armed conflict do not go unpunished. The Government cannot let those responsible for these acts think that they have free rein. The Government must send them a very clear message. In line with Article 7 of the Convention, the Government must take all the necessary measures to ensure effective implementation and respect for the provisions of the Convention, including by establishing and applying sanctions, whether criminal or not.

The second problem highlighted by the Committee of Experts is that of access to free basic education. We have already heard one important point many times during our discussions of other cases: access to education is without doubt the most effective method of protecting children from the worst forms of labour. It is for that reason that Article 7, paragraph 2(c), of the Convention obliges member States to ensure access to free basic education, among other things.

The report shows that, according to UNESCO statistics for 2011, the net primary school enrolment rate was 76 per cent while the net secondary school enrolment rate was 40 per cent. It is vital to improve these school enrolment rates. They show that 24 per cent of children, close to one in five, who are old enough to go to primary school, do not have access to education. This percentage goes up to 60 per cent for secondary school. Three out of five children do not attend secondary school. Many of them will probably not be old enough to go to work. In addition to increasing the primary school enrolment rate, it is essential to increase the secondary school enrolment rate.

It appears that the school enrolment rate for girls is much lower than that for boys: while 82 per cent of boys are enrolled in primary school, the figure is only 69 per cent for girls. At secondary level, the school enrolment rate is 48 per cent for boys and 31 per cent for girls. UNICEF statistics for 2013 for one Yemeni governorate show that school dropouts predominantly affect girls who make up 78 per cent of all school dropouts.

It is clear that the gap in school enrolments between boys and girls is enormous. This gap can be explained by the common beliefs engrained in the population, particularly in rural areas, according to which girls should not be educated. It is fundamental for the Government to put in place a policy to ensure that girls have equal access to education. Girls cannot be deprived of the basic human right that is the right to education.

The third problem highlighted in the report of the Committee of Experts is that of rehabilitation and social integration of child soldiers and children working under hazardous conditions.

The report outlines positive initiatives that the Government has taken in that regard. These initiatives consist of workshops and campaigns aimed at rehabilitating child soldiers in civil society. Rehabilitation centres have also been opened for children who have come from armed conflict. Medical assistance has been provided to hundreds of child soldiers released from militias.

The Government of Yemen has taken care of 89 children who have participated in armed conflict, 39 of whom underwent rehabilitation and then returned to their families. These initiatives are very positive. However, statistics show that many children enlisted for armed conflict have, unfortunately, been unable to access such initiatives. The Government's written statement containing more detailed statistics could further enlighten our Committee. If the statistics that appear in the report are accurate, it shows that a great deal remains to be done on the ground. Too many children are not able to access the rehabilitation services that they so urgently need.

I said at the beginning of my intervention that we already addressed the Yemeni case in 2014. Five years have passed since then. Five years in a child's life is a third of their childhood. It is highly likely that children who were enlisted for conflict in 2014 have still not come out of it. The international community cannot be powerless in the face of this shocking situation. Already in 2014, our Committee called on the international community to come to Yemen's aid. While examining the Yemeni case before our Committee will enable us to give recommendations to the Government of Yemen, we must not lose sight of the fact that improving the tragic fate of children in Yemen will also depend to a large extent on the attitudes of all the States involved, near and far, in the conflict in Yemen.

Employer members – We would like to thank the representatives of the Yemeni Government for their presence and for their representations. As you are aware, this case relates to Convention No. 182, which is a fundamental Convention intended to protect children from the worst forms of labour. Yemen ratified this Convention in 2000 and is bound by its provisions. This case was first discussed before this Committee in 2014 and further observations were made by the Committee of Experts in 2018. The main issues are related to Yemen's failure to observe and implement its obligations under the Convention. In their previous observations, the Committee of Experts had raised the following issues in respect of the matter set out below: failure to prevent compulsory recruitment of children for armed conflict, as set out in Article 3(a); failure to implement time-bound measures to provide access to free basic education, Article 7(2)(c); failure to prevent engagement of children from the worst forms of child labour, as well as removing them from such work and ensuring their rehabilitation and social integration, in terms of Article 7(2)(a) and (b).

As for children involved in armed conflict in Yemen, in 2014 this Committee noted that by the admission of the Government's representatives themselves, there was a serious situation for children in their country, due to the involvement and recruitment of children for armed conflict. In 2012, a Presidential Decree prohibiting the recruitment of children into armed conflict was adopted, but as to whether this has been actioned appropriately has not been reported. There is also no indication as to whether the social partners, the workers and employers, had been consulted as per Article 5 of this Convention. The Government stated at that time that it had signed an action plan in 2014 with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict to end and prevent the recruitment of children by armed forces. Importantly, the plan had set out concrete steps to release all children associated with the government security forces, reintegrate them into communities and prevent further recruitment. As to whether this has been actioned has not been reported either.

The Committee had further noted in the Government's report that the Chief of Staff of the armed forces and the Prime Minister themselves had made a commitment to implement measures agreed upon in this action plan to end the illegal recruitment of children by the armed forces. However, according to a report of the United Nations Secretary-General to the Security Council in May 2014, the UN documented the recruitment of 106 boys between the ages of 6 and 7 years of age, the killing of 36 children and the maiming of 154 children. The Committee had noted the Government's statement that the action plan to put an end to the recruitment and use of children by armed forces was concluded in 2014. However, there was also no indication as to whether that action plan had been formulated in consultation with the stakeholders – that is the employers and the workers. What is known is that there has been a worsening of the armed conflict since 2015.

The UNICEF report titled: *Falling through the cracks – The children of Yemen*, published in March 2015, reported that at least 1,572 boys were recruited and used in the conflict, 1,546 children had been killed and 2,458 children had been maimed. These are staggering numbers. A report attributed to the Ministry of Human Rights in 2018 specified the increasing number of conscripted children by Houthi militia and their methods of mobilizing those children to fight in the frontlines. According to the report, the percentage of children recruited by the militia had increased tenfold since 2016. The number of child soldiers among this group had reached more than 15,000, which is alarming to say the least. The report further indicates that children recruited by this group were forced to use, as my colleague from the Workers also mentioned earlier, psychotropic substances and drugs and had been used to penetrate the Saudi borders. They had also been used as human shields and trained to lay mines and explosives.

The Committee on the Rights of the Child (CRC), in its concluding observations on the report submitted by the Government of Yemen under the Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict in 2014, expressed serious concern about the presence of children within the armed forces and about the recruitment of children, including girls, by the pro-Government tribal militias and the continuous recruitment and use of children in hostilities by the non-state armed groups.

A lack of more recent information means that it is hard to evaluate as to whether any progress has been made since 2015. The Employers' group urges the Government to take urgent and transparent steps to expedite the implementation of its obligations under the Convention. While we do acknowledge the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, nonetheless we echo the call of this Committee and strongly urge the Government to take measures using all available means to ensure the full and immediate demobilization of all children and to put a stop in practice to forced or voluntary recruitment of children under the age of 18 into armed groups and using them in conflict.

We also echo the call of this Committee to urge the Government to take immediate and effective measures to ensure that a thorough investigation and prosecution of all persons who forcibly recruit children under the age of 18 for use in armed conflict are carried out, and sufficiently effective and dissuasive penalties are imposed in practice as a prohibitive measure. Similarly, we echo the call of this Committee to call on the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.

In respect of education-related issues, the issues relating to education are also a matter of serious concern. Widespread conflict and the risk of attacks on schools, as well as the recruitment or abduction of children for combat purposes all play a significant part in separating children from their right to a basic education free from interference or harm. The Government's Fourth Periodic report to the

CRC in 2012 did provide information on some policies and implementation of actions to be taken to reduce the gender gap. However, according to a UNESCO Institute for Statistics report, the enrolment rates were low at 76 per cent in primary education and 40 per cent in secondary education, thus creating doubts as regards the effective implementation of this programme.

Considering that education is key in preventing children from being engaged in the worst forms of labour, the Employers' group echoes the call of this Committee for the Government to intensify its efforts to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, especially girls. This should be done by increasing the school enrolment rates at primary and secondary levels and by decreasing their drop-out rates.

The Employers' group also echoes the call of the Committee of Experts and requests the Government to provide information on the measures that have been taken and results issued in terms of Articles 7(2), clause (a) and (b), in order to prevent the engagement of children in the worst forms of child labour by removing them from such work and ensuring their rehabilitation and social integration.

With regard to reintegration, the Committee of Experts had noted from the report of the Ministry of Human Rights in 2018 that workshops and civil society campaigns on the rehabilitation of child soldiers are being carried out and rehabilitation centres were open for children withdrawn from armed conflict. Hundreds of child soldiers recruited by the militia have been released and provided with medical care.

This report further indicates that the Government of Yemen, in cooperation with the Arab Coalition and the Internal Committee of the Red Cross and UNICEF, received 89 child soldiers who were recruited by the Houthis militia and deployed along the borders, out of which 39 children had been rehabilitated and returned to their families. The Employers' group is of the view that this is a step in the right direction and must be encouraged.

Equally important would be to report on these developments to the Committee of Experts. However, the failure to report has been observed by the Committee of Experts again in 2018, and it noted the continuing lack of information from the Government on this matter. While empathizing with the Yemeni Government, considering the present situation of the country, the Employers' group echoes the call of the Committee of Experts for action, and the requested measures should not be limited to those under 18 years of age, as sexual exploitation and abuse is not only in breach of the Convention, but also numerous other fundamental labour and human rights standards.

Therefore, once again the Employers' group calls upon the Government to provide accurate information to the Committee of Experts for assessment.

Observer, Public Services International (PSI) – Yemen is not complying with the Convention. When we read the report, we see a list of violations of that Convention and we see that women and children in Yemen are victims of those violations. We also see that for the last five years the Workers' delegation of Yemen has been absent from ILO activities. Indeed, that has been the case since the current Government took power.

We therefore would like to address the ILO and the UN here in Geneva and we would like to draw the attention to the need to deal with the issue of the crisis of wages in Yemen. In fact, there are people who have not been paid for more than three years. How can we talk about the right to collective bargaining at a time when we see that the offices of the workers' organizations of Yemen have been occupied by the Houthi who are putting pressure on trade unionists and preventing them from enjoying freedom of association. We also see that women and children in Yemen are victims of similar oppression. We therefore appeal on behalf of the children of Yemen whose life is in danger and physical integrity is threatened. They are killed, they are humiliated, they are drawn into military conflict.

More than 5,000 children have been recruited into the armed forces. Girls are married off very young, and these are forced marriages in many cases. More than 1 million children in Yemen today are malnourished. One child dies every ten minutes and they die for reasons that could be prevented. We therefore believe that assistance programmes need to be intensified. More needs to be done and these programmes need to be spread out fairly throughout the country because, at present, only some regions are able to benefit from this and that is to the Houthi-controlled regions.

Worker member, Sweden – I am speaking on behalf of the Nordic unions from Sweden, Finland, Norway, Denmark and Iceland. Yemen is a country in which society is being torn apart by an armed conflict. The first casualty of any armed conflict is always the children and their right to a childhood. But even in times of war, the Convention must be applied. In Yemen this is not the case. Children on both sides of the conflict are being recruited as soldiers. The children are given military training and serve as soldiers. These are children who should be in school learning the alphabet, not firing a machine gun.

According to Article 7 of the Convention, the Yemeni Government must take measures to prevent children from being recruited as soldiers. The Yemeni Government has failed miserably to do so thus abandoning its most vulnerable citizens. A UNICEF report from 2017 says that at least 1,572 boys were recruited and used as soldiers. The Nordic unions call upon the Yemeni Government to make the abolishment of child soldiers one of its priorities and to prosecute any adults who recruit children as soldiers.

According to Article 7, the Yemeni Government must also remove the children already recruited as soldiers from military life and reintegrate them into society. A community-based approach to reintegration in cooperation with the family of the child ex-soldier can also prevent remobilization, as well as initial mobilization of other children. Another key role in the reintegration of former child soldiers is education. Article 7 also states that free basic education shall be provided for all. Yemen has low enrolment rates, especially for girls. Education in itself can prevent both initial mobilization and remobilization. The Nordic unions urge the Yemeni Government to improve its educational system and to facilitate access to education, especially for girls. I do not need to remind the Committee that education for girls also prevents child marriages and child pregnancies.

I would like to end by emphasizing that the Nordic unions do not take sides in the ongoing conflict in Yemen. We take the side of the Yemeni children who all deserve a childhood.

Government member, Switzerland – Switzerland regrets the fact that we must once again discuss compliance with this Convention, a fundamental Convention for Yemen. The involvement of children in armed conflicts is a very worrying phenomenon, and Switzerland is concerned to see that child recruitment persists in government armed forces as well as in armed groups. We regret the delay to the action plan that aims to end child recruitment in the armed forces, liberate all children linked to government armed forces, rehabilitate them and prevent new recruitment. While we recognize that the situation in the country is complex, very complex, Switzerland calls on the Government of Yemen to no longer delay the implementation of the measures outlined in the 2014 action plan so that these children are not deprived of a better future.

The measures should also include setting up a good education system and facilitating access to basic education for all children, including girls.

Lastly, effective and deterrent sanctions should be imposed in practice to punish those responsible for involving children in conflict. In that respect, while we recognize some positive developments, such as those mentioned in the 2018 report of the Ministry of Human Rights, Switzerland supports the conclusions and recommendations of the Committee of Experts.

Worker member, Morocco – I have asked for the floor, first and foremost, to express my solidarity with the people of Yemen, people who are living in tragic circumstances because of the conflict raging in that country.

In such circumstances, the first to fall victim to conflict are children. Today, as an international organization, as the ILO, we have to be very realistic in talking about the suffering of the children of Yemen. We have to condemn all of the inhuman exploitation that children are facing. We see violations of the Convention. These are repeated and flagrant violations.

The Government of Yemen has ratified that Convention but, despite that, these violations continue. This is something that we must condemn. We know about the political situation in Yemen but we condemn all parties to the conflict and all of their internal and external supporters. They must all shoulder their historic responsibility. It is high time to put an end to the crimes perpetrated against innocent children who are recruited for armed forces. The Government must shoulder its responsibility and so must the ILO. The situation is desperate, and we cannot ignore it.

Government representative – I wish to thank the distinguished speakers for their comments and we take due note of such comments. As you may be aware, a state of conflict since 2015 prevails in Yemen, along with a heart-breaking humanitarian situation which has its negative impact on every single aspect in the country, including children.

Since the first year of the conflict, the Government of Yemen called upon the international community along with the related UN agencies to put extra pressure on the militias to stop recruiting children in the current conflict. Such recruitment highly affected the children and placed those children in different kinds of dangers, along with different kind of abuses and human rights violations unfortunately.

To conclude, the current conflict has an impact on the capacities of the governmental institutions. Therefore, we do hope that the ILO, along with the related donor institutions could support the Yemeni Government in its efforts to protect children protection and also support the Yemeni Government to implement the 2019–26 Plan regarding child labour.

Employer members – The essence of this case is the procurement and the use of children in combat, which is one of the most dangerous situations a child can be in. Children are the future of any country and protecting them by using whatever resources and giving priority, should be the objective of all governments, including the Government of Yemen, and we urge the Government of Yemen to do so.

There is no doubt that this situation falls well within the ambit of the worst forms of labour as described in Article 3(a). In the circumstances, the Employers' group urges the Government of Yemen to follow the course of action that we are about to recommend:

– Implement the plan of action that was adopted in 2014 which includes aligning domestic legislation with international norms and standards prohibiting the recruitment and use of children in armed conflict. This process should include all partners including employers and workers.
– Issuing and disseminating military orders prohibiting the recruitment irrespective of if it is voluntary or involuntary in relation to the use of children in armed conflict.
– Investigating all allegations of recruitment of children and the use of children below the age of 18 by the Yemeni government forces or their allies, irrespective of whether it is voluntary or involuntary, must be done immediately.
– Ensuring that those responsible are held accountable is also a matter of urgent requirement as far as the Employers and this Committee is concerned.
– Facilitating the United Nations to monitor progress and compliance with the action plan as well as organizations such as the ILO will also be considered as a priority.
– Ensuring that children unwillingly involved with the armed groups irrespective of affiliation are treated fairly and equitably and to implement a plan of action to ensure that they are reintegrated into society with adequate rehabilitation.

We also expect the Government of Yemen to collate and submit without further delay information and statistics related to the number of children engaged in armed conflict; the number of those liberated and sent for rehabilitation and reintegration. Similarly, information will also have to be provided with regard to investigations and prosecutions of those accountable for committing these grievous offences.

We also urge the Yemeni Government to develop policies and plans of action to ensure equal access to free basic education for all children of school-going age.

Similarly we invite the Government of Yemen to avail itself of technical assistance as a matter of urgency and to ensure compliance of law and practice aligned with the Convention. In this regard, we did hear from the Yemeni Government that they had implemented certain programmes or actions along with the ILO, and we would request the Office to provide to the Committee of Experts information on any such interventions so that we could assess what has been done. We also invite the Government of Yemen to report in full on the measures that have been taken to implement the above recommendations before the next meeting of the Committee of Experts in 2019.

Worker members – We thank the Government representative of Yemen for the information provided throughout this discussion. We also thank the speakers for their contributions. The fight against the economic exploitation of children is at the heart of the mandate of the ILO. The effective elimination of the worst forms of child labour is a requirement to which almost all ILO member States have subscribed by ratifying the Convention.

Only one more ratification is needed to reach universal ratification. This is a strong signal from the international community, and a testament to the wide consensus that exists on the need to eliminate the worst forms of child labour.

Unfortunately, we must be aware that, in practice, many children are still involved in the worst forms of child labour. And this is particularly true in Yemen.

As we already said in our introductory remarks, we are convinced that improving the tragic fate of children in Yemen depends on all nations involved, near and far, in the armed conflict. We therefore urge them to honour the existing international consensus on the need to abolish the worst forms of child labour by working towards the peaceful resolution of the conflict in Yemen.

A certain number of recommendations can be made to the Government with a view to improving the fate of children in Yemen and increasing compliance with the Convention. The Government should take the necessary measures to ensure the full and immediate demobilization

of children who are currently enlisted as well as to end the forced recruitment of children under 18 years of age to the armed forces and to non-governmental armed groups.

The representative of the Government referred to an Action Plan for 2019–26. It would have been useful to have this information prior to the examination of the case. This would have enabled us to take it into consideration throughout the discussions. We hope that it is not just an announcement and that the plan will be implemented effectively. Therefore, we ask the Government to pass this information onto the Committee of Experts and to implement the measures contained in the plan effectively.

In addition to this new plan, the Government should, at the same time, urgently implement the measures outlined in the plan finalized in 2014 with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict, namely:

(1) aligning national legislation with international standards and rules which prohibit the recruitment and use of children in armed conflict;
(2) promoting and disseminating military orders that prohibit the recruitment and use of children under 18 years of age;
(3) conducting investigations on the recruitment and use of children by the Yemeni armed forces and making sure that those responsible are held accountable.

We call on the Government to report on the progress made towards implementing the plan.

The Government should also take immediate and effective measures to conduct thorough investigations, to prosecute those responsible for recruiting children under 18 years of age for armed conflict and to impose sanctions that are sufficiently effective and deterrent in practice.

In this way, the Government should strengthen its inspection service capacities.

Education is essential to protect children from the worst forms of child labour. We join the Committee of Experts in asking the Government to intensify efforts to improve the country's education system.

The Government should facilitate access to free basic education for all children, especially for girls. It should focus on improving the primary- and secondary school enrolment rates while simultaneously reducing the school dropout rate.

The Government should convey all useful information on the measures taken in that regard and the results obtained.

We have seen that initiatives have been taken to rehabilitate children enlisted for armed conflict as well as children working under hazardous conditions. The Government must continue taking time-bound measures to demobilize children enlisted to the armed forces and to non-governmental forces, as well as to stop children from working in hazardous conditions.

The Government must ensure that children receive adequate assistance for their rehabilitation and social integration.

The Government should report on the measures taken in that regard and the results obtained.

In order to implement all these recommendations, we ask the Government of Yemen to request technical assistance from the ILO.

Conclusions of the Committee

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

The Committee urges the Government to:

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

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.

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)

Written information provided by the Government

1. Terms of the listing

The Government of Zimbabwe has been listed for appearance in the Committee on the Application of Standards under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which it ratified in 2003. The Committee is interested in following up on aspects discussed at the 105th Session in 2016, which are a follow-up to the recommendations of the 2009 Commission of Inquiry on Zimbabwe appointed under article 26 of the Constitution of the ILO.

2. Issues contained in the report of the Committee of Experts on the Application of Recommendations and Conventions and action taken by the Government of Zimbabwe

2.1. Trade union rights and civil liberties

2.1.1. Alleged attack on the Zimbabwe Congress of Trade Union's Office and personnel by soldiers on 1 August 2018

It should be noted that the demonstrations in question were organized by political actors who alleged delays in the release of electoral results of the 2018 general elections and subsequently ushered violent activities targeting the Zimbabwe Electoral Commission (ZEC) offices which are situated close to the Zimbabwe Congress of Trade Unions (ZCTU) offices. The Government had to intervene in line with its constitutional duty to protect citizens and property as the demonstrations became violent leading to injury of people and indiscriminate destruction of property. It is unfortunate that buildings and individuals close to the centre of violent protests were inadvertently affected in the process of trying to maintain peace and order.

The Government of Zimbabwe, soon after the demonstrations, appointed a commission of inquiry headed by the former South African Head of State, His Excellency Mr

Kgalema Motlanthe which included, among others, eminent persons Chief Emeka Anyaoku, a former Commonwealth Secretary-General from Nigeria, Rodney Dixon QC from the United Kingdom and General Davis Mwamunyange, a former Chief of Tanzania People's Defence Forces. The commission conducted open and televised public hearings in which affected victims openly testified including named ZCTU officials. The commission since provided recommendations on its findings which the Government of Zimbabwe is currently implementing.

It is therefore our considered view that the Government has already complied with the request made by the Committee of Experts.

2.1.2. Alleged ban of strike action

As part of precautionary measures to protect people and businesses during the violent demonstration of 1 August 2018, the Government appealed to the citizens not to stage demonstrations or embark on related actions that were likely to be taken advantage of by people with other motives.

2.1.3. Denial and delay in trade union registration

There was only one issue pertaining to the contested registration of two trade unions, one of which has since been registered. The other one is still to approach the office of the registrar of trade unions as directed by the Labour court (reference is made to case number 3128 under the Committee of Freedom of Association).

2.2. The Public Order and Security Act (POSA)

The Government of Zimbabwe, consistent with its reform agenda, has initiated the process to repeal the POSA. New legislation will be enacted, whose provisions will be aligned to the principles of freedom of association enshrined in the Constitution of Zimbabwe. This new legislation, the Maintenance of Peace and Order Bill, has been drafted, published and is now under public consultations by Parliament. It is our hope that the social partners will, as usual, contribute during the public consultations to provide their input to the process of developing the law in question.

2.3. Labour law reform and the harmonization of the Labour Act

The labour law reform is ongoing and the drafts have been shared with the social partners at all material times. The recent draft that was produced by the Attorney General on 11 June 2019 has also been shared with the social partners and the Office. The Government looks forward to inputs and comments from the social partners for the finalization and subsequent enactment of the new Labour Act.

With the enactment of the Tripartite Negotiating Forum (TNF) Act in May 2019, sharing of pertinent information between the Government and the social partners will now be a matter to be prescribed in the rules that are to be made in terms of the said Act. The TNF Act makes it mandatory for all labour legislation to be processed through the TNF. The legislated TNF was commissioned by the State President on 5 June 2019. The TNF is about meaningful and sustained social dialogue between the Government and the social partners on socio-economic issues.

2.4. Public Service Act

Principles for the Public Service Act were approved by Cabinet on 2 May 2019 and the first draft Bill has been produced by the Attorney General. Consultations with the social partners on the draft Bill are set to commence in earnest once public service associations, the ZCTU and other federations, including the Employers' Confederation of Zimbabwe, have been furnished with the draft Bill.

It is expected that the reform of the Public Service Act will take into account the status of the secretariat of the Public Service Commission.

The Government took note of the comments made by the Committee of Experts regarding the registration of public service associations. The Public Service Bill will accordingly harmonize the registration process in line with the corresponding provisions in the Labour Act.

The newly adopted Tripartite Negotiating Forum Act makes it mandatory for consultation and negotiation of Zimbabwe labour laws in line with the Constitution and international best practices within the TNF. Accordingly, the social partners will be consulted on the new Public Service Bill in line with the TNF Act.

2.5. Health Service Act

The Health Service Act is lined up for review just like the Public Service Act and the Labour Act so as to align them with the Zimbabwe Constitution adopted in 2013 that provides for freedom of association and the right to strike under its section 65 and the ILO Conventions Nos 87 on freedom of association and protection of the right to organize, and 98 on the right to organize and collective bargaining.

2.6. Tripartite Negotiating Forum

The Government and the social partners have been working to develop a legal framework for the social dialogue institution in Zimbabwe, the Tripartite Negotiating Forum (TNF). The TNF Act was enacted and launched on 5 June at an event attended by all social partners. There is agreement among the social partners that this historic development will usher a new era for social dialogue in Zimbabwe. It is expected that the TNF Act will usher in genuine, effective and sustained dialogue in Zimbabwe. It is against this backdrop that there is conviction that most of the issues of concern among the social partners will be effectively dealt with within the purview of the strengthened TNF.

Discussion by the Committee

Government representative – The Committee of Experts raised a number of issues which relate to the implementation of the recommendations of the 2009 Commission of Inquiry on Zimbabwe's observance both in law and practice in respect of Convention No. 87, ratified in 2003, and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified earlier in 1998.

In its 2019 report, the Committee of Experts raised legislative issues which are mainly to do with reforms of the labour laws and another law that has a bearing on the labour market, that is, the Public Order and Security Act (POSA). I wish to start by addressing the legislative issues. The Committee of Experts expressed concern on the application of the POSA. I am happy to inform the Committee that this piece of legislation will be repealed. A new piece of legislation, the Maintenance of Peace and Order Act, whose Bill is currently under consideration by Parliament, will address issues of peace and order. Parliament is currently carrying out public consultations around the Bill. It is expected that employers' organizations and trade unions will take part in the public consultations.

The Committee of Experts also wishes to know how far Zimbabwe has gone in revising the Labour Act (chapter 28:01). I am happy to inform the Committee that we are at an advanced stage in revising the Labour Act. We now have a Labour Amendment Bill that the Government has shared with social partners in March 2019. The Government received comments from social partners in April 2019. The comments have since been incorporated into the

Bill. We are now waiting for the Attorney General's Office to furnish us with the revised Bill which will be subject to consideration by the Government and social partners.

Furthermore, the Committee of Experts requested an update on the revision of the Public Service Act (chapter 16:04). With regard to this Act, I wish to inform the Committee that the principles for the amendment of the Public Service Act were approved by Cabinet on the 2 May 2019, subject to the approval the Attorney General proceeded to produce the first draft Bill on 5 June 2019. The Bill is to be subjected again to consultations with social partners in due course. As I am speaking, arrangements are being made to share the Bill with concerned stakeholders ahead of the planned consultations. The revision of the Public Service Act will take into account specific issues raised by the Committee of Experts in relation to the status of the secretariat of the Public Service Commission and the registration of public service associations.

The Committee of Experts also wants to know what the Government of Zimbabwe has done in terms of revising the Health Services Act. I wish to inform the Committee that the parties to the Health Services Act have recently concluded the negotiations for the principles to amend the Act. The principles will be considered by Cabinet very soon to pave way for the development of the Bill. Essentially the revised Health Services Act will be in sync with the new Public Service Act as both cover the civil servants.

Before I conclude on legislative matters, I wish to inform this august house that Zimbabwe is revising its laws not only to align them to ratified ILO Conventions but more importantly to have these pieces of legislation in sync with our new Constitution.

For instance, labour rights and the right to collective job action are provided for in terms of section 65 of the Constitution of Zimbabwe. To this end, the Government has an obligation to revise various pieces of legislation that are not consistent with the new Constitution and these also include the labour laws. Chairperson, let me now turn to the issue raised in the report of the Committee of Experts pertaining to the complaints filed by International Trade Union Confederation (ITUC) and the Zimbabwe Congress of Trade Unions (ZCTU) regarding the injuries suffered by ZCTU personnel during the disturbances on 1 August 2018. It will be good to discuss this issue in its proper context. Unfortunately, the report of the Committee of Experts does not provide the necessary contextual detail. However, let me first of all give you details of the context. Following the 30 July general elections in Zimbabwe, the main opposition party organized demonstrations on 1 August 2019, alleging delays in the release of election results, yet the electoral law provides that the results of any plebiscite should be released within five days. The demonstrators became violent, attacking offices of the Zimbabwe Electoral Commission and other nearby properties. Government had to intervene in line with its constitutional duty to protect citizens and property as the demonstrations became violent, leading to injury or people and wanton destruction of property. It is unfortunate that buildings and individuals close to the centre of the violent protests were inadvertently affected. It will be misleading to report that soldiers targeted ZCTU offices and its personnel in the ensuing melee that pitted violent demonstrators against law enforcement agents and demonstrators. Offices of the ZCTU happen to be situated close to the offices of the Zimbabwe Electoral Commission (ZEC), which was the target of the violent demonstrators. This matter is well covered in the report of the commission of inquiry. This commission of inquiry was established by His Excellency the President of the Republic of Zimbabwe, Comrade Emmerson D. Mnangagwa. The commission of inquiry was headed by the former South African Head of State, His Excellency Mr Kgalema Motlanthe and included, among others, eminent persons which include Chief Emeka Anyaoku, a former Commonwealth Secretary-General from Nigeria. Also included were Rodney Dixon QC from the United Kingdom and General Davis Mwamunyange, a former Chief of Tanzania People's Defence Forces. The commission conducted open and televised public hearings in which affected persons including ZCTU testified openly. The commission has since provided recommendations on its findings which the Government of Zimbabwe is currently implementing. It is therefore a fact that Government has already complied with the requests made by the Committee of Experts on the issues of damages to ZCTU buildings and injury to its personnel. Regarding the alleged banning of demonstrators, as part of precautionary measures to protect people and businesses, during the violent demonstration of l August 20l8, the Government appealed to the citizens not to stage demonstrations, or embark on related actions that were likely to be taken advantage of, by people with other motives. That appeal, I am glad to confirm, was by and large welcome and heeded by the generality of Zimbabweans.

Concerning the alleged denial or delayed registrations of trade unions, I wish to submit that there was only one issue pertaining to contested registrations of two trade unions, one of which has since been registered. The other one, is still to approach the Office of the Registrar of Trade Unions as directed by the Labour Court. My Government has already submitted this information to the Committee on Freedom of Association under Case No. 3128.

I wish to conclude by dwelling on an important development in our country which will change the social dialogue landscape in Zimbabwe and help to build trust between the Government and social partners going forward. On 24 May 2019, the Parliament of Zimbabwe passed the Tripartite Negotiating Forum Act, known as TNF in short. The legislated TNF was commissioned on 5 June 2019. This was launched by the Head of State, His Excellency Emmerson D. Mnangagwa, at a function that was attended by leaders from Trade Unions, Employers' Organizations, some of whom are in this room today. During the launch, all of us from Government, Business and Labour, reaffirmed our commitment to address socio economic issues, including those that are labour related, through sustained social dialogue.

At the launch, the ILO Country Director was represented. The ILO Director-General, Guy Ryder, was able to send a representative to the launch of the TNF, in Zimbabwe, on 5 June 2019. The TNF Act provides for consultation and negotiation around labour laws in Zimbabwe. The Government of Zimbabwe is therefore going to revise labour laws and align them to the Constitution. Accordingly, the social partners will be consulted on the new Public Service Bill in line with the TNF Act. It is our considered view that the Government of Zimbabwe has demonstrated full respect for the comments and observations of the ILO supervisory bodies and the concerns of the social partners and their very diverse opinions on various issues of interest.

I would therefore like to assure the Committee that the Government of Zimbabwe's commitment is to expedite the Labour Law Reform and Engendering Social Dialogue, as it helps recover and grow our national economy. Thus, besides meeting the Committee's expectations, we are implementing all these reforms for our national benefit.

I look forward to a productive engagement with the distinguished members of this Committee in exploring further possibilities, for the strengthening of the observance of International Labour Standards in Zimbabwe, including Convention No. 87.

Employer members – I would like to begin by thanking the distinguished Government delegate from Zimbabwe for her detailed submissions today and in particular the very constructive and open tone in which these submissions were delivered, we very much appreciate that. As the

participants in our Committee know, Convention No. 87 is a fundamental Convention dealing with freedom of association and was ratified by Zimbabwe in 2003 and has been discussed since 2006 on five occasions before this Committee. I am very pleased to be here at a moment presenting this case when it appears that there is some very positive progress to report.

Recalling that our discussion in 2006 focused on the POSA and the elements of that Act that were not in compliance with Zimbabwe's obligations under the Convention, and taking into account that the 2017 high-level technical assistance mission that took place in Zimbabwe and noted the divergence that existed in that time in the scope of the POSA and its application to legitimate trade union activities continued to exist, we are very pleased to note positively today the Government's indication that the POSA will be repealed and the distinguished Government delegate's submission that Parliament is currently carrying out consultations with the social partners on potential legislation that will replace the POSA.

Clearly as this has been a long-standing issue, in terms of Zimbabwe's compliance with the Convention we are encouraged to hear about these measures and would encourage the Government to provide additional information regarding these measures in its report to the Committee of Experts at its next session.

In respect of a labour law reform and the Labour Act, the Employers note that the Committee of Experts and this Committee have previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Convention.

Taking into account the conclusions of the Commission of Inquiry, the Employers also welcome the comments made in respect of measures taken in this regard. We therefore, request that Government provide this information which would constitute a status update on its efforts to amend the Labour Act to the Committee of Experts, including the specific measures addressed today.

More specifically, with respect to the Public Services Act, the Committee will recall that the Committee of Experts noted that the Attorney General was working on a draft of an amendment to the Public Service Act, to take into the ability of public servants to establish and join workers' organizations without the obligation of prior authorization.

The Employers' group notes the Government's submission today that the principles in this regard were approved on 2 May 2019 and that the Attorney General has produced a first draft on 1 June 2019 and that consultation with the social partners including the sharing of the draft bill would take place.

We were also advised that the Health Services Act will be revised so that it is in sync with the Public Service Act and we very much encourage the Government in this regard, in particular in its efforts to consult with the social partners in respect of this legislative change. The Employers' group also requested the Government to provide a report on the status of this process and a copy of the draft bill to the Committee of Experts for their 2019 session.

The Employers' group will not address the Committee of Experts observations regarding cases in which strike action was banned or otherwise regulated and we will restate our well-known position that in our view this does not fall within the scope of the Convention and therefore our discussion in conclusions will not address those issues.

Turing to the issues related to civil liberties. While noting the ZCTU's allegations of injury and attack on trade union members on 1 August 2018, the Employers must take this opportunity to note its deep concern regarding any possible use of violence to manage demonstrations which in our view is an unacceptable response. The Employers note the additional information provided by the Government today and the additional context that was given.

And while we understand that such circumstances can be difficult, we do take this opportunity to reinforce our view about the importance of ensuring that government officials refrain from violence as a reaction to such matters.

In respect of the ZCTU's allegations of the denial or delay of trade union registrations, the Employers requested the Government to provide information specifically in response to these issues to the Committee of Experts for its next session so that this issue can be reviewed in more detail.

Finally the Employers' group welcomes Zimbabwe's focus on rebuilding social dialogue in the country, including the launch of the TNF. The Employers' group is encouraged by this development and encourages the Government to make a strong commitment to the engagement in the process of social dialogue with the social partners within the TNF and also provide additional information about the dialogue process that is engaged in in respect of the TNF in its report to the Committee of Experts.

Overall, we feel that there is some very important forward motion in this case and we look forward to continuing on that path.

Worker members – We are once again examining the application of a fundamental Convention in Zimbabwe. Despite the in-depth recommendations delivered by the 2009 Commission of Inquiry and the 2017 high-level mission of the ILO, the Government violates in a systematic way the core principles of freedom of association.

The level of brutality in squashing the exercise of civil rights and severe criminal sanctions against activists is of enormous concern. The absence of real reforms over the past decade continues to enable serious violations denying workers the free exercise of their rights under the Convention.

Just this January we witnessed a massive clampdown in response to a peaceful protest. When the Government announced an extraordinary 100 per cent increase in fuel prices, there was a strong reaction from the population. The ZCTU called on workers to stay home to demonstrate that such a drastic increase in fuel prices would impact their mobility and access to employment.

This peaceful form of protest was met with a violent response by the Government. The country was reported to be on a virtual lockdown. The Government blocked the internet and social media for a number of days to prevent access to information and free speech. The security forces, police, army and others were deployed unto the streets committing violent attacks on peaceful protesters. They beat protesters and opened fire on them. They arbitrarily assaulted people on the streets and in some cases entered homes to drag out and beat up innocent people amidst allegations of sexual violence, including rape. People died, many were injured and over 200 arrested. Instead of investigating and prosecuting those responsible for the brutal violence, the Government targeted ZCTU leaders with severe criminal charges that could put them behind bars for decades and instil fear in trade union members.

The Government attempts to justify its violent and excessive response by arguing that the stay away spilled into street protests and disturbances. However, we remind the Government that forceful police interventions must remain proportional and should in no circumstances lead to the excessive violence that was unleashed on innocent protesters. Zimbabwean workers are already facing an enormous hardship due to the economic crisis and the non-payment of their wages. Moreover, such a reasoning seems to condone the arbitrary violence perpetrated by the police and security forces contributing to an atmosphere of fear in society.

It is also notable that this was not an isolated incident. In October 2018, police prevented the ZCTU from holding a peaceful demonstration organized against the Government's announced economic measures. The ZCTU informed the authorities of its intention to hold a peaceful demonstration that included the delivery of a workers' petition to the Minister of Finance, even though this notice was not required by the POSA. Police stormed the premises of the ZCTU and blatantly blocked the protests with trucks and water cannons and beatings. The ZCTU's President, Peter Mutasa, and its Secretary-General, Japhet Moyo as well as 39 others were subsequently arrested. The arrest of Peter Mutasa sparked an immediate reaction of solidarity actions by trade unions all around the world.

Clearly, the Government uses these repressive and violent tactics to intimidate trade unions and their members from carrying out their activities in full freedom. It is worth reiterating the Committee on Freedom of Association's comment in this regard. The rights of employers' and workers' organizations can only be exercised within the framework of a system that guarantees the effective respect of fundamental human rights including the right of assembly and freedom of opinion and expression.

The Commission of Inquiry as well as previous conclusions of the Committee called for reforms to enable trade unions to fully exercise their rights. One of such is the reform of the institutional culture of the security forces and law enforcement. The Government states that they have taken steps to train the police and have adopted a curriculum to deliver this training on an ongoing basis but it is plain that the actions of the police bear no witness to any such training on civil liberties and international labour standards. The repression perpetrated by the police speaks louder than the expected outcome of such a training. The Zimbabwe Republic Police must do more than adopting a curriculum. It must adopt the principles of civil liberties and freedom of association as part of its operational directives and code of conduct. It must discourage unacceptable behavior by investigating and punishing errant conduct of those who act in violation of the directives and code. We call on the Government of Zimbabwe to fully investigate the excessive violence perpetrated against workers by the police and submit a report to the Committee of Experts with evidence of the sanctions imposed against those who have been found responsible.

Secondly, we are deeply concerned that the Public Service Amendment Bill requires an authorization before public service associations and trade unions can be registered. The Bill also denies staff of the Civil Service Commission the right to organize in breach of Article 2 of the Convention. All workers and employers, without distinction whatsoever, have the right to establish and join organizations of their choice subject only to the rules of the organization concerned. The State cannot condition the exercise of this right or administer it under circumstances amounting to previous authorization. The only group of workers whose right to form or join organizations of their choice that may be limited is the police and the army.

Convention No. 87 does not contain a provision excluding public servants or civil service staff from its scope. Clearly, it is a violation of the Convention that the Public Service Act and the proposed new Bill deny staff of the Civil Service Commission the right to organize and conditions the registration of public service associations and trade unions on the previous advice of the Civil Service Commission. The Commissions prior advice in this respect operates as previous authorization and violates the Convention to that extent. The Health Service Act also denies health-service workers this right. We call on the Government to amend the Bill to comply with the Convention and constitutional principles of the ILO and amend the Health Service Act accordingly.

We are equally concerned about the lack of progress in amending the Labour Act, which has come under repeated criticism by the supervisory bodies and the Commission of Inquiry. We reinforce the call made by the Committee of Experts and urge the Government to immediately engage in full, frank and in-depth consultations with its social partners to review the Labour Bill and the new public order Bill.

Finally, we are deeply concerned about the extremely broad definition of essential services that continues to be in operation to control and limit the legitimate activities of trade unions. According to Principle 11.3, essential services include all services the interruption of which may endanger rights under the Constitution.

We note, in agreement with the Committee of Experts, that the definition is so broad as to restrict the legitimate exercise of Article 3 rights in general and the right to strike in particular. Essential services must be defined strictly and should be limited to services whose interruption could endanger the life, personal safety or health of the whole or part of the population. This provision therefore constitutes an obstacle for workers seeking to exercise their rights under the Convention and must be revised.

This case deserves our specific attention. The issues we are discussing today have now been pending for over a decade. While the absence of progress is worrisome enough, there are new and very serious instances where the rights under the Convention have been breached by the public authorities. We want to take the commitments made by the Governments on the application of the Convention seriously. To be credible, the Government must put them into effect in the country and not only in our discussions in the Committee.

We had real hopes that with the new Government the situation in Zimbabwe would improve for working people. However, the situation has in fact worsened. We call on this Committee to denounce the unacceptable situation that workers in Zimbabwe have to go through every day.

Employer member, Zimbabwe – I take the floor on behalf of the Employers' Confederation of Zimbabwe to contribute to the issues under discussion. We thank the Government for their response particularly on issues and activities which we are all seized with as tripartite partners as we work towards improving the application of International Labour Standards in Zimbabwe. As Employers we have witnessed, following the ratification of the Convention, the multiplicity of trade unions and employers' associations given the guarantee to freedom of association which is enshrined in section 65 of the Constitution of Zimbabwe. We continue to be involved as social partners and we are regularly consulted in the legislative reforms. We hope that we can expedite the conclusion of this process so that the much awaited reforms can be concluded, here I am talking about the Labour Act, the Public Service Act, the Health Act and the POSA. At present as we speak amendments to the Labour Act have been shared and we are being consulted as social partners. Allow me to also mention that freedom of association in our country is institutionalized as we employers and employees can engage in collective bargaining at national, sector and workplace levels. The TNF is now legislated following the promulgation of the Tripartite Negotiating Forum Act early this month. As Employers, we are of the view that this move will strengthen social dialogue as social partners will now be held accountable of their decisions and actions. We also hold the view that any outstanding issues elaborated here will be discussed and resolved by the social partners in the TNF. We look forward to meaningful social dialogue and for this to happen there must be mutual trust and mutual respect of each other as the parties sit around that TNF table. There must be cordial relationships and negotiation must be in good faith. As social partners we also look to meaningful engagements

which will result in mutual gains. The need to build capacity for social partners with the requisite negotiating skills cannot be overemphasized. The parties to the TNF need capacity building so that the negotiating process is taken seriously. The events surrounding the demonstrations on 1 August 2018 in Zimbabwe highlighted here could have been avoided. It is our view that this could have been avoided if parties involved had discussed the issues around the table in the form of the TNF. We do not foresee a repeat of the same in the near future as we are prepared to forge ahead in meaningful engagements with our social partners and that we now have a legislated TNF.

Worker member, Zimbabwe – Allow me to start by thanking your Committee for the efforts in seeking to restore dignity, security and prosperity to the working people and working families of Zimbabwe. On behalf of the suffering workers of Zimbabwe, I would like to bring to your attention the serious violations of human and labour rights, especially as they relate to the violations of the principles and provisions of the Convention. The violations are so grave to the extent that if the Committee does not take stern measures against the Government of Zimbabwe, trade unions and civil society organizations will soon disappear in Zimbabwe or rendered ineffective to hold the Government accountable. This is because there is a deliberate and sinister plan that is being implemented to shrink spaces for democratic participation.

The violations relate to killing of citizens, mass arrests, torture, harassment, intimidation, imprisonment, anti-trade union discrimination, obstruction of citizens' rights through the use of force and live ammunition. Ours resembles a war zone in a country not at war. This usually happens once there is a communication of a protest action and actual execution of same against Government's policies injurious to the socio-economic interests of the people.

In November 2017, Zimbabwe had a new Government following the fall of Mr Robert Mugabe, whose Government's record of human and labour rights violations is well-known by this Committee and well documented by the Commission of Inquiry of 2009. The change of Government brought some hope to the people of Zimbabwe as the new regime made promises to respect human rights. However, what we have witnessed so far made it a crime to have been optimistic. The supposed liberator has become more dangerous than its predecessor and we now live in fear and hope is now on a fast lane of retreat.

The serious events that occurred on 1 August 2018 during election period put our fears in perspectives. On the said date, a group of people demonstrated on the streets of Harare demanding the release of election results. In response to the protest actions, the Government of Zimbabwe deployed the army to disperse the protesters. The army and the police indiscriminately fired bullets in the central business district of Harare. Several people were injured and six persons killed.

During this incident, the ZCTU offices were deliberately targeted and our Harare head office was littered with bullets that damaged our building and glasses were shattered, injuring the ZCTU Legal Advisor Mr Zakeyo Mtimtema and the security officer Mr Joseph Chuma. The details about this incident are contained in a commission report titled "Report of the commission of inquiry into the 1 August 2018 Post-Election Violence" chaired by former South African President Mr Kgalema Motlanthe. The commission among others noted with concern the use of live ammunition against defenceless citizens and recommended compensation to victims. Unfortunately no such compensation has been made so far.

As if that incident was not enough, the use of live ammunition against citizens occurred again on 14–16 January 2019 during protest action against rising cost of living including fuel increases. This incident left 17 persons dead, 81 injured and treated for gunshot wounds and 1,055 people were arrested and imprisoned including 12 juveniles. They were subjected to mass trials and 995 were denied bail.

The ZCTU Secretary-General Mr Japhet Moyo and President Mr Peter Mutasa were also arrested on 21 and 26 January respectively and jailed for two weeks only to gain their freedom through a court order coupled with strict bail conditions that include to report daily and twice a week for Mr Mutasa. The crackdown was extended to civil society leaders and human rights defenders. They have been charged under section 22 (2) (a) (iii) of the Criminal Law (Codification and Reform) Act Chapter 9.23 for subverting Constitutional Government or alternatively inciting public violence under section 36 (1) (a) of the same Act. They face a 20-year jail term if convicted. It is the State's case that it is criminal to call for a protest action against Government policy even if such policy has direct capability to injure the economic and social rights and well-being of the people. Besides, the argument by the Government is a direct departure and disregard for the clear provisions in our Constitution that guarantees the freedom to demonstrate and petition in section 59.

We are aware that our Government disputes the figures of people it killed as it put the number to 12 but has not done anything to ascertain the number nor pay compensation to the affected people or their families. Our Government justifies its action of killing by alleging that the protest was violent and goods were looted. To the contrary, it was the security forces that responded violently to the protests by attacking protesters. Besides, the ZCTU had informed them of the planned protest and the rules of managing protest suggest that security forces take adequate measures to protect protesters and properties. To the contrary, the security forces simply rained brutal forces on legitimate protesters under the pretext that the protest was used to perpetrate looting. During the protest period, the Government denied us the right to information as it disconnected internet services and social media access in an attempt to hide the atrocities perpetrated against the protesters by security forces that followed people into their homes and brutalized them and some women were reportedly raped. These findings were validated by the Zimbabwe Human Rights Commission (ZHRC), a Constitutional Body that observed that uniformed members of the Zimbabwe National Army and the Zimbabwe Republic Police instigated systematic torture to civilians visiting their homes at night.

The Government uses State media to incite hate speech and incite menaces against the ZCTU with the intention of blackmailing our organization by the public and to lay pretexts for senseless State attacks against us. Concerning the labour law reforms, the strategy of the Government is to engage the ZCTU in a deliberate haphazard manner, including resorting to last-minute dispatch of outcome documents of the process.

We have just received an official copy of the new Labour Bill here in Geneva and the Maintenance of Peace and Order Bill meant to repeal and replace the POSA, which is under preliminary process. We have not been consulted at all.

Furthermore, a total of 169 trade unionists including the ZCTU President and Secretary-General were arrested on 11 October 2018 for calling for a protest action against increased tax on transaction from 5 cents to 2 per cent per transaction. The increased tax is a rip-off of the workers' income who are struggling to make ends meet in the face of dire economic conditions. The ZCTU leaders and members have all been acquitted by the Court in this matter after several trials that drained the ZCTU's financial resources and lost time.

Despite all these challenges, we continue to call for engagement with our Government. We are not a violent organization as portrayed, our record speaks for itself. On the eve of this ILC on 5 June 2019, our Government partially responded to our call for dialogue and together we launched the TNF. This is a step in the right direction. However, we remain under arrest and wonder how we will participate in the negotiations when we face jail. We will be on trial soon after the closure of this Conference and we are not free to travel due to bail conditions imposed.

Let me conclude by reiterating the established principles of freedom of association. It is my submission that by arresting, detaining the President and Secretary-General of the ZCTU and teachers' organization leaders, the Government of Zimbabwe violated Article 3(1)(2) of the Convention that provides that "workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes, the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."

The ILO supervisory mechanism has over the years stated that "allegations of criminal conduct should not be used to harass trade unionists by reason of their union membership or activities". Furthermore, "all appropriate measures should be taken to guarantee that irrespective of trade union affiliation, trade union rights can be exercised in normal conditions with respect for basic rights and in a climate free of violence, pressure, fear, and threats of any kind".

The ZCTU urges the honourable Committee to disapprove the excessive and disproportionate use of live ammunition against defenceless people by the Government of Zimbabwe. Instead of persecuting workers, the Government must devote its time to address the economic ills that have impoverished the workers of Zimbabwe.

Government member, Romania – I am speaking on behalf of the European Union (EU) and its Member States. The Candidate Countries, the Republic of North Macedonia, Montenegro and Albania, as well as EFTA country Norway, member of the European Economic Area, align themselves with this statement.We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights. We call on all countries to protect, promote and respect all human rights and labour rights and we attach the highest importance to freedom of association and right to organize. Compliance with Conventions Nos 87 and 98 is essential in this respect.

Zimbabwe–EU relations are governed by the Cotonou Agreement, which is the framework for cooperation with the European Union. This Agreement is based on the commitment to respect human rights, democratic principles and the rule of law. On 5 June, the Government of Zimbabwe and the EU launched the formal political dialogue process in accordance with the Cotonou Agreement, which paves the way for enhanced cooperation.

Zimbabwe is also amongst the signatory countries of the Eastern and Southern Africa (ESA) region of the interim Economic Partnership Agreement (iEPA) that is being implemented since 2012. Further, Zimbabwe together with the other members of the ESA region of the iEPA, have requested to deepen this Agreement and the EU responded positively. The negotiations in this respect, will cover all trade related issues, including trade and sustainable development and consultative bodies for civil society.

It is not the first time that the case of Zimbabwe is discussed by the ILO supervisory mechanisms in relation to freedom of association and right to organize. In 2009, a Commission of Inquiry was appointed to examine observance of Conventions Nos 87 and 98, and in 2016 this Committee discussed compliance with Convention No. 98 and the recommendation of the Commission of Inquiry on the implementation of Conventions Nos 87 and 98.

We want to reaffirm that an environment conducive to social dialogue and trust between employers, workers and governments is essential for social and economic stability. We note with interest, the adoption by the Government of a Tripartite Negotiating Forum Bill. We hope this will constitute a first step towards institutionalizing tripartite dialogue in the country.

We also note, that as recommended by the conclusions of the training of trainers' workshop for members of the Zimbabwe Republic Police organized with ILO's assistance, a training curriculum has been developed and is now part of the material taught to all members of the police during induction and refresher courses. This contributes to a better understanding of national labour laws, labour rights and the role of the police and can contribute to a climate free of violence against trade unions.

However, we express deep concern over recent acts of repression against workers in demonstrations, including the allegations of injuries suffered by the ZCTU personnel during the demonstration on 1 August 2018, as well as in the beginning of this year, cases of strikes and demonstration being banned or criminalized and denial or delay of trade union registration. We expect and underline the importance that all acts of violence and repression are duly investigated and pursued.

We recall that the need to ensure public order and security should not be used as an argument to limit the rights of trade unions and ban protest actions. In this context the ILO High-level Mission had suggested the Government reviews the application of the POSA, to ensure with greater clarity that trade union activities are outside its scope. We are pleased to hear from the Minister that the POSA will be repealed and we call on the Government to review the application of the POSA in consultation with the social partners.

We also regret that despite numerous requests by the Committee, there is no progress on bringing the labour and public service legislation into conformity with the Convention. We therefore urge the Government to amend the Labour Act without delay and in full consultation with social partners.

We recall the right for all civil servants to unionize and join trade unions of their own choosing, and encourage the government to include the right for the staff of the Civil Service Commission to establish and join occupational organizations in the Public Service Amendment Bill.

We also request the Government to ensure that the legislative provisions dealing with the registration of organizations of public servants will be sufficiently clear, so as not to give rise to possible interpretation of the law, as giving discretionary power to the Civil Service Commission to refuse the registration of any organization.

Based on these considerations, we encourage the Government to fully and systematically consult with social partners on the review of the public service legislation and other labour matters. The EU and its Member States will continue to support Zimbabwe in these endeavours.

Government member, Egypt – We listened to the statement made by the Government of Zimbabwe and that gave us valuable information about measures taken by the Government in order to guarantee application of the Convention. In particular, we noted what was said by the Government about new legislation on trade unions and we noted what was stated about the Constitution of Zimbabwe. We see that the Government has now completed its preparations for the adoption of this new legislation and it has consulted the social partners.

Efforts have also been undertaken to amend a number of other pieces of legislation that relate to this Convention. In

particular, we noted what was said about the POSA, the law on certain medical services also should be noted. All of this shows that the Government is really trying to ensure application of this Convention.

We commend the Government of Zimbabwe for all that it has done in seeking to allow freedom of association and the right to organize to be truly exercised in their country. We also commend the promotion of dialogue with social partners. We support the Government in what it is seeking to do in endeavouring to ensure application of the Convention in law and practice.

Worker member, Kenya – I speak on behalf of the East African Trade Union Confederation (EATUC) on this issue of Zimbabwe. The attack on trade union rights and civil liberties by the Government of Zimbabwe has a history that this Committee is well aware and weary of. To be discussing Zimbabwe for the 14th time this year by the Committee is a clear sign of the serious disrespect of the recommendations of the Commission of Inquiry of 2009 and the series of conclusions of this Committee.

As may be recalled, in 2016 this Committee dealt with the case of Zimbabwe concerning anti-union discrimination and recommended a stop to such practices. It is unfortunate to report to this Committee that eight trade union leaders belonging to the Energy Sector Workers Union of Zimbabwe (ESWUZ) and another one belonging to the National Energy Workers Union of Zimbabwe (NEWUZ) are facing criminal charges for participating in a protest action against a government company – the Zimbabwe Electricity Supply Authority. Their crime was to demand the implementation of the 2012 collective bargaining agreement and being anti-corruption whistle blowers. They are charged for alleged participation in an unlawful collective job action, breach of confidentiality and insubordination. These charges are new euphemisms for official harassment.

There is also the case of the issue of the President of the Amalgamated Rural Teachers Union of Zimbabwe, Mr Masaraure Obert, who was abducted from his home by suspected state security agents as another example of the deliberate attempt to undermine the tenets of the freedom of association. Mr Masaraure was brutalized and dumped in the bush because he was advocating for an industrial protest action to demand better working conditions of teachers necessary for better education service delivery. This assault was so brazen that the European Union demanded a swift, thorough and transparent investigation by the competent authorities while also demanding that citizens' civic and constitutional rights be respected.

On another note, the second Vice-President of the ZCTU, Mr John Chirenda, was dismissed by the Zimbabwe Revenue Authority on the 10 April 2019 for no clear reasons save to say he insisted that management should speak to the workers through the union. The antics of the management to speak directly to workers is a direct move to undermine the trade union.

We urge this Committee to be weary of doing the needful by siding with the civil liberties, especially as it concerns these unacceptable violations. Zimbabwe must be asked to comply with the provisions of Convention No. 87.

Government member, Algeria – Algeria thanks Zimbabwe for presenting its report and notes with satisfaction the legislative reforms undertaken, in particular the reform to harmonize labour law and the Public Service Act, within the framework of constructive social dialogue and supported by the Government and the social partners.

The Algerian delegation also takes positive note of the fact that Zimbabwe remains committed to principles which aim to strengthen freedom of association. We are convinced that this commitment can be maintained by taking note of the information provided by the Government. According to that information, a draft law on peacekeeping and law enforcement is currently subject to consultations with a view to ensuring that legislation complies with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and is aligned with the principles of freedom of association and with the civil liberties established in the Constitution of Zimbabwe.

Algeria also welcomes the introduction of measures that aim to fully implement the recommendations of the Committee of Experts. In particular, it welcomes the measures to ensure protection and guarantee the security of managers and trade union members by conducting a detailed independent investigation into allegations of intimidation, threats and impediments to freedom of association. This is evidence that the new approach undertaken by the Government of Zimbabwe is well founded and should be further developed in light of the obligations of the Convention.

That said, you will surely agree that progress is fragile given the circumstances. It is imperative to maintain and consolidate that progress with the help of the ILO, especially because new challenges lie ahead which will require other approaches. It is for this reason that Zimbabwe is committed to fully implementing the Convention and to continuing the efforts needed to improve tripartite dialogue and to facilitate legislative reforms in line with constitutional principles that guarantee respect for the rule of law and fundamental liberties.

Observer, Public Services International (PSI) – This is one of those cases in which the patient has stopped taking the antibiotics before time and relapsed or never fully cured. It has been ten years since the Commission of Inquiry and despite the efforts we have not been able to pursue the Government of Zimbabwe to fully comply its recommendations and take the necessary steps to amend its labour and other legislation interfering with the exercise of freedom of association, or – what is even worse – the Government is adopting new legislation in violation of such principles.

Perhaps, what makes it more frustrating is that we visit this house again – in its Centenary – and find out that we are fighting for these same old issues with a new Government – the same Government which not long ago promised a change but today is presenting us with the same old excuses not to comply with the observations of the Committee of Experts and the conclusions of this Committee.

Contrary to the current trend of thinking in this house, we should find methods to strengthen the supervisory mechanism and the ILO capacity to make sure member States comply with their commitments and the international treaties they have ratified. Meanwhile, we will reiterate our demands and the issues raised by the Committee of Experts in the hope that we see some improvement in the near future.

For instance:

- Principle 4.4 of the Public Service Act of Zimbabwe must be repealed or amended in order to grant staff of the Civil Service Commission the right to organize, irrespective of whether they are engaged in the state administration or are officials of bodies which provide important public services.
- Principle 9.2 of the Public Service Act must be repealed or amended to ensure that legislative provisions adopted on the basis of this principle do not impose in practice a requirement of "previous authorization", in violation of Article 2 of this Convention.
- Principle 11.3 of the Public Service Act which provides for a very broad definition of essential services, must be amended so as to ensure that workers fully enjoy the rights guaranteed by the Convention.
- And most importantly, the process of amendments and adoption of the legislation that complies with the Conventions must be done in full consultation with the social partners.

Government member, Malawi – Malawi has taken note of the comments raised by the Committee of Experts, in reference to Zimbabwe, regarding application of Convention No. 87. We have also listened to the submission by Zimbabwe. Malawi appreciates the steps that Zimbabwe has taken, ensuring that trade union rights and civil remedies are protected and respected, in line with the Convention. Malawi also appreciates the Government of Zimbabwe, in implementing the recommendations made by the high-level commission of inquiry, headed by His Excellency, Kgalema Motlanthe, former President of South Africa.

Malawi further applauds the positive steps taken by the Government of Zimbabwe in its legislative reforms, to ensure compliance with the provisions of the Convention. The Government of Malawi would like to encourage the social partners to continue cooperation and providing their inputs to the ongoing process of reviewing and developing of roles. The Government of Malawi hopes that the final and adopted copies of the reviewed legislative texts will be shared with the Committee of Experts in this regard.

Worker member, Netherlands – As a representative of the Netherlands Trade Union Confederation (FNV) and a large group of its activist members, who already campaigned for over 20 years for justice and respect of trade union rights in Zimbabwe, I want to express our serious concern for the recent heavy and repeated violations by the Government of Zimbabwe of the Convention.

In its 2018 report, the Committee of Experts has noted with concern the allegations submitted by the ITUC and ZCTU regarding the injuries suffered by the ZCTU personnel, when the union's office came under attack by soldiers during the demonstration on 1 August 2018.

Of a more recent date is the violent government reaction when the ZCTU called for a peaceful three day stay-away from 14 to 16 January 2019, demanding an end to the economic crisis faced by the country, and a reversal of the over 150 per cent increase of fuel prices announced by the Government.

Police and security forces attacked peaceful protesters by opening fire, injuring many. We have reports of 17 dead and over 1,055 persons arrested. We heard about fierce crackdown with reports of heavy military and police presence on the streets and security forces arbitrarily assaulting citizens, including following them to their homes.

On 21 January, we learned that ZCTU General Secretary, Japhet Moyo, had been arrested at the airport upon his return from abroad. He was processed at the central police station with a charge of subverting the constitutionally elected Government. Followed by the arrest of the ZCTU President, Peter Mutasa, on 26 January 2019, on charges of inciting violence and subverting the constitutional Government. Repeatedly, his house was raided by police and his brother severely beaten, while he escaped abduction.

We want to emphasize that freedom of organization means workers have the right to express their views on a government's economic programme, including through peaceful demonstrations, in an atmosphere free of fear, intimidation and repression. We urge the Government of Zimbabwe to do all what is possible to restore a social climate, free of violence, to guarantee the safety of trade unionists when they engage in their legal and peaceful action. With the ZCTU, we also demand an independent judicial inquiry into the excessive violence against protesters over the January crackdown, which should be instituted without delay, in order to punish the guilty parties and prevent repetition.

We call up on the Government of Zimbabwe to respect trade union rights for peaceful protest and address the economic problems affecting the country, rather than attacking unionists.

Government member, Senegal – Senegal, hereby, thanks the delegation of Zimbabwe for the information that it has brought to the attention of the Committee.

The Government of Zimbabwe has informed us of the progress made towards the different legislative reforms aiming to implement the recommendations of the commission of inquiry. This shows its willingness to cooperate with the ILO supervisory bodies and ensure respect for the Convention. The enactment of legislation intended to guide social dialogue and tripartite participation in Zimbabwe offers opportunities that the Government and the social partners should seize with a view to finding common solutions to the problems that they are facing.

That said, the Government of Senegal urges the secretariat to provide support to the parties concerned so that they can prioritize inclusive social dialogue and productive tripartism at the national level, thereby preserving the best interests of the country.

Worker member, United States – For years, Zimbabwe has consistently failed in law and practice to respect and protect assembly rights. Unions and their allies who protest peacefully to express opinions to Government pay a high price. The Government systematically suppresses this right through a pattern of threats, harassment, physical abuse, and use of force, as well as arbitrary arrests and detentions specifically targeted at trade union leaders, members and their local allies.

The right to freedom of assembly is a fundamental human right. Section 58 of Zimbabwe's Constitution specifically guarantees the right to peaceful assembly and association. Yet the POSA requires organizers to notify police of plans to hold a public gathering of as little as 15 people seven days in advance, except supposedly in relation to public gatherings held by a registered trade union. Failure to do so may result in criminal prosecution and civil liability. As stated in the ILO Commission of Inquiry report from 2009, as a matter of courtesy the ZCTU gives notice to the police of assemblies.

Authorities often either do not respond or deny requests by trade unions, civil society, religious groups and political parties other than the ZANU-PF to hold public events if the agenda conflicts with government policy. This law is often used to ban protests by unions. Policymakers must make real changes to the law to comply with the Constitution and the Convention. Until then, Government must stop using the law to target unions and allies. In a democracy, unions cannot fulfill their basic roles without exercising this right.

Currently, the people bear hardships brought on by failed policy over many years, including massive unemployment, Government debt, an acute shortage of hard currency and crumbling infrastructure. While the elite are largely protected, those living in or near poverty deal with major price increases, tight monetary policies and regressive tax measures.

In October 2018, police arrested Peter Mutasa, President of the ZCTU, and 35 unionists and others in Harare and other cities as they awaited a court decision on a planned demonstration. Police had previously denied ZCTU's request for a permit, and a magistrate dismissed ZCTU's challenge to the ban.

In response to this sustained crisis, on 11 January 2019, the ZCTU notified the Government of plans to hold protest actions if the Government failed to address concerns of its members in seven days. The next day, the Government announced a massive increase in the cost of fuel more than doubling fuel prices for workers who already struggled to get to work. The ZCTU then called for a three-day stay away in protest of the increases. Over the next few days, while members were on strike, groups of people not organized by the ZCTU engaged in public demonstrations. The military brutally cracked down on the protestors. Union leaders, ZCTU Secretary-General and President still face

charges, charges which could lead to a 20 year jail sentence. All charges must be dropped now.

The Government also targets civil society leaders criminalizing human rights defenders in Zimbabwe. Those arrested include members of the Crisis in Zimbabwe Coalition, members of the Parliament of the Movement for Democratic Change and the president of the Amalgamated Rural Teachers Union of Zimbabwe.

The Government must undertake serious reform in order to meet its obligations to freedom of assembly as stated in its constitution and to ensure freedom of association, as required by the Convention.

Government member, Cuba – My delegation would like to reaffirm the importance of promoting tripartism and social dialogue in all countries with the aim of resolving the differences that arise in the world of work, and enhancing protection of workers' rights and of freedom of association, which should be a long-standing objective for all.

In this case, the Government of Zimbabwe has reported on the measures it has taken to meet its commitments at the ILO, which shows its willingness to continue progressing. It explicitly mentioned the legislative measures it has been taking. Therefore, we recognize the efforts made by the Government of Zimbabwe and encourage it to continue in the same vein.

We also emphasize the need to continue promoting, within the framework of the ILO, measures and programmes that encourage the provision of technical assistance to countries and give space for governments to take action aimed at resolving challenges in an atmosphere of cooperation and exchange.

Observer, Organisation of Trade Unions of West Africa (OTUWA) – I speak on behalf of OTUWA covering 16 countries. Some of those workers coming from countries who have had military experience, know and cherish the values of a democratic society. And the role citizens' participation can play in consolidating and shaping it. This is why we are deeply concerned about the growing mockery of democracy and the disregard for citizens, humans and liberal right in Zimbabwe.

Zimbabweans are experiencing change of power from one person to another for the first time after 37 years of the liberation struggle. Unfortunately, they are yet to witness the real dividends to democracy and the benefit of power change. Rather, the people and workers have continued to get boots, wipes and bullets instead of bread, roses and freedom. This is exactly the case with the relentless and serial attack that the ZCTU and its allies are subjected to, in clear disregard of the provision of this very important Convention.

The attacks against the ZCTU have been catalogued by some of the interventions we have listened to so far. The International Visitors and Allies of the ZCTU, most of whom visited for solidarity gestures have not been spared either. This is the case of the ITUC from the Africa region, Mr Kwasi Adu-Amankwah, a Ghanaian, who was arrested on 26 February 2019 an hour after checking into his hotel room in Harare. He was detained at the Harare International Airport for 11 hours and being processed for deportation. He was only released after a flurry of actions. The ZCTU petitioned the High Court; a coordinated international outcry took place as well as the intervention by his own Government. Furthermore, on 12–14 March 2019, the Southern Africa Trade Union Coordination Council (SATUCC) leadership comprising of Mr Cosmas Mukuka, Mr Austin Muneku, Mr Hahongora Kavihuha and Mrs Angie were also detained at the Harare airport for visiting the ZCTU.

The Zimbabwean Government will allude to her genuine disposition to facilitating social dialogue and accountability by pointing to the adoption of the TNF and the empanelling of the composition of the eminent persons led by former South African President, Mr Kgalema Motlanthe, to inquire into the handling of the 1 August 2019 protest. Therefore, we ask: "how do social partners engage in meaningful social dialogue under an atmosphere of perpetual harassment meant to undermine their right to freely associate?" The report of the panel of Inquiry to the protest of 1 August 2019 has been released and the report recommended compensation to victims of brutality by the security agents. When will the recommendations be implemented?

This Committee must once again demand that the Zimbabwean Government take genuine and time-measured steps to enhance social dialogue by desisting from the harassment and persecution of the officials of ZCTU, its members, leaders, affiliates and allies. The charges against the leadership of ZCTU must be dropped.

Government member, Zambia – Zambia takes the floor in support of the statement given by the Government of Zimbabwe. Zambia notes the efforts that Zimbabwe has made in addressing the issue of alleged attack on the ZCTU Office and personnel by soldiers on 1 August 2018 by appointing a Commission of Inquiry. It further notes the reviews of the various pieces of legislation including the labour law reform and harmonization of the Labour Act.

Zambia appreciates the efforts and commitment of Zimbabwe to address the number of issues raised by the Committee of Experts and therefore advise that the country be given a chance to finalize its reviews. Zambia further wishes to encourage the tripartite partners in Zimbabwe to fully engage on various issues affecting the employment and labour sector as well as in other areas in the country.

Worker member, Republic of Korea – Korea and Zimbabwe have been competing with each other in terms of the number of the ratified ILO Conventions, while Zimbabwe is one step ahead than my country, in that it ratified the Convention on freedom of association. So the effective implementation of the ratified Convention by the Government is always our concern.

The Committee of Expert's report shows that the unilateral and clandestine processes for the amendments of the Labour Acts has not been improved at all. It is my regret, that the new draft for the Labour Act revision was given to the ZTUC at this Conference, no earlier than 12 June, at 1.55 p.m. The Bill still falls short of compliance with the comments of the supervisory bodies and agreed tripartite principle, which are well known by the Government. For example, the amendment of section five on discrimination still excludes discriminatory grounds of social reason, national instruction, direct and indirect discrimination, which was recommended by the Committee of Experts.

Secondly, section 34(a) introduced new provisions that require workers' and employers' organizations to supply audit report, membership and its office bearers to the Registrar, and empowers it to cancel the certification if it fails to submit without any mechanism of appeal. This is a clear violation of the principle of the freedom of association.

Thirdly, section 55(a) introduces new powers of the Registrar to interfere in the internal dispute of the workers' and employers' organizations on the day-to-day management, which it should be resolved by the organizations themselves, or by and independent judicial court, not an administrative authority.

The amendment to section 63, does not address interference in voluntary bipartite employment council. The amendment of section 74 excludes part of the agreed principle number of two on collective bargaining to include adopting the factors to be considered in fixing minimum wages provided in the Minimum Wage Fixing Convention, 1970 (No. 131).

The amendment to section 98 excludes other agreed elements of principle No. 3 that addresses issues of enforcement of conciliation agreements, setting timeframes for conclusion of arbitration process and reviewing the power of the labour court. The draft Bill does not address the repeated observation of the Committee of Experts on the declaration of the essential services, the excessive penalties for the unlawful strikes, provided in section 107 of the Act, interference by the Minister in trade union, anti-union discrimination and protection of worker representatives. I would like to conclude by urging the Government to amend the Labour Act, so as to bring it into conformity with the Convention and the review should be concluded in full consultation with the social partners without further delay.

Government member, Namibia – In its capacity as the current Chair of Southern African Development Community (SADC) Employment and Labour Sector (ELS), Namibia would like to inform the Committee that issues of compliance to International Labour Standards are central to our tripartite dialogue mechanism as a Regional Economic Community. SADC member States and social partners have committed themselves to collectively address questions relating to the full implementation of the Conventions at the regional and national levels, including in particular Conventions Nos 87 and 98. At our last regional meeting held in March 2019, the regional bloc discussed reports of social partners, which detailed some of the matters that have been brought before this august house in the case of Zimbabwe. As is our tradition, the discussions were held in a true spirit of social dialogue and tripartite engagement and we are confident that such a unique mechanism as we have established in the region, will go a long way in promoting compliance with labour standards, not only in Zimbabwe, but also in the region at large. As SADC ELS Chair, we note the ongoing efforts by the Government of Zimbabwe to address socio-economic challenges and transform the economy, particularly through the Zimbabwe Transitional Stabilization Programme (2018–20), and to consolidate unity and peace in the country. We also note that there are various initiatives that have been put in place to promote dialogue to address a wide range of issues, including through the TNF that has recently been greatly strengthened following the enactment of the TNF Act. We particularly note the demonstration of political will at the highest level towards the Forum purpose of objective giving that the President, His Excellency Emmerson Mnangagwa, personally presided over the launch of the TNF on 5 June 2019. The Committee is requested to consider this pertinent and important development in the discussions. Therefore, we call upon all the tripartite parties to the TNF dialogue to earnestly work towards the full functioning of the Forum, prioritizing dialogue for a common understanding on the implementation of ratified Conventions in law and practice. Indeed, we wish to specially request the Committee to consider that new TNF presents an important platform for the Government of Zimbabwe and its social partners to collectively address the issues raised by the workers. Accordingly, we request the Office to prioritize support towards the full functioning of the Forum as may be requested by the parties to fast track progress.

Worker member, Norway – I will speak on behalf of the trade unions in the Nordic countries. Once again, we are here to discuss Zimbabwe and the Government's violation of the Convention. The Government has over the years made promises to improve the situation but words continue to be different from deeds.

An ILO high-level mission visited Zimbabwe in 2017 following the conclusions of this Committee. Previously, in 2009, a Commission of Inquiry visited Zimbabwe and made a report with recommendations on:

- stopping prosecution of trade unionists, allowing trade unions to operate freely; and
- amending the laws and creating a conducive environment for social dialogue.

Although the Government accepted the recommendations, like in the past, not much has been done. All Acts which the report called for reform remained intact – for example, the Public Service Act and the famous POSA which I understand has now changed name to MOPA (Maintenance of Order and Peace Act). I am yet to see whether the contents of this Act have also changed.

We are however pleased to note that a Tripartite Negotiation Forum Act was signed last week. We do hope that this is a serious step forward to establish a functioning social dialogue allowing the three social partners space to articulate their agenda.

In the Nordic countries we have a very active and effective social dialogue system among the three social partners. Many laws and regulations have been formulated through social dialogue. Even though we do not always agree, consultations take place. Both employers and workers follow the rules and regulations regarding the rights to organize, strike and bargain as laid down in the basic agreement between the parties. This cooperation has definitely had a very positive impact on our economies.

We hope that Zimbabwe will take advantage of the ILO experience to ensure that social dialogue contributes to economic growth of the country. The Government must ensure that an agreed road map is in place for continued consultations and that social dialogue must be based on mutual trust.

In conclusion, we would like to urge the Government to avoid cosmetic reforms but engage in genuine dialogue with social partners for a way forward. Some of us are tired of seeing Zimbabwe on the agenda of this committee year after year and hope to see Zimbabwe on the list of progressive countries next year.

Government member, Botswana – Botswana wishes to support the Government of Zimbabwe in its efforts to address shortcomings in compliance with the Convention. We know that the Government of Zimbabwe has embarked on the following:

(1) The repealing of the POSA which would be replaced by the maintenance of Peace and Order Bill.
(2) The enactment of the TNF Act in May 2019. Consultations with the social partners on the draft Public Service Bill. Upcoming review of the Health Act and Labour Act as to align them with Zimbabwe constitution adopted in 2013 that provides for freedom of association and the right to strike.

We also noted, however, that reforms the Government of Zimbabwe plans to carry out are legislative by nature so borrowing from our own experience patience should be exercised by all parties involved as legislative reforms tend to take longer as they are usually many bodies involved in the process which include cabinet, tripartite structures and the national assembly. It is our hope that Zimbabwe will avail itself to ILO technical assistance in order to expedite the ongoing labour law reform.

The events of 1 August 2018 which culminated in violence were unfortunate, however, we note with satisfaction that Zimbabwe is on the road to recovery. We wish to commend the Government of Zimbabwe for promptly engaging his Excellency Kgalema Motlantle and his commission to investigate the incidents that happened on that day and we are happy that the Government is currently implementing the recommendations of the commission.

Worker member, South Africa – I speak on behalf of the Southern African Trade Union Co-ordination Council (SATUCC). By arresting and detaining civil society leaders, the Government of Zimbabwe continues to demonstrate its serial capacity to violate the principles of freedom of association of workers with the intention to instil fear in them and deny them the right to associate with the ZCTU.

The ILO supervisory mechanism had pronounced clearly that a system of democracy is fundamental for the free exercise of trade union rights and that trade union rights can only be exercised within the framework of a system that guarantees the effective respect of other fundamental rights including the right to associate and assemble. The supervisory mechanism further pronounced that a free trade union movement can develop only under a regime which guarantees fundamental rights, including the right of trade unionists to hold meetings in trade union premises, freedom of opinion expressed through speech and the press and the right of detained trade unionists to enjoy the guarantees of normal judicial procedures at the earliest possible moment. However, the Government of Zimbabwe continues to violate all these principles through its action of attacking trade unionists and subjecting them to long court processes that amounts to leashing worker leaders, violating the right to free movement both internally and abroad. This honourable Committee has over the years emphasized the respect of human rights embodied in the Universal Declaration of Human Rights.

Furthermore, the Government of Zimbabwe violated its own Constitution which provides for the right to life which is section 48; rights to personal liberty section 49; freedom from torture or cruel inhumane or degrading treatment or punishment section 53; right to privacy section 57; freedom of assembly and association section 58; freedom to demonstrate in petition section 59; freedom of expression and freedom of the media section 61; access to information section 62; labour rights section 65; and freedom of movement section 66. SATUCC requests the honourable committee to impress it upon the Government of Zimbabwe to stop its military actions against civilians and adopt humane policing measures in line with its international obligations. The Government of Zimbabwe must withdraw all criminal charges against trade union leaders, civil society leaders and members of the public arbitrarily arrested. Also the Government of Zimbabwe must be told unambiguously in unambiguous terms to allow trade unions to engage in peaceful protest actions in line with its constitution and its international obligations regarding the right to freedom of association, assembly and expression.

Government member, Mozambique – The Government of Mozambique would like to thank the Government representative and her delegation for the update she gave to this Committee. Indeed, the Government of Zimbabwe has made significant progress in addressing the legislative gaps. We commend Zimbabwe's efforts in revising Labour Act and the Public Service Act. More importantly, my Government is pleased to note that the Government of Zimbabwe working with its social partners has promulgated the Tripartite Negotiating Forum Act. This Act is the key to sustained social dialogue in Zimbabwe.

My Government urges the Government of Zimbabwe and its social partners to deal with all socio-economic issues in line with what is provided in the TNF Act. Finally, I wish to end by requesting the ILO to support the Government of Zimbabwe and its social partners in strengthening the structure for social dialogue.

Worker member, Germany – In its report, the Committee of Experts urges the Government to review the application of the POSA in consultation with the social partners. This law is systematically abused in order to violate the rights guaranteed by the Convention. The European Parliament also condemns in a resolution of February 2019 the misuse and restrictive nature of this Act.

At the end of 2018, the Constitutional Court of Zimbabwe declared article 27 of the POSA unconstitutional. Article 27 gave the police a far-reaching power to ban demonstrations in certain areas for up to one month.

As we have heard, the Government of Zimbabwe submitted a bill for the Maintenance of Peace and Order Act to replace the POSA.

However, this bill only contains cosmetic corrections and, to a large extent, adopts the regulations of the POSA in its provisions. Furthermore, a demonstration must be registered seven days, a public assembly five days in advance. The law leaves no room for spontaneous meetings, which are at the core of the freedom of assembly also protected by the Zimbabwean Constitution. In the event of a breach of this obligation, the convener of the meeting – as under the POSA – is personally liable for any damage. The deterrent effect that follows from the potentially high financial consequences of this regime is more than obvious.

In addition, the Maintenance of Peace and Order Act continues to include an obligation to periodically provide police with lists of the names of non-public assembly participants. This interference with personal freedom of assembly and privacy is intolerable.

Finally, the draft law continues to provide extensive police powers to restrict freedom of assembly, which, on account of the wide discretion and vague wording of the law, constitute a gateway for disproportionate interference. This is simply the POSA in a new outfit. To cite the Committee on Freedom of Association: "Freedom of assembly and expression are indispensable for the exercise of freedom of association."

We therefore urge the Government of Zimbabwe, in cooperation with the social partners, to amend the Maintenance of Peace and Order Bill in such a way that it complies with freedom of assembly and expression and thus with the right of trade unions under Article 3 of the Convention, to organize their activities freely. Furthermore, we urge the Government to ensure that also the application of the law is compliance with these provisions.

Government member, Kenya – The Kenya delegation thanks the representative of the Government of Zimbabwe for the detailed reply to the issues raised by the Committee of Experts on the Government's compliance with certain provisions of the Convention.

After careful consideration of the report by the Committee of Experts and the replies by the Government, it is apparent that, matters under discussion in this case have been the subject of constructive engagement between the Government of Zimbabwe and the ILO through the high-level mission carried out in 2017 following the conclusions of this Committee at the 105th Session of the International Labour Conference through the implementation of the 2009 Commission of Inquiry's recommendations.

And as noted in the Government's report, the outcomes of these engagements are now at various stages of implementation. Legal reforms relating to the POSA, the Labour Law Act and the Health Service Act have been commenced with a view of aligning them with the provisions of this fundamental Convention. These measures represent important steps towards full compliance and should be encouraged.

The Kenya delegation welcomes the Government's commitment to fully consult with the social partners in the process of implementing the legal and policy reforms and calls on the social partners to take advantage of such initiatives to advance their concerns. Regarding the issue of alleged violation of trade union rights and civil liberties which resulted into the injury of people and destruction of property, we note the Government's explanation that it was an unfortunate incident which has since been investigated by an independent commission of inquiry and whose findings are currently being implemented. We remain hopeful that justice will be rendered to all those who were affected by these unfortunate acts.

Finally, it is our view that since Zimbabwe remains a member State of the ILO this Committee may wish to give

the Government more time to complete the ongoing reforms while continuing to monitor progress under the existing reporting mechanisms.

Worker member, Ethiopia – I am speaking on behalf of the Ethiopian Teachers' Association, Education International and the Zimbabwe Education Unions. A quality public education system must have respect for teachers as a core value. The Zimbabwe Teachers' Association (ZIMTA) and the Progressive Teachers' Union of Zimbabwe (PTUZ) have recently joined to demand that the government provide adequate funding of basic education and decent working conditions for teachers. They hold the government to account so that it delivers on its commitment to reform the labour and public service legislation.

However, what progress can we report to this Committee? What steps has the post-Mugabe government made? Are we seeing real political will? Unfortunately, we can report no such thing. For over ten years, there have only been endless delays.

Despite the adoption of a new Constitution taking into account the provisions of ILO Conventions, the Public Service Act Chapter 16.04, the Public Service Regulations and the Public Service Joint Negotiating Council Regulation 141/97 have not been amended accordingly.

We urge the Attorney General to amend the Labour Act and the Public Service Act to bring them in full conformity with the Convention. The amendments should be submitted for the consideration of the social partners, and then to Parliament. These amendments should provide for public service employees to enjoy the right to collective bargaining and collective job action. They should also clearly define what is meant by essential services in line with the Convention. For the record, we insist that the ILO Committee on Freedom of Association excludes the teaching profession from any definition of essential service.

ZIMTA and PTUZ are proactively seeking to find constructive ways forward. On 3 June, the unions convened an "indaba", a meeting where in traditional African culture, people get together to sort out the problems that affect them all. Union leaders held a daylong meeting with members of the Parliamentary Portfolio Committee on Public Service, Labour and Social Welfare. This was an opportunity to discuss how to move forward. The teachers' unions in Zimbabwe are also mobilizing their teaching profession through a signature campaign calling upon the Government to meet its international commitments.

The teacher unions will continue to mobilize for the right to organize and to bargain collectively. Hence, today, we are requesting that this Committee assist the unions in their work.

Government member, Eswatini – From hearing the submissions made by the representative of the Government of Zimbabwe on progress made so far, regarding the implementation of the recommendations of the Commission of Inquiry and the subsequent Committee of Experts report, we note the progress that has been made thus far.

Being alive to the common cause challenge that in most governments, the procedures for legislative reforms are normally protracted, and thus not easy to accomplish within the shortest possible time. We are appealing to the Committee to accept the commitment already presented by the Government of Zimbabwe to complete its journey, without being burdened with some further conditions and recommendations, over and above the programme that the Government has set for this purpose.

We congratulate the Zimbabwean Government and their social partners for having successfully commissioned the TNF on 5 June 2019, following promulgation into law, of the TNF Act. In the spirit of moving towards strong tripartitism and inclusiveness as already demonstrated in the statement presented by the Government delegation of Zimbabwe, the Government should be encouraged and supported to continue in its efforts to work together with the social partners in fostering the development of national labour legislation, on individual and collective labour rights, and other activities that drive decent work and sustained inclusive and sustainable economy growth.

Eswatini persuades the Committee to reckon that with the practical demonstration of a political will and commitment by the Government of Zimbabwe regarding ensuring the exercise and enjoyment of the right to freedom of association, and the protection of the right to organize. Further progress regarding the case of Zimbabwe could still conveniently be made through a tripartite approach at the national level.

Worker member, Zambia – I am speaking for the Workers' movement in Zambia. This Committee has established repeatedly that workers have the right to use their organization and benefits of association to pursue the protection of their socio-economic rights. It is, therefore, from this standpoint that I would like to bring the attention of this Committee to the economic problem facing the workers of Zimbabwe. These problems are the source of protest actions and if not addressed, Zimbabwe will appear again in this Committee in the near future.

In 2009, Zimbabwe dumped its own currency due to hyperinflation and adopted a basket of other countries' currencies dominated by the United States dollar. As from 2009 to 2015, wages were paid in United States dollars. In 2016, Zimbabwe introduced a surrogate currency called "bond note" and declared by law that it is equivalent to the United States dollar. As a result, workers' wages were then paid in bond notes. In February 2019, Zimbabwe introduced another electronic currency called RTGS dollar. Zimbabwe has now accepted that its bond note and RTGS are not equivalent to the US dollar. As a result, goods and services are now pegged in United States dollar, while wages are paid in the local currency. Goods charged in local currency are eight times more than those in US dollars.

While goods and prices change every day, wages have remained static at an average of RTGS$300, against a total Consumption Poverty Line of RTGS$873 for a family of five in April 2019.

The Committee on Freedom of Association has pronounced the following principles regarding protests in paragraphs 716–718 of the Freedom of Association Compilation, 2018: "that Freedom of association implies not only the right of workers and employers to form freely organizations of their own choosing, but also the right for the organizations themselves to pursue lawful activities for the defence of their occupational interests."

"The Committee firstly recalls that freedom of association implies not only to the right of workers and employers to form freely organizations of their own choosing, but also the right for the organizations themselves to pursue lawful activities – including peaceful demonstrations – for the defence of their occupational interests. Any provision that restricts the rights is incompatible with this Convention."

I implore the government of Zimbabwe to stop its crackdown on workers and address the economic problems.

Government member, Ethiopia – My delegation takes note of the observations of the Committee of Experts in relation to the application of the Convention in law and in practice on which the Government of Zimbabwe is requested to supply information. We have keenly listened to the information provided by the Government of Zimbabwe pertaining to measures taken in response to the observations of the Committee. More specifically, the Government of Zimbabwe indicated in its report that it is currently implementing the recommendations of the Commission of Inquiry and is undertaking legislative reforms so as to harmonize with the Convention. Furthermore, we listened from the interventions of the Government of Zimbabwe

that a tripartite negotiation forum act was passed by the competent authority and was launched in June, which, in our view, is a welcome development.

Article 2 of the Convention clearly stipulates that workers shall have the right to establish and to join organizations of their own choosing. To this effect, the ultimate responsibility for ensuring less respect for the principle of freedom of association lies with governments.

Based on the information and explanations as provided by the Government of Zimbabwe, we are encouraged by the development taking place in the country, complying with the observations of the Committee.

Finally, we encourage the Government of Zimbabwe to expedite its efforts in consultation with social partners, to address cases that may be outstanding and we hope that the Committee will take into consideration the progress made in Zimbabwe while drawing its conclusions.

Worker member, United Kingdom – In 2009, an ILO Commission of Inquiry was convened to discuss serious allegations in relation to violations of basic civil liberties, including the arrest, harassment and intimidation of trade unionists for exercising legitimate trade union activities. Its 164-page report outlined steps to bring the country into compliance with the Convention and emphasized that: "It is only if this agreement is implemented in good faith by everyone that it could help steer Zimbabwe on a new course towards stability and progress in the interests of its people and pave the way to genuine democracy".

Its opinion was that the reforms could, and should, be carried out without further delay. Those reforms included: The Labour Act, and the POSA, should be brought into line with the Convention; that all anti-trade union practices should cease, and; that training should be provided for the police and security forces in understanding Freedom of Association.

Now we enter a decade of missed opportunities. In 2010, The Committee of Experts expressed the firm hope that the Labour Law would be brought in line with the Convention. In 2011 the Committee heard that progress had been delayed, and that education of law enforcement had only just started. The Committee reiterated that the POSA should be amended to comply with the Convention and repeated that trade unionists prosecuted under the POSA should have cases withdrawn, expressing the hope that this would happen in the very near future. In 2012, the Committee asked again for a review of the POSA with the social partners. Withdrawal of prosecutions appeared not to have happened. In 2013 some good news: a handbook and a code of conduct for law enforcement agencies were agreed. In 2015, two years later, the Committee "urges the Government to take the necessary steps for the early adoption and effective implementation of the mentioned handbook and code of conduct." The Government meanwhile announces amendments to the Labour Laws. They still don't align with the Convention. In 2016, seven years after the first request, the matter of prosecutions under the POSA finally seems to be resolved. But here we are ten years later: law enforcement agencies still act as if trade unions were subject to the POSA. The POSA still has not been aligned with the Convention. Nor has the Labour Act. An ILO Commission of Inquiry is a serious investigation. States are understandably keen to avoid the opprobrium of such a high-level investigation into the failings of fundamental labour rights. But the biggest shame lies with states that many years after such a Commission, proceed at a snail's pace, or sometimes not at all, in implementing recommendations.

How can it be that after ten years the labour law has been amended on several occasions and the Government either cannot, or will not, get the changes right to make it consistent with the Convention? Recalling that vital democratic freedoms, and often personal safety, are at stake, ten years is an unacceptable time to wait for resolution of these matters.

Government member, Uganda – The Ugandan delegation thanks the Government of Zimbabwe for the submission made to the Committee. My delegation is of the view that the steps taken by the Government to operationalize a framework for social dialogue and collective decision-making on the matters of industrial relations through the establishment of the tripartite negotiating forum will greatly address matters raised by the Committee.

Secondly, the processes initiated for review of the national laws are key and will greatly improve the enabling environment by providing the legal and institutional framework that are necessary for the implementation of the appropriate recommendations of the Committee. We therefore ask Zimbabwe to continue on that path and request the Committee to take note of the progress made in addressing these recommendations.

Government member, United Republic of Tanzania – The United Republic of Tanzania thanks the delegation of Zimbabwe for the explanation given and constructive engagement in the review process. Tanzania welcomes the various efforts by the Government of Zimbabwe, in fulfilling its obligations and the ILO Conventions, despite all the major economic challenges that the country continues to face.

Tanzania notes with gratitude, progress made by the Government of Zimbabwe in the implementation of Recommendations, including advancement in legislative and administrative measures. We further congratulate the Government of Zimbabwe and its social partners for the enactment of the TNFA, in May 2019.

Finally, Tanzania would like to encourage the Government of Zimbabwe to continue engaging with social partners in fulfilling its international obligations, and we ask the ILO to continue lending full necessary support to efforts being made by the Government of Zimbabwe.

Government member, Sudan – The Sudan Government expresses its wishes to the Government representative for the updating to the Committee on the progress Zimbabwe has made in giving effect to the recommendations of the Committee of Experts. The Government of Zimbabwe should be commended for the stride it has taken to review all key pieces of labour legislation. Sudan notes the renewed commitment to social dialogue by the Government and its social partners. This is an encouraging step and should be supported.

Government representative – Allow me to thank all delegates who have contributed to the discussion of my country. We have taken note of the various constructive ideas generated during the debate. We particularly want to acknowledge and appreciate the interventions that have recognized the great strides being made by my Government and social partners in addressing the observations and comments of the ILO supervisory bodies and in modernizing the labour laws in Zimbabwe in general.

Let me also take the opportunity to respond to some of the issues raised during the debate. Some delegates made reference to issues that are not part of the report of the Committee of Experts. These issues are intrinsically domiciled in the political domain. In my initial address to this august house I did make reference to the commission of inquiry set by his Excellency the President of Zimbabwe E.D. Mnangagwa to deal with violent disturbances, wanton destruction of property and injuries to citizens including those who were not taking part in the demonstration.

I also went further to indicate that my Government accepted the recommendations of the Commission of Inquiry and is already implementing them. In addition, I wish to inform the Committee that consistent with the Government's reform agenda and the recommendations of the Commission of Inquiry in question, the Zimbabwe republic

police is currently undergoing comprehensive transformation.

Again, I also note that my compatriots raised issues around the violent disturbances of January 2019. These disturbances are not part of the report of the Committee of Experts. In response, however, allow me to point out that it is the primary responsibility of any government to ensure that all citizens are secure and are able to fully exercise their rights including the right to demonstrate as provided for and protected under section 59 of the constitution of Zimbabwe. While we recognize the right to demonstrate, what transpired in the form of violent disturbances from 14 to 16 January 2019 is not what is contemplated in the principles of the Convention. What happened on 14 to 16 January 2019 was not an ordinary stay away. As all fair-minded observers and even our compatriots from the ZCTU will acknowledge that the protests which took place in some parts of Zimbabwe from 14 to 16 January were neither civil nor peaceful but were characterized by wanton violence and destruction of private and public property.

I also want to ask the partner who gave this meeting a list of what he heard about events in January 2019. I want to ask whether he also heard that the non-violence demonstrations he mentioned involved the beating-up of citizens who tried to cross the barricades erected by the demonstrators or whether he also heard about the destruction of vendor stalls and merchandise. Did he also hear about the burning of privately owned vehicles, the beating-up and killing of a policeman? Did he also hear about the joy of workers when they were facilitated by the Government to go back to work when the Government provided them with buses? When the people had appealed for protection against the brutal attacks by the so-called peaceful demonstrators.

I also want to take note of what the compatriot Mr Mutasa said. He noted that he was arrested, that is true, however we would like to point out that there is a separation of powers between the executive and the judiciary. The Government negotiated with the courts for Mr Mutasa to be here and through his own acknowledgement and I quote "I was only freed by the court" and we take this as an honest acknowledgement by Mr Mutasa of that separation of powers between executive and judiciary.

For the TNF to work in Zimbabwe it calls for mutual trust and goodwill. When we launched the TNF on 5 June, it was done in a collaborative and friendly manner. I also want to quote the President of the ZCTU when he said "We live in fear, we are in a war zone in a country not at war" was the friendly collaborative nature in which we launched the TNF done in a war zone, I think not.

I also want to mention that one of the speakers noted the labour bill, we note that the draft legislation on the labour bill is still being critiqued internally. It has not or should not have been shared as yet with the external partners. We are surprised that it has been discussed here. Without dwelling on political overtones as some of the delegates did in their intervention, let me just say that my Government respects freedom of association and expression on the part of all Zimbabweans including workers as enshrined in the Bill of Rights of our constitution. Nevertheless it should also be appreciated that the Government has the duty to enforce the rule of law, to protect citizens and property when demonstrators turn violent like what happened in January 2019.

Having commissioned the Tripartite Negotiating Forum my Government now looks forward to constantly updating a beneficial relationship with our social partners. I am convinced that most of the issues raised will be dealt with in our engagements within the purview of the TNF which has already been enacted. There is renewed commitment among social partners.

Finally, I would like it noted that we are a new Government, it is a Government in transition, reform is in process. We require technical assistance to achieve what needs to be achieved. I also would like it noted that despite the earlier speaker talking about living in fear, it is important that for the first time ever in history his Excellency the President of Zimbabwe was able to meet trade unions and business in one room. The trade unionists shared their concerns with the President and he reassured them that they shall be addressed.

It is our hope that those responsible for serial attacks on Zimbabwe can please cease and desist for long enough to recognize the very positive developments being spearheaded by the Government of Zimbabwe. In closing I would like to ensure this Committee the commitment that Zimbabwe has and also to say that Zimbabwe is currently on the cusp of a sea change in our labour relations. We are moving forward towards the realization of Vision 2030 to make Zimbabwe an upper-middle income economy in order for us to achieve that, we value the commitment by our social partners in ensuring that we achieve a shared national vision.

Worker members – The Government of Zimbabwe must match its expressed intentions to live up to its international obligations with its action on the grounds. As we speak, the Government is engaged in a campaign of prosecutorial and judicial harassment of both the President and General Secretary of ZCTU. They dared to challenge the Government's economic policy and direction, and are therefore facing subversion charges. It is the role of trade union leaders to reject policies that would bring hardship from their members and to seek dialogue on alternative solutions. The criminalization of trade unions stands at odds with the obligations the Government has under this Convention. Zimbabwe must immediately and unconditionally withdraw the charges against trade union leaders and members for peaceful activities undertaken to defend and protect the rights and interests of workers. We urge the Government to take all necessary measures in order to ensure the safety of those who have spoken out here today upon their return to Zimbabwe. We call on the Government of Zimbabwe to vigorously investigate and pursue these cases of serious allegations of brutalities perpetrated by the security forces, and indeed, the Committee of Experts' report did not mention the violence occurred in January. How could they possibly have done it? The Government must begin an inclusive process, a national dialogue to resolve the economic and political challenges facing the country. This is the way for stability and progress. Without social peace and stability based on inclusion, tripartism and respect for civil liberties and rights, the Government will not be able to deliver on its promises to achieve economic and inclusive growth. We note in this respect, the passage of the National Tripartite Forum Act. However, this Act was signed into law by the President of Zimbabwe days before the ILC. Regrettably, there was an absence of tripartite consultations in the adoption of the Act, and there are numerous areas that raise serious concerns. Concerns have also been raised about the absence of full and frank consultations over the hasty introductions of other pieces of legislation. A few days ago, just ahead of the ILC, the Government has produced a Labour Bill and shared it with the ZCTU. Clearly, no meaningful consultations with social partners took place on the new contents of this current Bill prior to its official publication. We regret that a cursory look at the Bill reveals that key aspects remain incompatible with the Convention. We take section 55, for example, where the registrar of trade unions has been given power to hear and determine disputes pertaining to day-to-day management of the union or employers' organization. The registrar's decisions will be final. We note this provision is in contrast with the observation of the Committee on Freedom of Association that conflicts within a trade union should be resolved by its members or by appointing an independent mediator with

the agreement of the parties concerned, or through the intervention of the judicial authorities. The social partners must be immediately consulted to revise this new Bill.

In addition, the Government has just published the Maintenance of Peace and Order Bill a few days ago, to amend the POSA. This Bill has also been published without meaningful consultation with the social partners. Section 7 of the Bill provides, for burdensome and winding procedures for convening public demonstrations and processions. The new Public Order Bill will do nothing but give the security forces license to continue the heavily repression of the right to freedom of assembly. Zimbabwe's non-compliance with the Convention remains severe, and we are more convinced of that after hearing the Government's response. We deplore the fact that there are new violations of the right to freedom of association in practice. The legislative steps undertaken so far have been wholly inadequate in order to remedy the numerous contradictions of the legislation with international labour standards. We urge the Government to invite a high-level tripartite mission of the ILO. The mission would be helpful, and assist, and ensure that the Government returns to a path of social and economic stability and progress, especially through compliance with its obligations under international labour standards.

Employer members – I think it is fair to begin by thanking all of the speakers, and certainly we have taken into account the perspectives shared. Thank you in particular to the distinguished Government delegate, Madam Minister, for the detailed information that was shared.

I think it is fair to say that this is a complicated case with a long history, and if we pick up the history of this case, beginning in 2009 with the Commission of Inquiry, we see that there have been issues repeatedly raised and brought to the attention of the Government, but without follow-up at that time. The Employers' group is hopeful that perhaps a change in perspective accompanied the 2017 high level technical assistance mission that took place, specifically to assess to obstacles to the implementations of the Recommendation of the 2009 Commission of Inquiry, as well as the full implementation of the Convention, both in law and practice, as was requested by the Committee in its June 2016 session and we know the high level technical assistance mission of 2017 made a number of recommendations, some of which we are discussing today.

Now, there is a new Government and certainly in respect of the Government's submissions today, there seems to be an openness and willingness to consider these issues and take measures that perhaps did not previously exist, and some of the submissions today from the Government, appear promising, such as the Government's indication of a promised repeal of the POSA with a new Public Order Bill, promising also is the establishment of the TNF as a framework in which to engage in social dialogue with both employers' and workers' organizations. It sounds promising that the Government also provided information today regarding measures in relation to the Public Service Act, amendments to the Health Services Act, to make sure that it is in sync with the rights under the Public Service Act, and of course also promising the Government's indication of its willingness to accept technical assistance to continue on this path to compliance both in law and in practice.

Clearly some concerns remain and as noted by a number of government speakers, it appears to the Employers' group to be appropriate to proceed with, what I will call, cautious optimism, and that is to encourage the Government to implement the measures that have been discussed this evening in consultation with the social partners, mindful of many observations made by the experts in relation to these fundamental points, and to seek technical assistance of the ILO on this path.

As part of this process, the expectation is also that information continues to be provided as requested to the Committee of Experts so that further assessment and consideration of the promises made, and the measures described this evening, can be monitored and encouraged.

Conclusions of the Committee

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

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).

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;**
- **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.**

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

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:

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 (TNF).

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.

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 (EU) 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.

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.

Appendix I. Table of Reports on ratified Conventions due for 2018 and received since the last session of the CEACR (as of 20 June 2019)

(articles 22 and 35 of the Constitution)

The table published in the Report of the Committee of Experts, page 645, should be brought up to date in the following manner:

Note: First reports are indicated in parentheses.
Paragraph numbers indicate a modification in the lists of countries mentioned in Part One (General Report) of the Report of the Committee of Experts.

Afghanistan — **5 reports requested**

- 1 report received: Convention No. 137
- 4 reports not received: Conventions Nos. 100, 111, 140, 142

Antigua and Barbuda — **4 reports requested**

(Paragraph 63)

- All reports received: Conventions Nos. 81, 100, 111, 142

Argentina — **11 reports requested**

- All reports received: Conventions Nos. 81, 87, 100, 102, 111, 129, 142, 169, 177, 188, 189

Barbados — **18 reports requested**

- 7 reports received: Conventions Nos. 12, 17, 19, 42, 98, 105, 138
- 11 reports not received: Conventions Nos. 29, 81, 95, 97, 100, 102, 111, 118, 122, 128, 172

Burundi — **11 reports requested**

- All reports received: Conventions Nos. 12, 17, 26, 27, 42, 81, 100, 105, 111, 138, 182

Chad — **14 reports requested**

- 5 reports received: Conventions Nos. 29, 105, (122), 138, 182
- 9 reports not received: Conventions Nos. 6, 11, 81, 98, 100, (102), 111, 144, 151

Comoros — **15 reports requested**

- All reports received: Conventions Nos. 6, 11, 12, 13, 14, 17, 42, 52, 81, 89, 100, 101, 106, 111, (144)

Croatia — **13 reports requested**

- 12 reports received: Conventions Nos. 29, 32, 81, 98, 100, 102, 106, 111, 121, 129, 156, 182
- 1 report not received: Convention No. 185

Democratic Republic of the Congo — **22 reports requested**

- All reports received: Conventions Nos. 11, 12, 19, 26, 27, 81, 87, 94, 95, 98, 100, 102, 111, 117, 118, 119, 120, 121, 135, 144, 150, 158

France - French Polynesia — **10 reports requested**

(Paragraph 63)

- 9 reports received: Conventions Nos. 29, 81, 82, 100, 111, 125, 129, 142, 149
- 1 report not received: Convention No. 126

Ghana — **8 reports requested**

(Paragraph 63)

- 6 reports received: Conventions Nos. 105, 107, 117, 138, 144, 182
- 2 reports not received: Conventions Nos. 29, 149

Greece — **11 reports requested**

- All reports received: Conventions Nos. 29, 81, 87, 98, 105, 138, 142, 144, 149, 182, MLC

Guinea - Bissau — **25 reports requested**

(Paragraph 57)

- 6 reports received: Conventions Nos. 18, 98, 100, 111, 138, 182
- 19 reports not received: Conventions Nos. 6, 12, 17, 19, 26, 27, 29, 45, 68, 69, 73, 74, 81, 88, 91, 92, 105, 107, 108

Hungary — **9 reports requested**

(Paragraph 63)

- All reports received: Conventions Nos. 29, 105, 138, 140, 142, 144, 182, 185, MLC

Jamaica — **14 reports requested**

(Paragraph 63)

- 13 reports received: Conventions Nos. 11, 19, 29, 87, 94, 97, 98, 105, 117, 138, 144, 149, 182
- 1 report not received: Convention No. 189

Japan — **7 reports requested**

- All reports received: Conventions Nos. 29, 87, 138, 142, 144, 182, MLC

Kiribati — **9 reports requested**

(Paragraphs 58 and 59)

- 6 reports received: Conventions Nos. 29, 87, 98, 100, 111, (185)
- 3 reports not received: Conventions Nos. 105, 138, 182

Lao People's Democratic Republic — **6 reports requested**

(Paragraph 63)

- 5 reports received: Conventions Nos. 29, 111, 138, 144, 182
- 1 report not received: Convention No. 6

Liberia — **9 reports requested**

- 5 reports received: Conventions Nos. 81, 111, 144, 182, MLC
- 4 reports not received: Conventions Nos. 29, 87, 98, 105

Malawi — **18 reports requested**

(Paragraph 63)

- 17 reports received: Conventions Nos. 26, 29, 81, 87, 97, 98, 99, 105, 107, 129, 138, 144, 149, 150, 158, 159, 182
- 1 report not received: Convention No. 45

Malaysia — **10 reports requested**

- 8 reports received: Conventions Nos. 29, 81, 98, 100, 131, 138, 144, 182
- 2 reports not received: Conventions Nos. 95, 123

Malaysia - Sarawak — **5 reports requested**

- 3 reports received: Conventions Nos. 11, 19, 94
- 2 reports not received: Conventions Nos. 12, 16

Mexico — **11 reports requested**

- All reports received: Conventions Nos. 29, 87, 105, 110, (138), 140, 142, 144, 169, 172, 182

Moldova, Republic of — **13 reports requested**

(Paragraph 63)

- 12 reports received: Conventions Nos. 29, 81, 92, 105, 117, 129, 133, 138, 142, 144, 182, 185
- 1 report not received: Convention No. 152

Montenegro — 9 reports requested

- All reports received: Conventions Nos. 29, 105, 138, 140, 142, 144, 171, 182, 185

Nicaragua — 18 reports requested

(Paragraphs 58 and 59)

- 12 reports received: Conventions Nos. 29, 95, 110, 117, 138, 140, 142, 144, 169, 182, (MLC), 189
- 6 reports not received: Conventions Nos. 6, 17, 77, 78, 105, 137

North Macedonia — 16 reports requested

- All reports received: Conventions Nos. 27, 32, 87, 90, 94, 97, 98, 100, 111, 122, 131, 140, 142, 143, 144, 177

Papua New Guinea — 12 reports requested

- 6 reports received: Conventions Nos. 26, 27, 87, 99, 105, 182
- 6 reports not received: Conventions Nos. 98, 100, 111, 122, 138, 158

Portugal — 8 reports requested

- 7 reports received: Conventions Nos. 87, 98, 117, 122, 142, 149, MLC
- 1 report not received: Convention No. 189

Romania — 6 reports requested

- 5 reports received: Conventions Nos. 27, 87, 98, 117, 122
- 1 report not received: Convention No. (MLC)

Serbia — 8 reports requested

- 7 reports received: Conventions Nos. 87, (94), 98, 122, 140, 142, MLC
- 1 report not received: Convention No. 144

Singapore — 9 reports requested

(Paragraph 63)

- 8 reports received: Conventions Nos. 19, 29, 81, 94, 98, 100, 144, 182
- 1 report not received: Convention No. 32

Slovenia — 12 reports requested

- All reports received: Conventions Nos. 87, 95, 98, 100, 111, 122, 140, 142, 143, 149, 173, MLC

Timor-Leste — 6 reports requested

(Paragraphs 57 and 63)

- 2 reports received: Conventions Nos. 29, 182
- 4 reports not received: Conventions Nos. 87, 98, 100, 111

Trinidad and Tobago — 7 reports requested

(Paragraphs 57 and 63)

- All reports received: Conventions Nos. 87, 97, 98, 100, 111, 122, 144

Viet Nam — 9 reports requested

- All reports received: Conventions Nos. 6, 27, 100, 111, 122, 123, 124, 144, (187)

Yemen — 21 reports requested

- 18 reports received: Conventions Nos. 19, 29, 59, 81, 87, 94, 95, 98, 100, 105, 111, 122, 131, 138, 144, 156, 158, 182
- 3 reports not received: Conventions Nos. 16, 58, 185

Grand Total

A total of 1,683 reports (article 22) were requested,
of which 1,194 reports (70.94 per cent) were received.

A total of 107 reports (article 35) were requested,
of which 93 reports (86.92 per cent) were received.

Appendix II. Statistical table of reports received on ratified Conventions
(article 22 of the Constitution)

Reports received as of 20 June 2019

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
1932	447	-		406	90.8%	423	94.6%
1933	522	-		435	83.3%	453	86.7%
1934	601	-		508	84.5%	544	90.5%
1935	630	-		584	92.7%	620	98.4%
1936	662	-		577	87.2%	604	91.2%
1937	702	-		580	82.6%	634	90.3%
1938	748	-		616	82.4%	635	84.9%
1939	766	-		588	76.8%	-	
1944	583	-		251	43.1%	314	53.9%
1945	725	-		351	48.4%	523	72.2%
1946	731	-		370	50.6%	578	79.1%
1947	763	-		581	76.1%	666	87.3%
1948	799	-		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals							
1977	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2288	520	22.7%	1406	61.4%	1641	71.7%
2000	2550	740	29.0%	1798	70.5%	1952	76.6%
2001	2313	598	25.9%	1513	65.4%	1672	72.2%
2002	2368	600	25.3%	1529	64.5%	1701	71.8%
2003	2344	568	24.2%	1544	65.9%	1701	72.6%
2004	2569	659	25.6%	1645	64.0%	1852	72.1%
2005	2638	696	26.4%	1820	69.0%	2065	78.3%
2006	2586	745	28.8%	1719	66.5%	1949	75.4%
2007	2478	845	34.1%	1611	65.0%	1812	73.2%
2008	2515	811	32.2%	1768	70.2%	1962	78.0%
2009	2733	682	24.9%	1853	67.8%	2120	77.6%
2010	2745	861	31.4%	1866	67.9%	2122	77.3%
2011	2735	960	35.1%	1855	67.8%	2117	77.4%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals							
2012	2207	809	36.7%	1497	67.8%	1742	78.9%
2013	2176	740	34.1%	1578	72.5%	1755	80.6%
2014	2251	875	38.9%	1597	70.9%	1739	77.2%
2015	2139	829	38.8%	1482	69.3%	1617	75.6%
2016	2303	902	39.2%	1600	69.5%	1781	77.3%
2017	2083	785	37.7%	1386	66.5%	1543	74.1%
2018	1683	571	33.9%	1038	61.7%	1194	70.9%