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International Labour Conference – 109th Session, 2021

Part One

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

Report of the Committee on the Application of Standards

Part One

General Report

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A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: “Information and reports on the application of Conventions and Recommendations”. The Committee was composed of 221 members (110 Government members, 8 Employer members and 103 Worker members). It also included 20 Government deputy members, 86 Employer deputy members, and 94 Worker deputy members.
2. The Committee elected its Officers as follows:

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

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

Reporter: Mr Pedro Pablo Silva Sanchez (Government member, Chile)

3. The Committee held 15 sittings.
4. In accordance with its terms of reference, the Committee considered: (i) the reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions; (ii) the reports requested by the Governing Body under article 19 of the Constitution on the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204); and (iii) the information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference.¹

Opening sitting

5. **Chairperson:** Allow me to thank you for the trust that you have placed in me to chair the Committee on the Application of Standards of the 109th Session of the International Labour Conference. I would like to take this opportunity to express my gratitude to the African Group and the authorities of my country, Cameroon, which made it possible. It is a great honour for me, for my country and for Africa to take on this responsibility in the very specific context that we have experienced over recent months. It is a privilege and a great responsibility for me to lead the work of the first and, I hope, last virtual session of the Committee on the Application of Standards.
6. I would like to congratulate the two Vice-Chairpersons and the Reporter for their election as Officers of the Committee. I am looking forward to working in close collaboration with you over the coming weeks. I am convinced that your great experience and support, and

¹ Report III to the International Labour Conference – Parts A and A (Addendum): Report of the Committee of Experts on the Application of Conventions and Recommendations; Parts B and B (Addendum): General Survey.

that of all the delegates and the secretariat, will enable us to take up the challenge of a virtual meeting and to have a productive session.

7. It is not a secret for anyone that the Committee on the Application of Standards is the cornerstone of the ILO regular supervisory system and at the heart of the Organization's tripartite system. Since 1926, it has been the tripartite dialogue forum within which the Organization has debated both the application of international labour standards and the functioning of the standards system. The conclusions adopted by our Committee and the technical work of the Committee of Experts on the Application of Conventions and Recommendations, as well as the technical assistance provided by the Office, are essential tools for Member States for the implementation of international labour standards. I am pleased to note that once again this year, despite the COVID-19 pandemic and the challenges that it brings, the report of the Committee of Experts offers a solid basis for our discussions.
8. I strongly encourage you to participate actively in the discussions and I am convinced that over the two and a half weeks of this session of the Conference, our Committee will be able to respond to the very high expectations of the ILO constituents in a spirit of constructive dialogue.
9. **Employer members:** Despite the many procedural modifications that were necessary to adapt the meeting to a virtual format, we are confident that it will be possible for the Committee to deliver its essential supervisory functions. The discussion this year takes place against the all-overshadowing backdrop of the ongoing pandemic, which has had severe effects on both the application and the supervision of ILO standards. Many governments and ILO Member States directed their primary attention to coping with the immediate crisis and mitigating its effects, and have thus not been able to send their reports in compliance with their obligations. Many employers' and workers' organizations have not been able to send their submissions on standards application.
10. Even more importantly, the application of many ratified Conventions may have been altered to respond to immediate crisis needs. The Committee of Experts has provided information and guidance on standards application in the face of the COVID-19 challenge in the addenda to its 2020 report and we thank the Committee of Experts for these timely inputs into our discussion.
11. Let me recall that the Standing Orders of the Conference indicate that the Committee has unrestricted mandate to supervise the application of standards. In delivering its mandate, the Committee receives technical support from the Committee of Experts and the Office, and uses the Committee of Experts' report and written information provided by the governments as the basis for discussions. It is the Employer members' view that the Committee is not bound by any views or analysis, and that we must formulate our own discussion and analysis.
12. The ILO Centenary Declaration calls on all tripartite constituents to promote a clear, robust, up-to-date body of standards and to further enhance transparency; international labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision. The Committee needs to make clear its commitment to a balanced supervisory system taking into account the changing patterns of the world of work, workers' protection needs and also the needs of sustainable enterprises. This past year, the global COVID-19 pandemic demonstrated the importance of both worker protection, given the contribution of workers to functional economies, and sustainable enterprises as a foundation for a functioning economy.

13. These needs should be reflected in the Committee's discussions and in the outcome of debates. The Employer members look forward to a results-oriented balanced tripartite dialogue reaffirming the central role of the Committee in standards supervision at this very special 109th Session of the International Labour Conference.
14. While divergence of views on substantial issues continues to exist among constituents, and between this Committee and the Committee of Experts, the Employer members continue to voice these views in a spirit of mutual respect and understanding. The views expressed by the Employer members in the Committee's debates and discussion, as well as the conclusions, should be considered by other ILO supervisory procedures, by the Office for support to the overall system and technical assistance, and also by other ILO initiatives in the context of the 2030 Agenda for Sustainable Development.
15. With these initial remarks, let me reiterate that we are committed to the Committee's functioning this year in this new format, which we also hope to be a one-time event, and we remain ready to actively participate in the discussions in a proactive and constructive spirit. Our members are connecting from all regions of the world and in certain cases at very late or early hours of the day to participate, and we want to thank them in advance for their efforts to contribute to a successful and inclusive Committee. Tripartite governance, balanced transparency and efficiency are key values that contribute to the success of the Committee. The Employer members will continue to uphold these values in our engagement in this first-ever virtual session of the Committee.
16. **Worker members:** This year, we find ourselves in the context of a Conference that is exceptional in all respects. It is the first, and we hope the last time that our meeting has been held virtually. We are being forced to do so due to a pandemic that has given rise to the worst economic and social crisis since the last World War. At the time of speaking, we do not yet know the scope of the impact that this pandemic will have and still less its repercussions. Nevertheless, we can already draw certain lessons and conclusions. The lessons are many and varied, but three are particularly relevant to the Committee's discussions.
17. First, we observe the extent to which work plays a central role in the life of humanity. We understand by work the workers without whom no economy is able to operate correctly. Some have even discovered that there were so-called essential functions and that the women and men who perform them are often the least recognized. All workers deserve to be where they have been placed by this crisis, that is at the top of the agenda, and not an appendix or annex to other subjects. They will also have to be remembered when it comes to distributing the fruits of the prosperity that they contribute so greatly to creating.
18. The second lesson shows that, while all countries were unprepared to manage the pandemic, those with strong economic and social institutions have best succeeded in attenuating its consequences. Strong social dialogue with the organizations representing the workers and employers involved, but also and in particular inclusive social protection systems that are able to adapt rapidly, have been and remain key elements of an appropriate response to the crisis.
19. The third lesson takes the form of a paradox. While most of the short-term responses have essentially been conceived and implemented at the level of the State, it is clear that a lasting solution to the crisis requires a multilateral response. The worst thing would be to believe that each Member State defending its short-term interests could emerge without too many problems. In truth, that would give rise to even more inequalities between countries and result in greater frustration. From experience, we know that

prosperity is not possible when it is founded on deprivation and frustration. Failure to address a problem anywhere in the world very often has consequences for those who have ignored it from the beginning. A lasting and credible way out of this multiple crisis involves cooperation and the reinforcement of multilateralism. The scientific community, which throughout the world has engaged in broad cooperation to improve understanding of the virus, its effects and impact, has demonstrated that cooperation beyond frontiers allows major and rapid progress by combining efforts to achieve a common objective.

- 20.** International labour standards have been put to a harsh test during the pandemic. The Committee will discuss this fully during its work, but the Worker members already wish to insist on one fundamental point: international labour standards are not an adjustable variable with an option to respect them less or not at all depending on the circumstances. The Worker members also wish to express here their full solidarity and support for trade unionists whose rights have been undermined during this crisis, whether in the Islamic Republic of Iran, the Philippines, Sudan or Algeria. Certain States seem to consider respect for standards as a barrier to an effective response to the challenges raised by the pandemic, whereas in reality it is a necessary precondition for economic prosperity and social stability. Moreover, the ILO standards system must be a central element in the preparation of post-COVID-19 recovery. The ILO has many instruments that can be used to meet challenges. The General Survey that the Committee is examining this year, which covers employment policy, will offer an occasion to demonstrate that further. The crisis has also revealed the shortcomings and limits of social protection in many countries. Its extension and reinforcement must today be considered everywhere to be an absolute priority.
- 21.** This year, the Conference is exceptional insofar as it is being held virtually. That has led us to adopt certain arrangements that depart from our usual methods of work. For the Worker members, it is clear that all these arrangements are of an exceptional nature and are in no way intended to be reproduced in future. It is evident that these arrangements cannot serve as a basis or source of inspiration to guide the methods of work of the Committee in future Conferences. The Worker members hope that the Committee will have productive and serene discussions in order to reach constructive conclusions.

Work of the Committee

- 22.** During its opening sitting, the Committee adopted document D.1, which sets out the manner in which the work of the Committee was carried out² and, on that basis, the Committee considered its working methods, as reflected below.
- 23.** In accordance with its usual practice, the Committee continued its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by Member States of standards-related obligations under the ILO Constitution. In this general discussion, reference was made to Part One of the report of the Committee of Experts on the Application of Conventions and Recommendations. A summary of the general discussion is found under relevant headings in sections A and B of Part One of this report.
- 24.** The final part of the general discussion focused on the General Survey entitled "Promoting Employment and Decent Work in a Changing Landscape" and its Addendum.

² Work of the Committee on the Application of Standards, ILC, 109th Session, CAN/D.1 (see Annex 1).

This discussion is contained in section A of Part Two of this report. The outcome of this discussion is contained in section C of Part One of this report.

25. Following these discussions, the Committee considered the cases of serious failure by Member States to respect their reporting and other standards-related obligations. The result of the examination of these cases is contained in section D of Part One of this report. More detailed information on that discussion is contained in section B of Part Two of this report.
26. The Committee then considered 19 individual cases relating to the application of various Conventions. The examination of the individual cases was based principally on the observations contained in the Committee of Experts' report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions required the Committee to select a limited number of individual cases among the Committee of Experts' observations. With reference to its examination of these cases, the Committee reiterated the importance it placed on the role of tripartite dialogue in its work and trusted that the governments of the countries selected would make every effort to take the necessary measures to fulfil their obligations under ratified Conventions. A summary of the information submitted by governments and the discussions of the examination of individual cases, as well as the conclusions adopted by the Committee, are contained in section C of Part Two of this report.
27. The adoption of the report and the closing remarks are contained in section E of Part One of this report.

Working methods of the Committee

28. **Chairperson:** One of the significant challenges of our Committee during the present session will be to carry out its crucial work with a limited number of sittings. To succeed, we will have to respect our programme of work and apply strictly the measures set out in document D.1, particularly with regard to time management.
29. During the informal tripartite consultations on the methods of work of the Committee, which were held in March–April 2021, the limits on speaking time were reviewed to take into account the limited number of sittings available to the Committee and the virtual nature of the discussions. For the proper functioning of the work of the Committee, delegates who wish to take the floor on the various items on the agenda of the Committee will have to register in advance on the list of speakers by electronic mail at the address CAN2021@ilo.org. The list will be prepared by the secretariat 24 hours in advance.
30. Speakers who have not registered in advance on the speakers list may be given the floor if sufficient time remains for this purpose. However, the Chairperson, in agreement with the other Officers of the Committee, may, where necessary, decide to reduce the speaking time accorded, for example if the speakers list is very long. The limits on speaking time will be announced by the Chairperson at the beginning of each sitting and will be applied strictly.
31. All delegates to the Conference have an obligation to abide by parliamentary language. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters. It is my role to maintain order and to ensure that the Committee does not deviate from its fundamental purpose of providing an international

tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

32. Governments which are on the list of individual cases may provide written information before the examination of their cases. These written replies are to be provided to the secretariat at least two days before the discussion of their case and may not reproduce the information contained in the oral statement or any other information already provided by the government. The total length of this written reply is not to exceed five pages. The secretariat prepares a summary of the written information which is shared with the Committee in a D document that is put online.
33. The Committee's discussions are reproduced in extenso. As was the case at the last session of the Committee, each intervention will be reproduced in extenso in the working language in which it has been delivered or, failing that, in the language chosen by the Government – English, French or Spanish. Delegates who speak in a language other than English, French or Spanish will be invited to indicate, in the form requesting the floor, in which of these three working languages their intervention should be reproduced in the draft verbatim minutes.
34. The draft minutes will be available online on the Committee's webpage. It is the Committee's practice to accept amendments to the draft minutes of previous sittings prior to their adoption by the Committee. The amendments should be submitted electronically and be limited to the correction of transcription errors.
35. Finally, the conclusions of all individual cases will be adopted at the Committee's last sitting.

Adoption of the list of individual cases

36. The Committee adopted, during the course of the opening sitting, the list of individual cases to be discussed.³
37. **Employer members:** Members of this Committee well understand that the Committee of Experts' observations provide technical foundation for the discussions that take place in this Committee and the Employer members wish to be clear that an agreement to discuss individual cases does not mean that they necessarily agree with the Committee of Experts' observations on a particular case. We may not agree with the observations on a particular case in whole or in part. The hearing of an individual case provides an opportunity for Employer members, as well as other members of the Committee, to voice their view and their reactions with respect to the observations included in the Committee of Experts report. Of course, the Committee of Experts report is a very important foundational document. In the spirit of social dialogue, there is the ability to voice divergent views with respect to that information.
38. For example, we have a commitment to discuss the individual cases involving the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in Belarus, Colombia and Kazakhstan but that does not mean that the Employer members agree with the scope of the Committee of Experts' observations regarding the right to strike. That is an ongoing but important area of divergence of the Employer members' view vis-à-vis the Committee of Experts.

³ ILC, 109th Session, Committee on the Application of Standards, CAN/D.2 (see Annex 2).

39. Also, the Employer members wish to be clear pursuant to the adoption of the final list of cases and our commitment to discuss the individual cases on the list, that we do not agree with all of the comments of the Committee of Experts, some of which are, for example, more critical of a government situation than we would agree with. Therefore, we will take the opportunity to voice our perspectives of, for example, progress in a country.
40. In this regard, I would specifically highlight the commitment to discuss the case of Colombia. In the Employer members' view, there is significant progress in the Government's investigations and prosecutions of crimes against trade unionists and trade union leaders. So there is much progress to be discussed. Furthermore, the Employer members' view is that a discussion of an individual case is not necessarily only to discuss areas of non-compliance but it is also to highlight areas in which there is progress or significant movement towards compliance with international labour standards. So there is a variety of aspects that we expect to be brought forward in our discussion of these individual cases, including the case of Colombia.
41. We also feel very strongly that it is important, as a principle, that the discussion of the cases is based and grounded in the Committee of Experts' observations and the technical issues. We do not believe that the cases should be politicized and/or deal with issues outside of the scope of the international labour standard that is being discussed. We highlight that at the outset in our comments with respect to the adoption of the final list of cases.
42. **Worker members:** The exceptional discussions on the Committee's working methods have led us to discuss the number of individual cases that we are to examine in the course of our work. The only possible compromise has appeared to be the analysis of 19 individual cases of violations of international labour Conventions. A list of 24 cases already generates considerable frustration under normal conditions. So you can imagine the frustration of having a list of only 19 cases, in a context where the number of situations of concern is constantly increasing. Once again, I stress the fact that the analysis of 19 individual cases is a totally exceptional measure taken in the particular context that we are experiencing. This pandemic has already cost us the analysis of 29 individual cases, taking account of the cancellation of last year's Conference session and the reduction for this year. We cannot afford to let this sorry state of affairs get even worse.
43. The Worker members would like to mention the following countries which were not kept on the final list and in which the situation is a source of particular concern: we express regret at the serious deterioration of the situation in Myanmar. The coup d'état by the military junta must be condemned with the utmost severity by the international community. Trade unions and trade unionists are, among others, in the front line opposing this coup d'état and are undergoing violent repression, and the murders perpetrated by the junta run into the hundreds. This is unacceptable. It is imperative that this bloody repression ceases and that the democratically elected government be restored in the country.
44. The situation in Guatemala is also particularly worrying. The violence towards trade unions and the murders of trade unionists are unacceptable and must stop. The numerous forms of discrimination still being suffered by indigenous peoples in Guatemala are also a particular source of concern.
45. With India currently undergoing a severe episode in the health crisis, Indian workers have been deprived of all protection for months since the powers of labour inspectors

are strictly limited because of the suspension of many labour regulations. However, inspection services equipped with the powers and resources needed for the protection of workers' rights are the best guarantee for limiting the numerous impacts of the health crisis.

46. Lastly, in Brazil, on top of the dubious management of the health crisis, we still note a decline in freedom of association and the right to collective bargaining. Social dialogue has become virtually non-existent there, thus depriving Brazilian workers of legitimate representation of their interests with respect to labour issues. But tripartite social dialogue is a fundamental necessity in the crisis conditions that we are going through.
47. We continue to follow the situation closely in all these countries and we express our solidarity with all workers and trade unions that are experiencing difficulties in their day-to-day lives. They can rely on the international community to mobilize and to assert their rights through all possible channels. Despite the many situations that would also have merited discussion and despite the exceptional reduction in the number of cases to be discussed, the Worker members have accepted the adoption of document D.2 containing the list of 19 individual cases of violations of international labour Conventions.
48. I would like to point out that, contrary to what the Employer members have asserted, the list does not contain any cases of progress. In order to consider that a case of progress is on the list, the case must be explicitly identified as such by the two Committee spokespersons. This is not how things stand. The Worker members have always said that they are in favour of discussing cases of progress, but in addition to the 24 cases of serious failure. With the discussion of only 19 cases this year, the conditions for discussing cases of progress have not been met anyway. Lastly, as my final argument that these cases cannot be considered cases of progress, I invite you to re-read the considerations set out by the Committee of Experts in paragraph 131 of the 2021 addendum regarding the identification of cases of progress. Here the Committee of Experts considers that "the expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention". The Committee of Experts goes on to say 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." Hence there is no question of describing the general situation of the case or cases concerned as a situation of progress.
49. In conclusion, the Worker members welcome the constructive discussions which will enable good conclusions to be reached at the end of each individual case.

B. General questions relating to international labour standards

1. General discussion

Statement by the representative of the Secretary-General ⁴

50. I would like to welcome you to this unprecedented International Labour Conference which is taking place virtually in the current exceptional circumstances, after having been postponed for a year. The last time this Committee met, the ILO was celebrating its Centenary in Geneva. Very few, if any, among us could foresee that the transformative changes that were the subject of the Centenary Declaration on the Future of Work were

⁴ ILC, 109th session, Committee on the Application of Standards, document CAN/D.3.

already at our doorstep. The year 2020 propelled the world, including the ILO and its Member States, into the biggest public health crisis in living memory bringing about devastating effects, in terms not only of loss of human lives, but also loss of jobs, enterprises and livelihoods, along with a resurgence of poverty and a marked increase in inequality. It is in this extraordinary context that your Committee is called upon to provide, as an essential pillar of the ILO's supervisory mechanism, its guidance on the way to recovery and reconstruction, reaffirming that international labour standards and rights at work are an essential part of safeguarding social cohesion and universal peace, reinforcing resilience and building back better.

51. Your Committee is a standing committee of the International Labour Conference. It has met every time the International Labour Conference has been in session since 1926 and its mandate, which lies at the heart of the ILO's action, consists of examining and bringing to the attention of the Plenary of the Conference: (i) the measures taken by Members to give effect to the provisions of Conventions to which they are parties; and (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution. Under the terms of this article, your Committee examines at every session of the Conference, a General Survey on the law and practice of Member States in a specific area.
52. As you know, following the postponement of the 109th Session of the Conference to June 2021, the Governing Body took the unprecedented decision to invite your Committee to examine in 2021 both reports produced by the Committee of Experts at its 90th and 91st Sessions (November–December 2019 and 2020 respectively). The report released by the Committee of Experts in 2020 was updated on the basis of information received to reflect the developments which took place in the meantime, notably the impact of the COVID-19 pandemic. The updated information was examined by the Committee of Experts at its 91st Session (November–December 2020) and is reflected in the Committee of Experts' report released in 2021. Your Committee will have an opportunity to have a discussion dedicated to the impact of the COVID-19 pandemic on the application of international labour standards during a special segment of the general discussion.
53. Similarly, the 2020 General Survey entitled *Promoting Employment and Decent Work in a Changing Landscape* was updated through an Addendum released in 2021 in order to take stock of the impact of the pandemic. The General Survey and its Addendum will form the basis of your Committee's discussion and will provide additional opportunities to explore the impact of the pandemic on employment and decent work, including vis-à-vis women, workers in the informal economy, workers on non-standard forms of employment and groups in vulnerable situations such as youth, workers with disabilities and indigenous peoples.
54. Finally, your Committee will undoubtedly have additional opportunities during this session to explore the impact of the COVID-19 pandemic on the application of international labour standards during the examination of individual cases. As head of your secretariat, I look forward to the key messages that your Committee will convey on this defining challenge.
55. In the exceptional circumstances of the COVID-19 pandemic, the International Labour Conference, including your Committee, is meeting virtually and special arrangements had to be introduced to make this possible. Document D.1 details all the adjustments that will allow your Committee to discharge its constitutional obligations within the framework of a virtual session and a reduced number of sittings. These exceptional adjustments reflect the outcome of the informal tripartite consultations on the Committee's working methods which took place on 30 March and 12 and 27 April this

year. Detailed information on these consultations is available on the Committee's website. I invite you to read document D.1 carefully in order to facilitate your participation and the proper conduct of the Committee's work.

56. As provided in document D.1, the Committee will operate on the basis of a compressed working schedule which will result, among other things, in: (i) enhanced possibility to provide written inputs to complement the oral debates; (ii) longer deadlines for the submission of written statements; (iii) early registration on the speakers list; (iv) strict time management with some reduced speaking time; and (v) specific time allotment for the various items on the Committee's agenda.
57. The general discussion will be organized in two segments. One segment will be dedicated to a general discussion on the General Report and, as mentioned already, the second segment will focus on the application of international labour standards in the context of the COVID-19 pandemic. Given that speaking time will be limited, I invite those delegates who so wish, to communicate written statements to the Office sufficiently in advance so that they can be released on the Committee's website 24 hours before the sitting. These statements will be translated and included in the Committee's report in three languages. Written statements submitted will be clearly differentiated in the Committee's report from oral interventions made during the discussions.
58. Following the decisions taken at the informal tripartite consultations of March–April 2021, it is proposed to frame the discussion of the General Survey around three generic questions on the understanding that interventions do not have to be limited to these questions only. The three generic questions are: (i) progress made and problems encountered in the implementation of the instruments examined; (ii) measures to be taken to promote the Conventions and their ratification in the light of good practices and the obstacles identified; (iii) avenues for the future in terms of normative action and technical assistance. These generic questions could, to the extent possible, structure your interventions so as to facilitate a discussion conducive to an action-oriented outcome.
59. In order to organize the discussion of cases of serious failure to report this year, the Governments concerned were invited to communicate written information to the Office by 20 May. Relevant information has been received from five governments. A document compiling this information, along with the general remarks of the Employer and Worker spokespersons, will be published in the three languages 24 hours before the sitting at which cases of serious failure will be discussed. During the sitting, the governments concerned may, if they wish, present information concerning new developments, with a reduced speaking time, before the Employer and Worker spokespersons present their final remarks.
60. Based on the consensus reached during the informal tripartite consultations of March–April 2021 and on an exceptional basis, the adoption of the final list of "individual" cases to be discussed by the Committee has been scheduled at the end of the opening session. This year, the Committee will examine 19 cases as indicated in the provisional working schedule. The Officers and the Office will introduce reasonable adaptations to the usual practice of planning the discussion of individual cases following an alphabetical order, taking into account the different time zones and the complexity of the cases to be examined.
61. Pursuant to the informal tripartite consultations on the Committee's working methods and due to this year's tight working schedule, all conclusions to the examination of "individual" cases will be adopted in a single dedicated sitting. As a result, it will not be

possible to reflect the conclusions on the examination of “individual” cases in the first part of the report as per the usual practice. The conclusions will nevertheless be integrated in the second part of the report at the end of each individual case to which they relate.

- 62.** In addition to this year’s special arrangements, allow me to recall the many improvements made to the methods of work of your Committee since 2006 which are reported in detail in document D.1. I would like to recall in particular that governments on the long list of individual cases are able to submit, on a purely voluntary basis, written information to the Committee on recent developments not yet examined by the Committee of Experts. This year, 24 governments have taken advantage of this opportunity and have provided information which is available on the web page of your Committee. If a case is included in the final list of cases to be discussed at the Committee, any additional written information that governments may wish to communicate should reach the Office at least two days before their case is discussed so that it can be translated and posted on the Committee’s website 24 hours before the discussion.
- 63.** Furthermore, following the practice introduced in the Committee’s previous session, the discussions of your Committee will be reproduced in extenso in verbatim transcripts. The Chairperson will provide you with fuller information on this subject. The first part of the Committee’s report will consist of a consolidated document in three working languages which will be presented for adoption to your Committee’s final sitting. Both Parts One and Two of your report will be submitted to the Plenary sitting of the International Labour Conference for adoption. The full report translated into the three languages will be made available online 30 days after its adoption by the International Labour Conference. As this Conference is organized virtually, all documents will be produced in electronic format only and released on the Committee’s web page which will be our means of sharing important documents and complementing the oral proceedings of the Committee.
- 64.** As this is the first session of your Committee since the International Labour Conference adopted the Centenary Declaration for the Future of Work, I should recall that the Conference in 2019 declared that the setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO, playing a central role in further developing its human-centred approach to the future of work.
- 65.** This Declaration is even more important in the current context as it recalls that social justice relies on the principle of the rule of law which is not suspended in situations of crisis. The implementation of and respect for international labour standards are essential for maintaining solidarity, for reinforcing social cohesion and for resilience in the face of a crisis like the one before us. A global response for a human-centred recovery from the COVID-19 crisis will be the central focus of the Conference discussion this year.
- 66.** It is consequently very encouraging to observe that ILO Member States continue to demonstrate their commitment to ratify and implement international labour standards. As a result of the Centenary Ratification Campaign, a total of 70 new ratifications were registered in 2019. In addition, 26 new ratifications were registered in 2020 while 35 ratifications were registered in just the first five months of 2021. These developments serve to confirm the continuing will of Member States to engage in a multilateral system of cooperation based on international labour standards in pursuit of social justice, including in times of crisis.

67. The Violence and Harassment Convention, 2019 (No. 190), will enter into force on 25 June 2021, two years after its adoption by the International Labour Conference, having received to date six ratifications.
68. A landmark development has been the universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), achieved in June 2020. In a general observation on Convention No. 182 released in its 2021 report, the Committee of Experts notes that as we are celebrating this first-ever universal ratification of an ILO Convention, we must not lose sight of the fact that the ongoing COVID-19 pandemic could reverse a generation of progress against child labour and its worst forms with 66 million children falling into extreme poverty since the pandemic's outbreak. New cases of bonded child labour, such as domestic servitude, as well as commercial sexual exploitation, hazardous work in mining and agriculture and a range of sweatshop activities are on the rise. These alarming developments put at risk progress toward the achievement of Sustainable Development Goal 8.7 which is pursued in this International Year for the Elimination of Child Labour by Alliance 8.7.
69. In the case of child labour, as in other cases where the most vulnerable are left behind, it is the common responsibility of all Member States to demonstrate the solidarity needed at national and international levels to generate "a tide that lifts all the boats" and prevent any retrograde measures that may strip large sections of the population of the protection of the law.
70. This year, we celebrate the anniversaries of international labour Conventions that continue to shape some of the institutions of our world of work, embodying a human-centred approach to the future of work:
- the centenary of the Weekly Rest (Industry) Convention, 1921 (No. 14), which has now become our oldest confirmed up-to-date instrument, addressing one of the longest standing concerns of workers worldwide yet still only ratified by 120 Member States worldwide;
 - the 70th anniversary of the Equal Remuneration Convention, 1951 (No. 100), a fundamental Convention underpinning the transformative gender equality agenda envisaged in the Centenary Declaration for the Future of Work;
 - the 50th anniversary of the Workers' Representatives Convention, 1971 (No. 135), a key instrument in realizing social dialogue and in particular the effective recognition of the right to collective bargaining;
 - the 40th anniversary of the Occupational Safety and Health Convention, 1981 (No. 155), the first general framework Convention promoting safe and healthy working conditions setting up-to-date standards currently considered by the Governing Body in the context of proposals for including safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work. The year of 1981 was a particularly prolific standard-setting year as the Conference also adopted the Collective Bargaining Convention, 1981 (No. 154), and the Workers with Family Responsibilities Convention, 1981 (No. 156), which will be the subject of the General Survey your Committee will discuss in 2023;
 - the 20th anniversary of the Safety and Health in Agriculture Convention, 2001 (No. 184), which itself marked the 80th anniversary of the first-ever standards adopted for the protection of rural workers;

- the tenth anniversary of the Domestic Workers Convention, 2011 (No. 189), again the subject of a General Survey which your Committee will discuss next year.
71. This year, we are also celebrating the 70th anniversary of the Committee on Freedom of Association. The Committee was established in 1951 to examine complaints of violations of freedom of association principles, whether or not the country concerned has ratified the relevant ILO Conventions. This Committee of the Governing Body continues to be the lead body within the UN system promoting respect for the fundamental freedom of association rights of workers and employers. Professor Evance Kalula, Chairperson of the Committee on Freedom of Association will present the Annual Report of the Committee on Freedom of Association.
 72. Work is continuing with a view to reinforcing the standards work of the ILO in its second century based on a body of standards that is robust, clear and up to date, and a system of supervising the application of these standards that is authoritative and transparent, based on strengthened tripartite consensus. Of the 235 international labour standards covered by the initial programme of work of the Standards Review Mechanism Tripartite Working Group (SRM), 75 instruments remain to be examined. At its fifth meeting in September 2019, the SRM Tripartite Working Group completed its in-depth examination of all the instruments on employment policy and employment promotion. The pandemic caused the work of the SRM Tripartite Working Group to be temporarily postponed. The Tripartite Working Group will resume work with a review of social security instruments at its sixth meeting which is set to take place virtually in September 2021.
 73. Similarly, at its fourth meeting held in April this year, the Special Tripartite Committee (STC) of the Maritime Labour Convention, 2006, as amended (MLC, 2006), made recommendations concerning the status of more than 30 maritime labour standards concerning seafarers, which were referred to it by the SRM Tripartite Working Group, as many of these instruments have been revised by the MLC, 2006. By 2030 the majority of those standards should be abrogated by the International Labour Conference, leaving the MLC, 2006, as the up-to-date ILO instrument in the maritime field.
 74. At its 341st Session (March 2021), the Governing Body undertook the second evaluation of the functioning of the SRM, and expressed its gratitude to the Tripartite Working Group's ongoing work while stressing the need for follow-up by Member States, social partners as well as by the Office to its recommendations as adopted by the Governing Body. The Governing Body will undertake a further evaluation no later than March 2022. With a view to ensuring the follow-up to the recommendations of the SRM Tripartite Working Group, the Office has been actively supporting the development of tripartite national plans of action on international labour standards, inter alia, in the framework of Outcome 2 of the programme and budget. The Office will report on results achieved in the framework of the *Programme and Budget Implementation Report*, which will be submitted to the Governing Body in March 2022 and to the next session of the International Labour Conference.
 75. The work of the SRM Tripartite Working Group has thus far resulted in the placing of two standard-setting items on the agenda of future sessions of the International Labour Conference. Next year, the Conference will hold its first standard-setting discussion on a framework for quality apprenticeships stemming from the review of instruments concerning employment policy and employment promotion. Here again, the COVID-19 pandemic had a temporary disruptive effect, as the first Conference discussion on this standard-setting item had to be deferred by one year due to the deferral of the 109th Session of the Conference. The Governing Body decided accordingly to extend until 31 March 2021 the deadline for submitting replies or supplementary information

to the questionnaire for the first discussion so as to capture recent developments that might have had an impact on the law and practice in Member States.

76. Furthermore, at its 341st Session (March 2021), the Governing Body decided to place on the agenda of the 112th and 113th Sessions (2024–25) of the Conference an item related to occupational safety and health protection against biological hazards. This item stems from the review of occupational safety and health instruments carried out by the SRM Tripartite Working Group at its fourth meeting.
77. The follow-up to the Centenary Standards Initiative includes the strengthening of the ILO supervisory system. In the framework of the implementation of the work plan on the strengthening of the supervisory system, the Governing Body is continuing its consideration of further steps to ensure legal certainty and the follow-up to other action points. In order to give effect to the decision taken by the Governing Body at its 331st Session (October–November 2017), the Office, in cooperation with the International Training Centre of the ILO in Turin, has just released the initial web-based version of the *Guide on Established Practices of the ILO Supervisory System (ILO supervisory system: A Guide for Constituents)* in English. The French and Spanish versions will follow soon, along with a fully customized application for tablets and smartphones. In line with the Governing Body decisions, the purpose of the Guide is to bring together useful information in a user-friendly way in order to ensure a level playing field of knowledge on the supervisory system among ILO constituents. I hope the Guide will facilitate reporting on ratified and unratified standards and the further engagement of governments and social partners with the ILO supervisory system.
78. The various supervisory bodies have continued to discuss their working methods and to introduce innovations wherever necessary. At its 341st Session, the Governing Body took note of information provided by the Office on the procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations and requested the Office to prepare a document for its 343rd Session (November 2021) taking into account the discussion held.
79. In line with previous decisions taken in the framework of informal tripartite consultations on the Committee's working methods, the Office regularly places on the Committee's web page information on the measures taken by the Office to give effect to the recommendations of your Committee. As can be seen from this information, in view of the travel restrictions adopted as a result of the COVID-19 pandemic, the Office had to adapt its methods for following up on your Committee's conclusions. As an alternative to missions, and in order to provide much needed technical assistance in the current exceptional circumstances, the Office sought innovative ways to respond to the needs of the constituents, notably by delivering advisory services and capacity-building activities either at a distance or through local presence.
80. Furthermore, the Office provided reinforced assistance in cases of serious failings by Member States to comply with their reporting obligations. Several countries, notably in Africa, have benefited from such assistance including Djibouti, Sierra Leone, Liberia and Somalia. Some of these Member States have since fulfilled their reporting obligations, at least in part.
81. A partnership with the European Commission has been consolidated through the Trade for Decent Work Project which as of this year covers 12 countries in Africa, Asia and the Americas with a view to promoting the ratification, application and reporting on fundamental and related governance and technical Conventions.

82. At its 340th Session (October–November 2020), the Governing Body also welcomed the ILO technical cooperation programme “Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards” and requested the Office to report annually on its implementation for the duration of the three-year programme.
83. The current phase of the technical cooperation programme in Qatar is ending in June and a report on results obtained was presented to the Governing Body at its 340th Session (October–November 2020).
84. The pandemic had a marked impact on the Office’s capacity-building strategy. The challenge of the pandemic also gave rise to opportunities as new means of communication made it possible to reach a wider audience in a more agile manner.
85. The Office in collaboration with the International Training Centre of the ILO in Turin, took immediate measures to transform all capacity-building activities into online courses delivered at a distance. In parallel, the regional focus of capacity-building activities was reinforced in order to ensure more targeted discussions, including the sharing of good practices, among countries with geographical, economic and legal ties. As a result, the first regional International Labour Standards Academy was delivered in 2020 at a distance to over 155 participants from Africa including tripartite constituents, judges and law professionals, academics and media professionals. This year’s Academy will be delivered to participants from Latin America from 28 June to 30 July 2021. The Turin Centre is also providing tailored training on international labour standards to Members in all regions.
86. A special mention should be made of the situation of seafarers in the context of the COVID-19 pandemic, which is calling for increased international cooperation between the tripartite constituents with the coordinated support of specialized agencies, namely the ILO, the International Maritime Organization and the United Nations. Still to this day, thousands of seafarers remain stranded at sea without the possibility of being repatriated or of accessing medical care and vaccines, while continuing to ensure the uninterrupted transportation of 80 per cent of global trade, including vital medical supplies, food and other basic goods that are critical for the COVID-19 response and recovery. The latest report of the Committee of Experts contains a general observation on the MLC, 2006, which takes stock of the latest developments, including the United Nations General Assembly Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains, adopted on 1 December 2020, and the Resolution of the Governing Body of the International Labour Office concerning maritime labour issues and the COVID-19 pandemic, adopted on 8 December 2020.
87. Most recently, the Special Tripartite Committee of the MLC, 2006, held its fourth meeting in April bringing together more than 100 representatives of governments, and organizations of seafarers and shipowners. Through two resolutions, the STC called on governments to treat seafarers as key workers and to cooperate to make vaccines available to them at the earliest opportunity, to allow them to pass through international borders and keep global supply chains moving. The STC also agreed to actions to restore the full respect of seafarers’ rights under the MLC, 2006, and called for the convening of a United Nations inter-agency task force to examine the implementation and practical application of the Convention during the pandemic, including its impact on seafarers’ fundamental rights and on the shipping industry.

88. Allow me to conclude by recalling, as I did on the occasion of the ILO's Centenary, the parchment placed under the first stone of the former ILO building in Geneva, which reads "If you desire peace, cultivate justice". Humanity in 1919 was faced with the historic responsibility of ensuring peace based on social justice. In the current context, I am sure you will agree with me that the women and men of today bear an equally important responsibility towards the future generations as the ILO's founders did, more than 100 years ago of ensuring a recovery that delivers social justice to all.
89. Rest assured that the International Labour Standards Department is determined to maintain the tradition of public service devoted to excellence and is placing its expertise at the service of your Committee to help you play your vital role within the ILO's constitutional framework.

Statement by the Chairperson of the Committee of Experts

90. It is a pleasure for me to participate in this very special session of the Committee on the Application of Standards, which is being held, not at headquarters in Geneva, as it is every year, but virtually. This session is particularly important in view of the public health situation experienced by the world as a whole, and its impact on the world of work.
91. In the first place, I wish to convey my greetings to all those who are attending and participating in this session of the Conference, and pay tribute to the efforts made to ensure that, despite the circumstances, the meeting can effectively take place. This is the reason why it is of special importance for the Committee of Experts, which I duly represent, to be able to participate in your Committee. I would like to address certain very specific points taking into account the time limits imposed by the circumstances.
92. First, I would like to make some observations on the reflections of the Committee of Experts concerning the exceptional and dramatic circumstances that have affected millions of human beings and as a result, global production and labour relations. I would also like to consider the prevalence and importance of international labour standards and their demonstrated significance in the historical context of the COVID-19 pandemic, as international labour standards are essential for guaranteeing the protection of the minimum rights of workers, and maintaining the capacity of the economy to operate in all the States in the world, and particularly States which have ratified labour Conventions. This review will attempt to highlight certain challenges arising out of the global crisis, which in addition to testing the solidity of the principles and institutions created and founded over 100 years ago, certainly confirm the importance of compliance and the rule of law as the crisis in no way implies the suspension of the obligations undertaken by virtue of ratified international labour standards by the Member States of the Organization. Finally, I will make an effort to address aspects that we consider positive, that is, opportunities which have emerged notwithstanding the devastating effects of the crisis, both in relation to public health and the economies of all the countries in the world, creating new scenarios that have to be taken advantage of by all those who serve these values in one way or another and the rule of law within the international setting.
93. It is important to recall that the Committee of Experts meets every year, from November to December, in accordance with the mandate conferred upon it by the Governing Body. In 2020, despite the challenge represented by the COVID-19 pandemic, the Committee of Experts held its session, for the first time, virtually. This exceptional challenge was met with success. The 20 experts participated from their various locations and we carried out substantive work which enabled us to examine the reports provided by States and adopt conclusions. Despite the circumstances, the Committee of Experts examined the annual reports provided by Member States and a report was produced in which we were able to

set out a synthesis of the crisis, in accordance with the reports presented by virtue of articles 22 and 35 of the Constitution. Our report also illustrates the information shared in reports provided by Member States in accordance with article 19 of the Constitution. The Committee of Experts was thereby able to look into the reports which had been submitted in the previous reporting period and had not been examined, as well as the reports received in the beginning of 2020, before the health crisis.

94. The year 2020 was *sui generis*, in that was a difficult year for everyone, and particularly for Member States which had to submit these reports. The experts recognized the extraordinary efforts made by Member States to be able to comply with their reporting obligations and allow the Committee of Experts to carry out its work. We understand the complex difficulties faced in being able to comply with some of the requirements set out in international Conventions and Recommendations and welcome the fact that certain States managed, despite the circumstances, to give effect to these obligations.
95. With regard to this year's General Report, the Committee of Experts decided to produce an addendum to its 2020 report. Also, the Committee of Experts adopted an addendum to the 2020 General Survey. These documents, which are examined at the Committee's current session, place emphasis on three fundamental pillars.
96. The exceptional and dramatic circumstances linked to the COVID-19 pandemic affected millions of human beings and had a *de facto* impact on global production and labour relations. This shed light on the role and importance of international labour standards in this historic juncture in order to guarantee workers' basic rights and the continuing function of national economies. The challenges arising out of the crisis are another of the aspects that the Committee of Experts highlights in the General Report and the General Survey in order to emphasize the importance of respect for the rule of law. Finally, the Committee of Experts identifies the opportunities which, notwithstanding the devastating effects of the crisis, open up new scenarios, both in relation to public health and the economies of countries around the world.
97. The challenges to which the world is confronted in the context of the COVID-19 pandemic may be resumed as follows: on the one hand, the Committee of Experts recognized as a major challenge the need to maintain compliance and preserve fundamental rights at work in a situation of severe restrictions, social confinement measures and the closure of economic activities. Another important challenge that the Committee of Experts pinpointed in its report, consists in the complexities in the application of international standards respecting occupational safety and health, as well as the situation of the sudden and severe contraction of the world economy and its impact on the social security systems established in States. Indeed, the global health crisis put to the test the social security systems. In many societies and economies, these models of social security revealed their fragility and weaknesses and the need to make significant changes to bring them in line with international Conventions so as to guarantee and secure minimum health and social security conditions to the population and workers in particular. Another important challenge for the Committee of Experts was the identification of priorities and the assessment of emerging situations facing governments, and their impact on compliance with reporting obligations.
98. In this context, the Committee of Experts examined a few reports which contained a description of the situation and certainly served to illustrate certain specific situations arising in these economies. We emphasize as one of the greatest challenges the difficult situation facing the maritime sector. The maritime sector was one of the worst affected by the impact of the COVID-19 pandemic. In this respect, as all the social partners and participants are aware, the situation of seafarers was perhaps one of the most dramatic

episodes of the health crisis linked to the COVID-19 pandemic. In this regard, the Committee of Experts focused very special attention on this situation in a general observation on the Maritime Labour Convention, 2006, highlighting and emphasizing in particular the importance of all seafarers working on ships flying the flag of a State being covered by adequate health protection measures, and in addition being granted rapid and adequate access to medical care when they are working on board, as well as being provided with vaccines. The health crisis that struck the world of maritime work affected over 400,000 seafarers who were trapped on the high seas without being able to disembark for more than a year. It also affected workers who were not able to board ship in order, not only to replace the crews who were there, but also to ensure their own livelihoods through work. This crisis in the maritime sector had an impact in economic terms in view of the recognition that over 90 per cent of world trade is carried by sea.

99. It is also important to emphasize the role of social dialogue as a fundamental instrument for economic recovery. In this context, it should be noted that it is in the maritime sector that social dialogue proved to be a fundamental instrument as it made it possible to pay rapid and positive attention on a crisis that otherwise could have had an even more devastating impact; thanks to the collaboration of those involved in developing a response and solutions to the crisis, including not only seafarers, but also employers and States themselves, key statements and decisions could be adopted to overcome the negative impact that the crisis had, and continues to have, for workers in the maritime sector.
100. With regard to the relevance of social dialogue in general, we wish to emphasize that the crisis offered an opportunity to confirm its fundamental importance for economic recovery. Overcoming the crisis in a sustainable and human-centred manner is not possible without adequate social dialogue. Given an exacerbation of social tension and unfortunate weakening of trust among the constituents, these delicate circumstances having an impact on social dialogue and its effectiveness, the Committee of Experts must reaffirm that the current circumstances must not constitute an obstacle to the strengthening of dialogue. The exacerbation of social tension can only be addressed and overcome when the stakeholders can listen to each other, hold discussions and develop concerted solutions. According to ILO data, the impact of the crisis has compromised over 495 million full-time equivalent jobs. This situation has placed at risk the stability of the levels of development that humanity had achieved over the hundred years since the creation of the ILO. It is a situation which, according to ILO estimates, has led to loss of jobs and means of subsistence for around 1.6 billion workers in the informal economy. Not only full-time workers have been affected, but also, and in a very significant way, workers in the informal economy who account to 76 per cent of global employment. Moreover, the measures adopted to contain the propagation of the pandemic such as quarantines, travel restrictions and lockdowns, have given rise to a global recession and unprecedented levels of unemployment. In view of the repercussions of the pandemic, the number of persons living in extreme poverty may rise to over 150 million before the end of this year. It is a dramatic global impact which exceeds the scale of poverty experienced by humanity up to 1998. The phenomenon of extreme hunger, according to the calculations that have been made, may double before the end of this year and, for this reason, social dialogue is one of the tools and one of the essential and fundamental mechanisms for maintaining respect for human rights.
101. Finally, allow me to make a short description of the opportunities that the Committee of Experts recognized in the current socio-economic crisis. For it is clear that not everything has been devastating and negative, and that a positive lens can also apply to every dramatic experience. The opportunities that have emerged from the crisis should also

be shared. An important opportunity has been the development of more inclusive employment policies based on the solid basis of international labour standards, which set out the principles that the Committee of Experts considered in its 2020 General Survey. These opportunities, including the opportunity to develop new employment policies, became much more visible precisely as a consequence of the impact of the COVID-19 pandemic. The conclusions and recommendations on the effective application of international labour standards contained in the 2020 General Survey constitute, or could offer, an opportunity for States to launch new employment policies in light of the needs of the world of work today.

- 102.** Another opportunity emphasized by the Committee has been the acceleration caused by the crisis in the creation of a new integrated but also broad normative framework. A normative framework which enables or ensures and protects labour rights both for workers in the new types and forms of work that are emerging in production, as well as in traditional forms of work. When it comes to the new types and forms of work experienced today, there has been an acceleration in a process that has already begun years ago and has also been considered by the Committee of Experts in earlier studies; at the time we referred to the new challenges and emerging scenarios in the world of work resulting from the development of technology and science. This time, we have experienced an unprecedented acceleration as a consequence of the impact of the pandemic. In productive activities, there has been an expansion in forms of homeworking, distance working, including the expansion and acceleration of forms of work through technological platforms in the context of the situation imposed upon us by the COVID-19 pandemic. Moreover, in terms of the opportunities that have emerged from this pandemic, the international community, as well as the social partners, have been offered the opportunity to confirm the value of international labour standards, to confirm their importance and relevance as useful tools and as a reference point for the development of effective crisis responses to this pandemic. Such that, in light of the situation described above, and only as an illustration, we consider it important to emphasize and to share that standards such as the Social Protection Floors Recommendation, 2012 (No. 202), and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), as well as the standards related to social security and occupational safety, have taken on fundamental importance. Their importance takes on renewed relevance in light of the challenge referred to earlier on, in relation to the crises affecting the social security systems in many States following the impact of the global health crisis.
- 103.** Indeed, it is pertinent to recall that for the next General Survey, the Committee of Experts will focus on the issue of decent work for care economy workers in a changing economy. We consider it important, and I will conclude here, to hear and to visualize the opportunity offered to us to structure mechanisms that make the transition from the informal to the formal economy viable and facilitate it, as well as narrowing the technology gap and the preparation and skilling of workers with a view to facilitating their inclusion in productive work through the design of a new generation of employment policies and programmes that guarantee human-centred decent work, as well as inclusive work that takes into account gender issues and non-discrimination.
- 104.** I conclude by emphasizing that we have the opportunity to generate synergy within countries, and also at the level of the international community, for the establishment, reinforcement and productive expansion of all social protection systems.

Statement by the Chairperson of the Committee on Freedom of Association

- 105.** It is again an honour and a privilege for me to come before your esteemed Committee to report on the activity of the Committee on Freedom of Association, as reflected in its annual reports since we last met in 2019. The idea for the Committee on Freedom of Association to report annually and present its report to the Committee emanated from workers and employers with a view to ensuring the complementarity of both Committees and avoiding duplication of procedures.
- 106.** The role of the Committee on Freedom of Association is to examine the complaints brought before it of violations of freedom of association regardless of ratification of the relevant freedom of association Conventions. As freedom of association can only be exercised in conditions in which fundamental human rights and civil liberties are fully respected and granted, the Committee on Freedom of Association is also empowered within its mandate to examine to what extent the exercise of trade union rights may be affected in cases of allegations of infringement of civil liberties.
- 107.** Judging from about 150 cases that the Committee on Freedom of Association examines every year, and the governments in cooperation with the Committee's procedures, it is clear that the Committee's work is well known and appreciated and is seen as an authoritative voice for identifying shortcomings and finding workable solutions through social dialogue at the national level in order to address pending concerns that may have otherwise been raised in your global public forum.
- 108.** Since your Committee is about to examine the application of Conventions relative to freedom of association, it would be appropriate to recall the types of allegations that came most often before the Committee on Freedom of Association in 2019 and 2020. These were inadequate protection against acts of interference and anti-union discrimination and violation of collective bargaining rights, trade union rights and civil liberties.
- 109.** While a lot remains to be done, it is my pleasure to inform you that there has been important progress noted by the Committee on Freedom of Association with interest or satisfaction during this period. In this respect, I would like to draw the attention of your Committee to the 2020 annual report, which contains visual statistics on the cases of progress by type of allegations as well as on the cases of progress by region.
- 110.** Aware of the fact that the ILO technical assistance is a critically important tool for governments and social partners alike to resolve outstanding issues, particularly those related to capacity, the Office has made available in the last two years technical assistance in 17 cases.
- 111.** Since their adoption and the beginnings of the Committee on Freedom of Association, 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), have been ratified by 157 and 168 Member States, respectively. In cases where the government has ratified the relevant Convention, the Committee on Freedom of Association often transmits the legislative aspects to the Committee of Experts. In the period covered by the two reports before your honourable Committee, this practice was used in 16 cases, ensuring complementarity in the system through follow-up by regular supervision while also importantly avoiding duplication in examination, as well as the constant engagement between the Committee on Freedom of Association which is a complaint-based procedure on the one hand, and the Committee of Experts and your Committee, on the other. This also demonstrates the importance of ratification for ensuring sustainable progress in respect of freedom of association around the globe.

112. I would like to take this opportunity to recall that this year represents the 70th anniversary of the creation of the Committee on Freedom of Association. Its success lies, no doubt, in the way it conducts its work. The Committee on Freedom of Association is not a tribunal. It does not punish, it does not blame, but engages in a constructive dialogue with the experience and expertise that its members, drawn from the tripartite constituencies of the ILO, bring to bear from the real economy to promote respect for freedom of association, both in law and in practice.
113. I am very honoured to chair this Committee on Freedom of Association and, in that role, to make my own modest contribution to its work. As you begin your important work, I wish your Committee constructive and fruitful discussions.

Statement by the Employer members

114. **Employer members:** We would like to welcome Judge Dixon Caton, the Chair of the Committee of Experts, and Professor Evance Kalula, the Chair of the Committee on Freedom of Association, to the first-ever virtual session of the Committee. The Employer members also want to take this opportunity to thank Judge Abdul Koroma and Judge Lelio Bentes Correa, who are completing their mandates this year, for their knowledgeable contribution to the Committee of Experts and the Committee on Application of Standards during the past 15 years. We wish them well in their future endeavours. We very much appreciate the work of the Committee of Experts in its technical observations as part of the supervisory system and as part of the preparatory work for our Committee. We appreciate the work of the Committee on Freedom of Association regarding the articulation of principles of freedom of association and collective bargaining.
115. With regard to the work of the Committee on Application of Standards, the Employer members would like to share the following important points: first, we would like to recall the ILO's Centenary Declaration, which clearly states that international labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises and be subject to authoritative and effective supervision. We believe that the needs of sustainable enterprises should also become more visible in ILO standards supervision, which, in our view, could contribute to more balanced application of international labour standards globally. In that regard, we would be interested in hearing from Judge Dixon Caton, how the Committee of Experts can take into account the needs of sustainable enterprises in their supervisory work in a more substantive and meaningful way. This seems to be of particular relevance in the current context where Member States are designing or implementing COVID-19 recovery strategies in which sustainable enterprises are expected to play a key role.
116. Second, the discussion this year takes place against the backdrop of the ongoing pandemic which has left its mark, both on the application and supervision of ILO standards. While the application of ratified Conventions has generally not been suspended during the COVID-19 crisis, temporary modification of the application has likely had to be made in order to safeguard business continuation and employment, or to prevent more serious negative consequences. Such modifications may also be necessary in the recovery process where governments, employers and workers need the necessary space and flexibility for getting economies back up and running. Having said that, the employers wish to stress that the crisis must not be used as an excuse for not complying with ILO fundamental Conventions.

- 117.** Third, we note that the Committee of Experts this year once again expressed concerns at the low number of government reports reviewed by the 1 October deadline. While we do understand the difficulties and challenges governments have been facing, we count on them to continue complying with their reporting obligations under articles 19, 22 and 35 in a timely manner and to do so in consultation with the most representative employers' and workers' organizations. This is important because it is government reports that provide the core basis for the ILO supervisory work.
- 118.** Fourth, we must discuss the distinction between direct requests and observations in the Committee of Experts' report. We observe the explanations provided by the Committee of Experts in paragraph 117 of its 2021 report, in particular, that direct requests can be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which obligations are fulfilled. The Employer members are concerned that the Committee of Experts, despite this explanation, makes numerous substantial assessments of compliance in the form of bilateral direct requests. By doing so, given that direct requests are not discussed in the Committee on the Application of Standards, the Committee of Experts excludes a major part of its standards supervisory work from tripartite scrutiny and discussion within this Committee. According to this year's Addendum to its report, the Committee of Experts in 2020 made as many as 1,110 direct requests compared to 556 observations, this is not therefore a minor issue. The Employer members as a result request the Committee of Experts to make comments that contain assessments of compliance, whether based on a first or supplemental government report, in the form of observations and that only matters that deal with requests for information or clarification be included in direct requests.
- 119.** Fifth, the Employer members take note of the criteria that the Committee of Experts established for determining double-footnoted cases in paragraph 125 of the report. We would like to reiterate our early request to the Committee of Experts to provide clear explanations for each double-footnoted case in the report as to why it has been categorized as such. We believe that providing additional information in this regard, will contribute to increasing transparency in the identification of these cases.
- 120.** Sixth, the Employer members note with concern that this year, in its technical observation on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Committee of Experts requested a number of governments to provide information not only on the application of Convention No. 144, but also on the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). It should be recalled that Member States have an obligation under article 22 of the ILO Constitution to provide information on the application of ratified Conventions, but do not have a corresponding obligation to provide information on related Recommendations. It is important that the Committee of Experts does not give the impression that Member States are obliged to provide information on the application of Recommendations within the context of article 22.
- 121.** Now, I would like to turn to some comments that are related to the Committee of Experts' observations on the promotion of collective bargaining under Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Given the controversial discussions that have taken place in recent years on this provision, the Employer members take this opportunity to clarify their views on several key issues in this context: (i) first, this concerns the question – who has a right of collective bargaining? According to Article 4, this is employers or employers' organizations and workers' organizations; organizations of other persons, for example, organizations of independent contractors,

or organizations of self-employed individuals are not workers' organizations and therefore not entitled to collective bargaining. It is therefore important that clear criteria and procedures be put in place that allow the determination of who is a worker versus who is a self-employed person or an independent contractor. In the absence of rules in this regard in Article 4, the competence for establishing such criteria and procedures lies exclusively with governments; (ii) our second point in respect of the promotion of collective bargaining under Article 4 of Convention No. 98, concerns the level of collective bargaining. Article 4 does not specify nor prioritize a particular level; in other words collective bargaining at every level is equally protected by Article 4, including at the national level, the sectoral level or the company level. Therefore, while governments have an obligation to promote collective bargaining under this provision, the choice of the level for bargaining is up to the social partners involved; (iii) another rather controversial issue which has emerged is whether Article 4 provides for a hierarchy of norms in which collective agreements cannot depart from applicable legislation, and individual labour contracts cannot depart from applicable collective agreements. Article 4 does not address this issue at all. Therefore, as long as governments comply with their obligation to promote collective bargaining, it is at their discretion to establish a hierarchy of norms or a framework, and modify that as necessary; (iv) a question has also emerged in a certain observations in recent year as to whether a legal obligation to negotiate for employers is compatible with Article 4. The Committee of Experts seems to answer this question in the affirmative, as long as there is no obligation to conclude a collective agreement. The Employer members do not agree with this, given that Article 4 clearly refers to "voluntary negotiation"; (v) finally, in certain circumstances, the Committee of Experts has considered compulsory arbitration on the initiative of a workers' organization to be in line with Article 4, where this is meant to achieve the conclusion of a first collective agreement. The Employer members cannot see or understand the justification for this view, given that Article 4 is solely based on the voluntary nature of collective bargaining, and compulsory arbitration sits in diametric opposition to that concept. In conclusion, the Employer members request the Committee of Experts, and the Office that supports their work, to fully respect the wording of Article 4 of Convention No. 98 and the flexibility afforded by this provision to governments and social partners in Member States in finding ways of implementation that best meet their national circumstances and business and worker protection realities.

- 122.** In addition, the Employer members must once again question the Committee of Experts' numerous assessments on the "right to strike" within the context of Convention No. 87. We note that in the 2020 report, 58 observations were made on Convention No. 87, out of which 42 (which is 72 per cent of the observations) concern the right to strike. Furthermore, the Committee of Experts made 52 direct requests on Convention No. 87 and 83 per cent of those direct requests have right to strike elements or questions. Moreover, the figures in the 2021 Addendum report are quite similar. The Committee of Experts made 50 observations on Convention No. 87 out of which 38 (which equals 76 per cent) concern the right to strike. There are also 39 direct requests, and 36 of them (which is the equivalent of 92 per cent) have right to strike elements.
- 123.** It is important to note that, apart from the Employer members, the Government group in the Governing Body expressed its view that the conditions and practices of the right to strike are to be defined at national level. The legislative history is also clear in that the proposed Convention relates to freedom of association and not the right to strike. Therefore, the Employer members cannot but note that the repeated insistence of the

Committee of Experts on an extensive articulation regarding the right to strike is increasingly divisive and weakens the ILO standards supervisory system.

124. The Employer members reiterate their firm support and commitment to social dialogue and to the ILO standards supervisory system, as key and important governance institutions in international labour and social policy.
125. **Employer member, New Zealand:** While the ongoing pandemic has created significant challenges for the application of labour standards, it must not become an excuse for not complying with ILO fundamental Conventions. Sadly, it seems that this thought is not shared by all. At the heart of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is the right to bargain freely and voluntarily, free from compulsory arbitration and government interference. Equally important is the right of the social partners to determine the level of collective bargaining.
126. Article 4 of Convention No. 98 does not specify or prioritize a particular level for collective bargaining. Bargaining at every level is equally protected, including at the national level, the sectoral level or the company level. While governments have an obligation to promote collective bargaining, the choice of the concrete level for bargaining is actually up to the social partners. However, this is not always the case when it comes to observations on Convention No. 98. While bargaining for national industry or occupational collective documents covering all workers and employers in that industry or occupation is within the ambit of Convention No. 98, restricting how the level may be determined, is not. Similarly, permitting only one party to initiate bargaining for an agreement and to decide whether or not the document is to be an industry-based or occupationally-based one, as well as deciding the document's scope and coverage, falls well outside any accepted interpretation of Article 4. Exactly the same can be said about rules that prohibit the ability of the parties to opt out of collective bargaining and require an agreement to be concluded either by agreement or through compulsory arbitration. Indeed, countries that enforce systems of compulsory arbitration, which, in the absence of agreement ultimately fix the terms of the agreement, cannot be said to be compliant with the principle of free and voluntary negotiation. A failure to ratify a settlement that results in the terms of the agreement being fixed by arbitration, with no right of appeal against the terms that are fixed, is similarly non-compliant.
127. Equally challenging is the situation of a government that chooses to oversee the bargaining process, ensure compliance and turn settlements, be they agreed or arbitrated, into legislation. While all of these actions singly or collectively are not unknown, they cannot and must not go unchallenged by this house less the failure to do so weakens the very fabric of the supervisory system served by this Committee. In this regard, I echo our spokesperson's earlier statement regarding whether or not a legal obligation for employers to negotiate is compatible with Article 4 of Convention No. 98.
128. To conclude, the New Zealand employers believe implicitly in the ILO standards supervisory system and do not want to see it being openly abused anywhere. We respectfully request that the Committee of Experts and the Office not only fully respect the wording of and the principles enshrined in Article 4 of Convention No. 98, but also take prompt and effective action to address clear instances of departure from these. In our view, a failure to do so undermines the supervisory system and by extension, undermines all of us. Please do not let this happen.
129. **Employer member, Argentina:** We thank the Committee of Experts for its reports of 2020 and Addendum of 2021. In a constructive spirit and always aiming at improving the regularization of international labour standards we would like to add some comments:

(i) we would like to reinforce the proposal that we made previously for the Committee of Experts to consider that the information in the next report is presented by country and not by subject matter. We believe this will allow the users to get a more comprehensive understanding of the progress made and identify the persisting application issues in a given country. This would also be more coherent with the way the information and the case profiles are presented in the ILO NormLex database; (ii) we appreciate the efforts made to present consolidated comments in the Committee of Experts' report. We think that expanding this practice could help the ILO constituents by making information more accessible. However, we are interested in having some clarification on the reasons for not doing it more systematically and including all subject areas; (iii) in the same spirit, we would like to request the Committee of Experts to systematically insert hyperlinks to comments made in previous General Surveys in their report. This will avoid repetition and provide easier access to previous comments. We trust these measures will help to increase transparency and also the efficiency of the work of this Committee and help to build sustained dialogue and constructive cooperation with the Committee of Experts.

- 130. Employer member, Colombia:** I would like to refer to the importance of maintaining coordination between the different standards supervisory systems and the appropriate balance that must be retained between these supervisory mechanisms. While the standards supervisory system is focused on the Committee of Experts and the Committee on the Application of Standards as standing bodies, as well as on representations under articles 24 and 26 of the ILO Constitution, as special bodies, on the other hand, the Committee on Freedom of Association is not founded on Conventions, but on two principles: freedom of association and the effective recognition of the right to collective bargaining. The former has its origins in the ILO Constitution and the latter in the Declaration of Philadelphia. These mechanisms must also take into account the importance of the level of autonomy that each State must have in being able to determine the framework in which to develop international labour standards, in accordance with its own national situation and circumstances and, for that purpose, the drawing up of legislation and its application must be constructed with the social partners.
- 131.** Secondly, I would like to echo our spokesperson's call concerning the importance of the transparency required in the use by the Committee of Experts of observations and direct requests to Governments. The purpose is to avoid, through the use of such means, analysis of compliance with standards escaping tripartite scrutiny, particularly when it is borne in mind that in matters such as the right to strike there is not consensus in this house on the content of international labour Conventions.
- 132.** Thirdly, with regard to the application of international labour standards in the context of the COVID-19 pandemic, I wish to emphasize the importance of going into greater depth concerning the content and concept of sustainable enterprises and the need to include this concept in the analyses undertaken by the Committee of Experts. Further to the comments made by our spokesperson, the inclusion of sustainable enterprises in the analysis undertaken by ILO supervisory mechanisms will allow an appropriate balance in the application of international labour standards.
- 133.** Lastly, we believe that it is important for the Committee of Experts to highlight the positive experiences of States in implementing measures to protect the life and health of their populations, without prejudice to the fundamental labour principles contained in the Conventions.
- 134. Employer member, South Africa:** We recall that the ILO Centenary Declaration clearly states that international labour standards also need to respond to the changing patterns

of the world of work, protect workers and to take into account the needs of sustainable enterprises and be subject to authoritative and effective supervision.

- 135.** We believe that the needs of sustainable enterprises should become more visible in the ILO standards supervision, which would contribute to more balance and acceptance in the application of ILO standards. In this regard, we would be interested in understanding how the Committee of Experts takes into account the needs of sustainable enterprises in its supervisory work, especially concerning the African continent. This is particularly relevant in the current context for us. Member States in Africa are designing or implementing COVID-19 recovery strategies in which sustainable enterprises are expected to play a key role.
- 136.** We note the Committee of Experts' observation that the rule of law should always be upheld, even in pandemic circumstances. We do not take issue with this; however, we believe that a level of pragmatism is necessary. There is no doubt that the pandemic has worsened the employment situation and the ability of enterprises to remain viable and sustain jobs. Some countries have sought tripartite solutions to assist enterprises to survive in order to sustain employment levels.
- 137.** In the case of South Africa, the Government and the social partners have sought a package of measures called COVID-19 temporary employment relief scheme which essentially provided temporary relief to firms that struggled to pay workers for a few months. While these schemes are helpful they are not always sustainable. What could and should be considered is the impact of standards on the ability of enterprises to swiftly adapt to crisis in order to remain viable and sustain jobs. And, the views of the Committee of Experts in this regard will be particularly useful. It is our view that the case of Mozambique, on the Employment Policy Convention, 1964 (No. 122), which in many perspectives should be considered a case of progress will provide this Committee with a great opportunity to consider what we are suggesting.

Statement by the Worker members

- 138. Worker members:** We thank the Chairs of the Committee of Experts and the Committee on Freedom of Association for their presence and participation in the Committee's discussions. This bears witness to the productive dialogue between the various permanent ILO supervisory bodies. This closer dialogue between our Committee and the Committee of Experts illustrates the complementary nature of the two mechanisms, as the report of the Committee of Experts constitutes the basis for the work of our Committee.
- 139.** This complementarity is conditional upon the independence of the two bodies, which seek the same objective and, in so doing, decide to engage in a continuous dialogue on an equal footing. In order to avoid any misunderstanding, we wish to specify that these exchanges are not moments to try and influence the work of the Committee of Experts, and still less to give them instructions. Apart from the fact that our Committee has no mandate to do so, such an approach would undermine the independence of the Committee of Experts and would diminish its authority. For the Worker members, these discussions have the sole aim of allowing the two Committees to gain a better understanding of their respective methods and to note, where appropriate, points of convergence. In this regard, it should be specified that, if one of the Groups or certain States have a divergence with the Committee of Experts, that implies no commitment by the Committee on the Application of Standards as a whole.

- 140.** We have heard on several occasions that our two Committees should move towards greater synergy. It is true that they have a common objective, which is to supervise and ensure the sound application of standards. However, in view of their composition and mandates, they each have specific characteristics that must be respected and maintained. That guarantees, for example, that differences of approach between employers and workers on certain issues do not have an impact on the work of the Committee of Experts. The latter, independently, must continue to supervise compliance with ILO standards.
- 141.** In this regard, the right to strike is a very specific example. I would recall that the Worker members consider that the right to strike is an integral component of freedom of association and that it is covered by the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Despite the isolated position of the Employer members on this issue, this has not in any way prevented the Committee of Experts from continuing to make comments on this subject. This shows its independence and its capacity to work effectively.
- 142.** The work of the Committee of Experts is characterized by its exhaustive nature. This allows it to deal with many cases and examine all aspects, including those on which there has been progress. In view of the time limitations, our Committee can only examine a few cases, 19 this year, and as I have already indicated, the list adopted this year does not include any case of progress. I recall in passing that the classification of a case of progress by the Committee of Experts corresponds to a precise definition and cannot be extrapolated at a whim. Progress in one respect does not mean that other problems do not continue to arise in other areas. I also recall that, in our Committee, for a case to be considered a case of progress, it must be explicitly identified as such by the two spokespersons.
- 143.** On another issue, the Worker members have noted with attention the request made by the Employer members to the Committee of Experts to take greater account of the needs of sustainable enterprises when assessing compliance with standards. In this regard, we wish to make three observations.
- 144.** First, workers are those who are primarily concerned by the fate of enterprises. Indeed, they are the ones who, through their work, allow the economic activity to exist. As illustrated by this pandemic, without workers it is not possible to produce goods and services. They therefore have as much to say concerning enterprises as the Employers' group.
- 145.** Second, the ILO's mandate focusses on workers' rights. An enterprise is only sustainable if it is capable of respecting the rights – all the rights – of workers. It has to be noted that no authoritative ILO instrument defines what is to be understood or meant by sustainable enterprise. It may nevertheless be recalled that, during the discussion on this issue at the 90th Session of the International Labour Conference, it was clearly recalled on a tripartite basis that a conducive environment for sustainable enterprises is characterized by respect for international labour standards.
- 146.** The third observation, and perhaps the most important, is that the mandate of the Committee of Experts consists of the supervision of the extent of conformity of the law and practice of States with Conventions and Recommendations. In this regard, the independence and rigour of these comments, expressed on the basis of their interpretation of the texts, are essential elements in the view of the Worker members.
- 147.** In light of the above, this suggestion by the Employer members is totally inappropriate and the Worker members categorically reject it. Instead of going off on this type of

discussion, it is necessary to refocus on the essential. Throughout the world and in many countries, international labour standards are not implemented or are flouted. Our role and that of the Committee of Experts is to endeavour to change this sad reality. It is in the interests of workers, but also of employers, and clearly also of governments.

- 148. Worker member, Belarus:** I would like to reaffirm our commitment to the fundamental principles of the Committee, primarily objectivity and equal access for all countries. We consider that when considering questions, there is no room for divergent interpretations of labour standards and we support the Committee's position that any assessment needs to be based on an objective, factual basis, not on suppositions or ulterior motives. That guarantees the fairness of our work.
- 149.** Our Federation is making efforts to ensure the implementation of labour standards in our country and despite all difficulties brought about by the pandemic, we are moving towards the necessary protection of workers' rights thanks to a system of social dialogue. In the difficult conditions of the pandemic we have been able to resolve pressing issues for workers at the legislative level and in the area of practical application by the social partners. All workers, for example, who have fallen ill or might be infected receive full sick pay. Furthermore, we have managed to work at the legislative level to provide for additional holiday days for workers for health checks. We have also achieved agreements between the social partners to prevent mass redundancies. First steps have been made to ensure legislation is in place to protect workers working remotely. There has been a significant increase in pay for medical workers. Furthermore, additional material support is being provided to those who have fallen ill as a result of carrying out their professional activities. All this demonstrates commitment to the principles of ILO Conventions, in particular those relating to collective bargaining, employment, social protection, health and safety in the workplace and other issues.

Statement by Government members

- 150. Government member of Portugal, speaking on behalf of the European Union and its Member States:** The candidate countries Republic of North Macedonia, Montenegro, Serbia and Albania and EFTA country Norway, member of the European Economic Area, as well as the Republic of Moldova, Georgia and Ukraine, align themselves with this statement.
- 151.** We welcome not only with immense satisfaction, but also with relief, that the discussion of the Committee on Application of Standards finally takes place after a one-year deferral. We strongly believe in the fundamental importance of international labour standards and their effective and authoritative supervision, especially during crises such as the one resulting from the COVID-19 pandemic.
- 152.** We highly appreciate the analysis of the Committee of Experts in the General Report, in particular the guidance offered with regard to the path to recovery and resilience. This report provides a solid basis for the work of our Committee. All European Union Member States have ratified all the fundamental ILO Conventions and we truly believe that ratification, implementation of and compliance with these Conventions not only contributes to the protection and promotion of human rights, including labour rights, but also to the larger objectives of building social and economic stability, as well as inclusive societies all over the world.
- 153.** This commitment is reaffirmed in the European Union's trade agreements and unilateral trade preferences, as well as through continuous support for ILO technical assistance in the field.

154. We fully share the report's premise that international labour standards have a central role in preventing further socio-economic regression, and in putting recovery efforts on a more stable footing. International labour standards, their full implementation and their effective and authoritative supervision are a fundamental part of the recovery from the crisis. This is also in line with the Centenary Declaration on the Future of Work.
155. As pointed out by the Report, the crisis poses a risk that labour conditions deteriorate globally. However, the crisis situation does not authorize to suspend obligations under ratified international labour standards. More importantly, it stresses the need for living up to them and that any derogations should be exercised within clearly defined limits of legality, necessity, proportionality and non-discrimination. We share the Committee of Experts' view that recovery measures should never weaken the protection afforded by labour laws as that would only further undermine social cohesion and stability and erode citizens' trust in public policies.
156. We therefore underline the critical importance of effective forms of social dialogue to elaborate and implement responses grounded in respect for rights at work. Similarly, the continued support and provision of comprehensive policy guidance and technical assistance from the ILO cannot be overstated.
157. The European Union and its Member States are convinced that a well-functioning supervisory system is also critical to ensure the credibility of the Organization's work as a whole. The ILO's leadership has proven crucial in addressing challenges identified by the Report, such as poverty, inequalities, discrimination and marginalization, especially of those most vulnerable. We note with regret that there are immense challenges to ensure the safety and health of workers around the world; the pressures on creating robust, flexible and shock-resilient social security systems; the questioning of the value of employment policies; as well as the use of the COVID-19 crisis as a pretext for acts of anti-union discrimination. In this regard, international labour standards provide guidance to lay the foundations for an inclusive and sustainable recovery.
158. The European Union and its Member States are particularly worried that child labour, especially in its worst forms, as well as forced labour, are exacerbated by the COVID-19 pandemic. We must ensure that the progress made towards eliminating forced labour and child labour over recent years is not reversed. The European Union and its Member States will continue to fully support the ILO's supervisory system and the promotion of international labour standards. We remain convinced that this is one of the most valuable examples of a multilateral rules-based order which has gained even more importance during the crisis. We are looking forward to constructive engagement with all constituents during the debate in this Committee.
159. **Government member, Belgium:** Belgium aligns itself with the statement of the European Union and its Member States. The ILO is a standard-setting organization, and the Committee on the Application of Standards is its backbone. Belgium is one of the countries that has ratified the highest number of Conventions, implements them and provides reports to the ILO.
160. Since 2012, the standards supervisory mechanism has been subjected to various types of pressure. Admittedly, the mechanism is also dependent on other bodies within the Organization, but the Committee on the Application of Standards, as a standing committee of this global labour assembly, is essential. The standards supervisory mechanism is essential for the achievement of social justice, the constitutional objective of our Organization. The work that will be carried out will be based on the report

prepared by the Committee of Experts, and Belgium highlights the independent and impartial nature of its analysis.

161. We support statements affirming that no crisis situation may justify exemptions from the rule of law. ILO membership is not a declaratory act, it is a commitment to the promotion and implementation of the ILO's standards, strategic objectives and values. However, as recent work has demonstrated, the health crisis has had the consequence of increasing inequality and a rise in child labour. Violations of fundamental rights, including those related to freedom of association, have multiplied. Some of the gains made in equality between women and men are being eroded. The COVID-19 crisis has therefore had undeniable consequences for the world of work.
162. In this difficult context, it is therefore essential to intensify efforts for the implementation of the standards to which we have subscribed. In particular, Belgium calls on the States that are on the agenda of the Committee to adopt the necessary measures, without delay, to improve the situation. Belgium intends to pursue resolutely its commitment in this Committee and the Organization.
163. **Government member, Saudi Arabia:** We thank the Committee of Experts which confirmed in its report the satisfaction with the measures taken by our Government on the application of the Minimum Age Convention, 1973 (No. 138), and noted with interest the different measures taken by the Kingdom on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). We commend the Committee's role in supporting the Member States in enhancing compliance with international labour standards and for facilitating easy access to their reports and ensuring the transparency of information and clarity of guidelines and observations.
164. We also congratulate the ILO on the universal ratification of Worst Forms of Child Labour Convention, 1999 (No. 182), which came as a result of the cooperation of the international community and the unified efforts to abolish the worst forms of child labour. We faced great challenges in Saudi Arabia during the COVID-19 pandemic as did the rest of the world. Our Government took many measures to respond to the pandemic in order to mitigate its negative impact on the labour market under the Government's national and international obligations.
165. The Government of Saudi Arabia confirms its commitment to take effective actions toward the labour market recovery from the pandemic's negative impact and it continues to endeavour to ensure the stability of the contractual and labour relations in the midst of the constant changes in the labour market.
166. The Saudi Government has reaffirmed its obligation to the ILO's normative system late last year through the ratification of the Hygiene (Commerce and Offices) Convention, 1964 (No. 120), and the Protection of Wages Convention, 1949 (No. 95), especially given their particular significance during the current crisis. Earlier this year, the Saudi Government also adopted the National Policy on Occupational Safety and Health and the National Policy to Prevent Child Labour including the implementation of its respective action plan. We deposited last week the formal ratification instrument of the Protocol of 2014 to the Forced Labour Convention, 1930, and we are fully aware that the work does not end there. We will maximize our efforts to ensure the required measures are taken for their enforcement, as well as their follow-up and we perform the required monitoring to guarantee the protection of workers' rights and further develop working conditions in cooperation with the ILO and in consultation with the relevant social partners.
167. Finally, I would like to reiterate our appreciation for the Committee on Application of Standards and the Committee of Experts, being the two pillars of the ILO's supervisory

system, for their efficient role in ensuring and following up on the optimal application of international labour standards.

- 168. Government member, Brazil:** Brazil attaches great importance to the continued discussion and development of the ILO supervisory bodies and their working methods. We therefore take note with interest of the exchange between the Committee of Experts and the Committee on the Application of Standards that took place in a special sitting last year. However, we deeply regret that only the Worker and the Employer Vice-Chairpersons of the Committee on the Application of Standards were invited to participate in the sitting. The absence of a representative from the Government group is a symptom of serious disregard to one of the most fundamental principles of this Organization, namely tripartism.
- 169.** Brazil is convinced that further improvement of the synergies between the two Committees is needed. Their work has been interdependent since the establishment of the system in 1926 by the International Labour Conference. The Committee of Experts plays an important role in providing observations on the application of standards which are then considered by the Committee on the Application of Standards. The conclusions of the latter, as adopted by the International Labour Conference, are based on extensive discussions by tripartite constituents. As such, the Committee of Experts should consider them as the main reference for their future observations and refrain from reopening discussions that have already been decided upon by the Committee on Application of Standards.
- 170.** Finally, we reaffirm our call for the discussion and adoption of an improved procedure for the selection of Committee of Experts members. The procedure currently carried out as a matter of practice is far away from the best practices and rules adopted in similar procedures in other international organizations. In the wake of the ILO Centenary, it is time for its constituents to engage in a serious and open debate on this issue so as to render the selection procedure up to date with the best recognized practices of good governance that take due account of the need for impartiality, transparency, efficiency, accountability, regional balance and tripartism.

2. Application of international labour standards in the context of the COVID-19 pandemic

- 171.** In the framework of the tripartite consultations of March–April 2021, it was decided that the Committee would devote a section of the general discussion to the question of the application of international labour standards in the context of the COVID-19 pandemic.

Statement by Worker members

- 172. Worker members:** The Worker members provided the following written information.⁵ Emphasis should be placed on the need for a post-COVID recovery that respects international labour standards. We have noted in recent years that certain international institutions went as far as recommending the adoption of national measures that were contrary to international labour standards, under the pretext of creating an environment conducive to investment. This short-term calculation has shown the disastrous results that it implies in times of crisis.

⁵ ILC, 109th Session, Committee on Application of Standards, document CAN/D/GD.

- 173.** It is therefore essential for the ILO to reaffirm, especially in relation to these international institutions, that the post-COVID recovery must be focused on the creation of a working environment that places emphasis on the human, inclusive, sure and resilient, which can offer lasting guarantees of means of subsistence to workers in times of crisis and build economies capable of resisting the terrible shocks arising out of the various crises that we will unfortunately still have to face in future. It is essential for all stakeholders to work with us hand in hand in order to achieve the sustainable development goals that the world has set itself.
- 174.** There are a number of fields in which international labour standards are also of fundamental importance, but which it was not possible to address in the intervention made during the sitting, and which deserve to be covered by the written comments.
- 175.** The employment policy instruments will be particularly valuable in setting in motion a human-centred recovery. We will have the opportunity to come back to this more fully in the discussion on the General Survey.
- 176.** The universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), was an important symbolic step that crowned the efforts made up to then by the international community with a view to the complete eradication of child labour, including its worst forms. However, the shock of the crisis is threatening to undermine the progress that has been achieved. It is therefore essential for every measure to be taken to prevent children from also being victims of this crisis and for everything to be done to spare them from work, including its worst forms. We call on the international community, as well as Member States, to reinforce programmes to combat child labour, particularly by strengthening support for families that are badly affected by the crisis.
- 177.** Nor can the crisis be used as a pretext for the implementation of compulsory employment policies. Although exceptions are contained in the international instruments that combat forced labour, these exceptions must be very strictly interpreted and limited to what is strictly required by the situation. As it will inevitably be necessary to relaunch employment as we come out of the crisis, the international instruments on employment policy must serve as a guide to Member States.
- 178.** The principles of equality and non-discrimination have also come under pressure during the crisis. Women appear to be paying a heavy price for the crisis. It is necessary to pay particular attention to reinforcing, among others, the measures intended to give effect to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). As workplace violence and harassment have also increased markedly during the crisis, the Violence and Harassment Convention, 2019 (No. 190), which has now entered into force, will certainly be a fundamental tool to combat this scourge. It is important to create an inclusive working environment in which all categories of workers have their place.
- 179.** We have already referred above to the dangerous short-term tendency consisting of dismantling the rights contained in international labour standards, and this danger also arises in particular in relation to wages. And yet it seems clear to us that a post-COVID recovery should also include the upwards adjustment of the lowest wages; low wages that are often paid to those front-line workers referred to in the opening speech and the intervention in the sitting on this subject. Member States will have to ensure that workers can benefit from an adequate, legal and negotiated minimum wage, which guarantees them a decent income. It is only in this way that we will be able to achieve the objectives set by the ILO of achieving greater social justice and less inequality and poverty.
- 180.** The Committee of Experts has emphasized the particular impact of the crisis on indigenous peoples in view of their vulnerability and the specific socio-economic

conditions with which they are confronted. We call on Member States to pay particular attention to indigenous peoples, to adopt all the necessary measures to take into account their specific needs and to engage in dialogue with these peoples. The effective implementation of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), will be fundamental in this regard. As we have already indicated, our response to the crisis cannot leave anyone behind.

- 181.** We insist once again on the need to follow up the impact of COVID in all Member States in the years to come. The Committee of Experts certainly has a role to play in the assessment of the measures taken in Member States and in the formulation of recommendations with a view to further improving our responses to the consequences of the crisis, in full conformity with international labour standards. The Worker members will in this regard follow with interest the outcome of the discussions in the COVID Response Committee.
- 182.** In addition, the Worker members made the following oral statement: The COVID-19 pandemic has had a significant impact on the world of work. According to the ILO Observatory, hours of work have undergone an unprecedented collapse worldwide. Behind these figures, it is undeniable that workers have suffered greatly from this crisis. On the one hand, there have been all those who have had to stop their occupational activity and have been faced with losing their income or having it reduced and, on the other hand, all the front-line workers who have continued to provide essential goods and services throughout the pandemic, at risk to their health. If the impact of the crisis on informal sector workers is added to this scenario, the picture looks even more catastrophic. We will probably never be able to fully grasp the scale of the earth-shattering upheaval caused by the COVID-19 pandemic. What is clear, however, is that the situation would have been much worse without the existence of international labour standards and their proper application. By way of illustration, we can refer to healthcare, which is a branch of social security and is covered by the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Social Protection Floors Recommendation, 2012 (No. 202). The impact of the pandemic on this sector has revealed not only how important the sector is but also how fragile it is. Indeed, even supposedly robust health systems have been pushed to the limits of their capacity. More fragile health systems have unfortunately proved incapable of coping with this crisis. It is therefore vitally important that Member States invest and continue to invest in quality healthcare systems capable of coping with a health crisis on this scale. Similarly, we have been able to see how countries with sufficiently sound social protection systems have been able to provide support for their populations deprived of work and have been in a position to put their economies on a more stable footing. These two examples show to what extent the proper implementation and observance of standards are essential. But this dimension would warrant being reinforced by a more proactive approach. In this regard, the idea of a treaty on pandemics, promoted in particular by the World Health Organization, is worthy of consideration. Given the impact of this pandemic on the world of work, the ILO needs to be fully associated with this debate, contributing its specific role and means of action.
- 183.** Moreover, there is obviously no escaping the question of occupational safety and health. This is what we have seen throughout the pandemic: large numbers of workers exposed to the risk of infection by the coronavirus in the context of their occupational activities. All too often safety and health rules have been ignored to preserve business activity, to the detriment of workers' fundamental right to health. On this occasion, we have been able to observe to what extent endangering workers' health is also endangering public health. The Worker members have been calling for it for a long time and this pandemic

should finally convince those who are most reticent. It is now time to incorporate occupational safety and health instruments in the fundamental rights and principles of the ILO. The step taken in this regard at the last session of the Governing Body with the revision and adoption of the plan of work is to be welcomed. Moreover, promoting the ratification of the Occupational Safety and Health Convention, 1981 (No. 155), which provides the necessary framework for policies in this field, should continue.

- 184.** In order to ensure the effectiveness of these standards, it is essential to have a robust labour inspection system. We have seen a sharp decline during the pandemic in the number of inspections undertaken by inspectorates. It is true that the smooth functioning of inspection services has itself been affected by the health crisis. However, we can only deplore the fact that some Member States have gone as far as introducing a moratorium on inspections during the pandemic. This is tantamount to giving a blank cheque to employers who do not respect the rules and placing at a disadvantage those who are doing everything to ensure that the rules are applied properly. This is clearly unacceptable and is contrary to the Labour Inspection Convention, 1947 (No. 81).
- 185.** The pandemic has seen an explosion in systems of the organization of work, such as the use of telework, platform work, home work and many others. Workers occupied in such modes of working must also, in the same way as any other workers, enjoy the protections guaranteed by international labour standards, particularly regarding respect for their fundamental rights, the right to an adequate minimum wage, limits on hours of work and the right to safety and health at work.
- 186.** The many difficulties caused by the pandemic have driven trade unions to formulate legitimate demands to improve the lot of workers in the context of the pandemic and to reconstruct a fairer and more inclusive post-COVID society. However, we can only deplore the fact that this period of crisis has put even heavier pressure than usual on freedom of association and the right to collective bargaining. The health measures taken by governments to combat the coronavirus obstruct, by their very nature, the exercise of freedom of association and the right to collective bargaining. Even if these measures sometimes prove legitimate, necessary and proportional from the health perspective, there is still a need to challenge and question States that use the health crisis as a pretext for cracking down on any form of trade union action and obstructing the free exercise of the right to collective bargaining. We pointed it out in our opening statement: where social dialogue is strongest, the strongest responses to the crisis have been possible. More than ever, we need to stress the fact that 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), are not the problem, but are an integral part of the solution.
- 187.** Despite these adverse findings, we can note with satisfaction that wherever standards are respected, they have been able to strongly mitigate the effects of the pandemic on the world of work. However, we must not lose sight of the need to continue promoting these instruments, to monitor them, to continue reinforcing them and to search constantly for areas in which new ILO initiatives can be taken. This last element is fundamental for further improving the resilience of the world of work in response not only to the upheaval caused by this pandemic but also to that already encountered by many countries because of other challenges facing them. In this regard, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), as a framework that enables these crisis situations to be prevented and appropriate responses to be provided, must at all times be the subject of particular attention, and not just when a crisis erupts because then, sadly, it will already be too late.

188. Moreover, the Worker members propose that each Member State carries out an evaluation of its response to the challenges posed by the pandemic in the country and establishes a plan of action to build greater resilience for the future, in a tripartite manner and on the basis of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). Similarly, we propose that Governments that have taken measures derogating from international labour standards be invited to report on these aspects to the Committee of Experts and that specific follow-up on these aspects takes place.
189. Allow me to thank the Committee of Experts for its numerous relevant observations on the subject of the importance of international labour standards in the context of the COVID-19 crisis. In an interconnected and interdependent world, we cannot avoid the need for standard-setting instruments which are intended to be applied universally. Nor can we use a crisis context as the pretext for suspending their application when a rapid and sustainable recovery from the crisis largely depends on respecting them. It is undeniable that their ratification and implementation represent an enormous challenge for all stakeholders. However, this challenge is much more achievable than we think if it is measured against the serious consequences and problems which will inevitably arise for any States that choose to discard these instruments.
190. We invite States that have embarked on this course to learn the lessons of the pandemic and to engage with us, in accordance with the ILO Centenary Declaration, in shaping a fair, inclusive, secure and human-centred future of work. The Declaration of Philadelphia recalled that lasting peace can only be based on social justice. Respect for international labour standards, social protection and social dialogue form an integral part of this concept as established in the ILO Declaration on Social Justice for a Fair Globalization, 2008. I would therefore like us all to be able to recall, at the end of our discussions, that international labour standards certainly constitute an effective means of responding to crises and are essential instruments for achieving these goals of social justice.
191. **Worker member, Zimbabwe:** My organization is the Congress of Trade Unions and is supported by our regional body, the Southern African Trade Union Coordination Council (SATUCC), which has been following the events in our region and in my country in particular from the onset of the outbreak of COVID-19. The SATUCC aligns itself with my statement and this accolade is made by the Government of Zimbabwe's failure to observe fundamental rights of employees during the COVID-19 period, as I will demonstrate.
192. The COVID-19 pandemic only exacerbated the already existing challenges to workers' fundamental rights. The rights to freedom of association, collective bargaining, occupational safety and health, social protection and social dialogue are among such rights that are grossly violated under the pretext of combating the spread of coronavirus. The SATUCC remains concerned by the growing trend in the criminalization of trade union activities during strikes and protest actions. As my country engaged in lockdowns in March 2020, certain sectors of the economy were declared to be essential services, but most workers in such sectors were not adequately protected against the virus due to failure by both the Government and employers to supply adequate PPE. The workers were overworked with no essential pay and benefits. Our health sector workers went back on strike and their leaders were arrested and judicially persecuted. My federation was labelled a terrorist organization and some of its leaders, including its President, Mr Peter Mutasa, were placed on police wanted custody list following protest actions by citizens demanding better social and economic rights. Such an attack is a threat to workers' rights to civil liberties. In addition, our members generally continue to

face some arrests for reporting some of the violations that include issues of corruption and are judicially persecuted as well. Trade unions were excluded from the list of essential services and were forced to close offices leaving workers without representation. Our country already has a weekly inspection system and it is the duty of trade unions to undertake their duties in a crisis period. Our situation was also compounded by lack of measures to protect workers against income insecurity. The Government abrogated its responsibility and insisted that employers should determine what they want to pay their workers and workers were then forced to engage in survival activities.

193. We also note a disrespect of social dialogue as the Government took measures without consultations. We are now a country ruled through decrees. After several demands, some dialogue resumed but most of our agreed recommendations were not taken on board. Let me end by reiterating that governments have every obligation to respect the fundamental rights of workers, even during a crisis period.
194. **Worker member, Philippines:** Like many governments, the Philippine Government has done little to protect workers in the current COVID-19 crisis. Its militarized pandemic response, prioritization of irrelevant and dangerous initiatives like the Anti-Terrorism Act and the Joint Industrial Peace and Concerns Office (JIPCO), anti-worker issuances, as well as the red-tagging of trade unionists, undermine any claim to upholding workers' rights.
195. In fact, Filipino workers are under immense pressure: COVID-19 and the crises it has engendered and intensified, on the one hand, and the assault on trade unionism, on the other. For example, the Government's militarized response – preferring military and police solutions from the policy-making to the community level – has led to widespread economic disruption and a spike in human rights abuses. The implementation of lockdowns across the country without adequate aid has done more to cause unemployment and the loss of livelihood than eradicate the threat posed by COVID-19. More than that, more trade union leaders and members were added to the list of those killed, from 43 in 2019, to 56 in 2021.
196. At the same time, government officials under the National Task Force – End Local Communist Armed Conflict (NTF-ELCAC) have been rapidly tagging workers, progressives, and ordinary citizens as fronts of the country's decades-long communist insurgency. Furthermore, the Department of Labor and Employment issued several controversial pronouncements during the pandemic. The anti-worker Labor Advisory 17 and Department Order 213 were only repealed or amended because of organized labour's swift condemnation. In addition, workers from a multinational beverage company have been dismissed for trumped-up charges during the pandemic. The unions meanwhile were intensely red-tagged. The refrain across many industries is consistent, to be a unionist is to be a member of the underground New People's Army. The NTF-ELCAC representatives were also engaged in multiple instances of red-tagging against workers such as in Davao. JIPCO forms meanwhile were being handed out to citizen-driven community pantries that sprung up as a form of collective mutual aid after two years of pandemic.
197. All of these developments are a clear indication of the deterioration of international labour standards in the country. We call on the ILO, the International Trade Union Confederation (ITUC) and the international community to support Philippine labour as we continue to assert the recognition of labour rights in our country.
198. **Worker member, Chile:** I am from the Single Central Organization of Workers of Chile (CUT-Chile) and would like to make a few comments on the COVID-19 situation and the

Government's response to it, a situation of social upheaval where questions are being raised about the neoliberal model which has made life more precarious for workers.

199. The absence of social dialogue, constant pressure and policies against workers have been the dominant features of the Government's handling of the COVID-19 pandemic. Despite international evidence that pointed to the rapid spread of the virus among the population, the Government of Chile resisted adopting measures such as national lockdowns, sanitary cordons, and effective quarantine and isolation of persons who had tested positive. It was only as a result of pressure from labour organizations that action was taken to impose community lockdowns and school closures.
200. The measures issued by the Ministry of Health to the health services were belated, unequal, confusing and in some cases contradictory, and in these difficult circumstances the country's public health network and its workers were the ones providing care for the population. In order to tackle the pandemic, the Government of Chile took the risk of using health strategies untested anywhere in the world, and without other experiences for comparison, which were called "dynamic lockdowns" to protect the economy, a strategy that resulted in a worsening of the health crisis, as demonstrated by the figures for infections and deaths. Sebastián Piñera, representing the economic right wing, implemented a coordinated policy to capitalize on the health crisis and intensify his neoliberal agenda. The priority was to transform the health crisis into a stage in the process of wealth accumulation in which the economy and the millions of the super-rich were placed above, and without any counterweight, the people's constitutional right to life and health. This is the only way to explain how the medical crisis was used by Health Insurance Institutions (ISAPRES) and the private health enterprises to increase the cost of their plans and raise the prices of their services, and the fact that the pension fund administrators (AFP) used deceitful market practices to cause the disappearance of billions of dollars of savings belonging to Chilean workers. Incidentally, these are the same workers who, pursuant to a much touted Employment Protection Act, are lowering the cost of labour for employers to zero with their savings from unemployment insurance, since the only costs that employers still have in this case are those of health insurance contributions which they can pay in easy instalments, with the workers bearing the costs of this crisis. The same applies to the Telework Act, which has made employment relationships even more precarious with working days in excess of 12 hours and transferring all the costs of work tools and operations to the workers.
201. The unemployment rate has increased in Chile, and a large number of workers have had their employment contracts suspended. There are also many self-employed workers, own-account workers, platform workers, etc., who have been unable to leave their homes to work and have also had no effective social protection response from the State enabling them to cover their basic needs such as food and housing. This has created the need for a resurgence in various types of community kitchens to provide a response to this structural, economic and social crisis that we are experiencing in Chile, in which it is the people and social organizations and trade unions which have coordinated actions of this kind.
202. Chile has woken up, it is living through a historic time involving the creation of a new Constitution, but this cannot possibly go ahead when there are still violations of human rights and political prisoners in jail.
203. **Worker member, Brazil:** In Brazil, the COVID-19 pandemic has increased violations of this Organization's standards. Violations of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Collective Bargaining Convention, 1981 (No. 154), have intensified over the past two years, and there has been a total failure to

comply with the conclusions adopted by the Committee on the Application of Standards in 2018 and 2019. In September 2020, the Brazilian postal enterprise launched a legal challenge to the workers' strike in the courts, and as a result the Higher Labour Court removed 50 of the 79 clauses of the collective agreement, most of which had been the result of years of free bargaining in a serious violation of Convention No. 98. We also condemn the persecution of trade union leaders, including the President of the Single Federation of Oil Workers, who was punished simply for exercising the function for which he was elected. Interim measures Nos 927, 936 and 1045 were published to allow, without any consultation with trade unions, collective agreements to be abrogated at the discretion of employers and wage reductions, working hours and the suspension of labour contracts to be agreed through individual agreements. There is no social dialogue in Brazil.

- 204.** The vulnerability of the indigenous and Quilombola communities has increased during the pandemic. The Government has not complied with court orders relating to testing, vaccination and other protection measures. The right to consultation was ignored.
- 205.** The whole world knows that in Brazil the tragedy of the pandemic has been worsened by the incompetence and irresponsibility of a Government that saw four different Ministers of Health in one year and whose President, instead of fighting the virus and protecting the population, appears to want to fight the people and protect the virus. In March 2020, after 1,000 people had died, the President described COVID-19 as a "gripezinha", or little flu. In April, he stated that there was nothing to be done. In June, when the death toll stood at 35,000, the President declared that he would cease publishing figures for the pandemic. While he denies the risks of the pandemic and battles against WHO guidelines, he encourages his people to go out into the streets unprotected and attacks countries that offer help. In January 2021, after there had been 198,000 deaths, there was an oxygen shortage in the State of Amazonas. The President said that "there is no oxygen, there is nothing I can do". The trade union confederations had to intercede with the Government of the Bolivarian Republic of Venezuela to secure a supply of oxygen to mitigate the tragedy. Over half the Brazilian population is living under conditions of food insecurity, and on 1 June the country's death toll as a result of the pandemic exceeded 465,000.
- 206. Worker member, United Kingdom of Great Britain and Northern Ireland:** We welcome the role labour inspectors have played during the pandemic, and our thanks and respect go to those who have faced an increased risk of infection in carrying out essential duties. As they do for all such workers. We note, however, the concerns of the Committee of Experts that moratoria and changes to inspection practices have reduced capacity at a crucial time. Targeting reduced inspection resources risks leaving significant gaps in workplace protection, and we urge all governments to consult with the real workplace experts, namely the unions, to ensure that emergency provision is fit for purpose.
- 207.** In the United Kingdom, we already had concerns over inspection, including the recruitment and retention of skilled inspectors. Recent research by the Trades Union Congress (TUC), based on information gathered through parliamentary questions, suggests that if the United Kingdom is to meet the ILO benchmark on inspector numbers, it needs to recruit and train urgently a further 1,792 staff. This is more than is currently employed by the different inspection agencies. The upshot of this is that each year, only one in 171 UK workplaces is subject to inspection by a labour market enforcement body.

- 208.** Trade unions and wider civil society are always willing to play their role in adding value to government inspection. The *Independent* newspaper reported last October that a pathology company that processes COVID-19 test samples for the National Health Service (NHS) put its staff at risk of infection through multiple breaches of health and safety rules. Its breaches included misleading hygiene advice for couriers, for example, claiming that lab sample boxes only needed to be cleaned once a week, inadequate training for PPE use, and insufficient space for social distancing. There was no guidance provided on how to deal with spilled COVID samples.
- 209.** The Health and Safety Executive carried out a thorough investigation on the basis of information provided by the Independent Workers' Union of Great Britain. In Leicester, journalists and NGOs uncovered systematic breaches of COVID regulations in the city's textile industry, with cramped factory spaces running at full capacity throughout the initial lockdown period, with minimum wage and other violations also rife. COVID cases in Leicester affected working-age people more than in the rest of the country and the city has consistently had to face additional COVID-prevention measures. In Leicester, there is now heightened enforcement activity, as well as a laudable partnership between unions, local government, businesses and enforcement agencies aimed at thoroughly reforming the industry's working practices, but these serious problems might not have come to light had it not been for the intervention of unions and third parties. Civil society is not a replacement for a properly funded labour inspection system.
- 210.** Many countries, for example the G7 members, have supported calls for economies to "build back better" after COVID. Properly resourcing all our labour inspection systems would correct one glaring flaw in what we are aiming to build back better from, as well as allowing greater influence over other ways in which we can ensure our economies are built on decent work.
- 211. Observer, International Trade Union Confederation (ITUC):** I represent the India National Trade Union Congress (INTUC), the largest union in our nation. As of now in India, more than 20 million Indian people have been infected with COVID-19. More than 300,000 precious lives have been lost as a result of the Indian Government's negligent and irresponsible policy in responding to the pandemic. There is an alarming shortage of vaccine doses, oxygen, hospital beds, even cremation facilities everywhere. Despite the disastrous outbreak of the COVID-19 pandemic, the Government is passing laws no one wants, and pursuing full-scale privatization that has been protested strongly by the trade unions.
- 212.** Last year, the governments of six states, Uttar Pradesh, Himachal Pradesh, Gujarat, Madhya Pradesh, Haryana and Uttarakhand, suspended labour laws through executive orders while the legislative assemblies were not in session. All the major labour laws governing trade unions, industrial relations, industrial disputes, labour inspection and contract workers have been suspended, and industrial establishments are exempted from the labour laws for a period of three years, or indefinitely in major sectors in some states. Trade unions were fighting hard to stop the extension of working hours from eight to 12 hours. It was pressed through by six state governments to become the norm of work. In May, new rules were adopted to limit the scope of collective bargaining and to devise a new bargaining procedure without any consultation.
- 213.** The Government is also repealing the latest Inter State Migrant Workmen Act which will result in dire consequences for the protection of migrant workers who are most vulnerable under the lockdown, and many were unable to return to their home province. Under the pandemic, millions of workers and the trade unions have lost their fundamental rights we have won in decades of trade union struggle.

- 214.** The Federal Government of India is responsible for ensuring that their obligations under international labour standards are observed by all state governments. Under the pandemic, workers have been killed in lethal industrial accidents in mines and petrochemical plants. Up to now, the Government of India is still refusing to accept a direct contacts mission of the ILO to implement the conclusions adopted by this Committee in 2019. Dialogue with the Government has been disrupted since the Government ceased to convene the national labour conference in 2014. I urge the Government of India to respect its obligations as a member of the ILO and repeal all the labour legislation that contravenes international labour standards.
- 215. Observer, International Transport Federation (ITF):** At the peak of the COVID-19 pandemic, there were possibly 400,000 seafarers trapped, working aboard ships due to the so-called crew change crisis caused by pandemic-related government border and travel restrictions, and an equal number of unemployed seafarers waiting to join them who were ashore. That made 800,000 seafarers affected by the crisis. With new COVID-19 variants continuing to emerge and the inequitable distribution of vaccinations around the world, this crisis is far from over.
- 216.** Seafarers who provide a key front-line service to society with more than 90 per cent of world trade moved by sea, are enjoying some of the toughest conditions faced by workers in any occupation during the pandemic. It is simply not right. As the Committee of Experts has recognized in its general observation on the application of the Maritime Labour Convention (MLC, 2006), during the pandemic, failure by governments to adhere to international protocols developed to alleviate this crisis, among other things, has resulted in widespread non-compliance with the MLC. In addition to the impact this has on the lives of seafarers, such pervasive violations of the MLC not only affect the credibility of the instrument itself, but the entire system of international labour standards. A number of States, of course, have stepped up to the plate and delivered for seafarers, but much more needs to be done. For example, so far only 55 States, at the last count, have declared seafarers as key workers.
- 217.** On the question of force majeure, the Committee of Experts makes it absolutely clear that it may no longer be invoked from the moment that options are available to comply with the Convention, and such is the case now. Among the many key takeaways on the Committee of Experts' recommendations is the need for further cooperation among ratifying Member States to ensure the effective implementation and enforcement of the Convention during the pandemic. Also a general principle of international law. We are also heartened by the Committee of Experts' recognition that it is implicit in the very inaction of certain Member States to ensure crew changes that give seafarers no option but to stay on board, which in turn creates conditions that amount to forced labour, a violation of a non-derogable right under international law.
- 218.** We have had supportive resolutions on this issue from the United Nations General Assembly, the ILO Governing Body and the Special Tripartite Committee of the MLC. We now have a multi-UN agency COVID-19 maritime human rights due diligence checklist which aims to help companies play their essential role in helping in this crisis. It is now imperative that governments implement these resolutions and the Committee of Experts' recommendations. There is simply no time to waste.
- 219.** In conclusion, I would like to thank the ILO Director-General, our wonderful colleagues from the ILO Standards and Sectoral Activities Departments for their invaluable work in support of the world's seafarers during the past 15 months.

- 220. Observer, Public Services International (PSI):** The pandemic highlighted and exacerbated the impact of many years of underfunding and privatization of public health. Among the consequences are underpaid, understaffed and overworked health and care workers. Those who we called heroes and received much applause during this year are also rewarded with “precarization” and unsafe work. Indeed, workplace safety and occupational health are still major issues for health and care workers. Lack of personal protective equipment, long working hours and shortage of staff means that one health worker has died every 30 minutes during the pandemic, while others suffer in their mental health. The overwhelming 23 per cent prevalence of depression and 39 per cent insomnia in health workers during this period is just the tip of the iceberg of mental health issues arising as the result of the working conditions during the pandemic.
- 221.** There are also severe constraints on social dialogue. Workers raising issues and making complaints were sometimes met with outright repression. For instance, health workers in Hong Kong withdrew their services at the beginning of the pandemic and faced administrative sanctions. A similar situation took place in Malawi. In Zimbabwe, the Government dumped ongoing bargaining to pass a unilateral regulation of wages and working conditions. The nurses’ union declared a strike, 15 members were arrested and later released after a massive outcry, but they are still facing trial.
- 222.** There was also the mass sacking of doctors and other health workers in Kenya. In Liberia, it seems that the Government did not learn any lessons from the Ebola crisis, and instead threatened and victimized health workers again, and today, the Secretary-General of the nurses’ union is in exile. In total, PSI has recorded health and care worker strikes in at least 84 countries during this period. All these involved, in one way or another, the violation of one form of international labour standard.
- 223.** So perhaps, next year’s General Survey will shed some more light on the situation and experiences of health and care workers during the pandemic. Yet, we would like to call for a more in-depth analysis of the impact of COVID-19 on international labour standards in the next Committee of Experts report, as long as the pandemic and the recovery from it continues to affect the world of work.

Statement by Employer members

- 224. Employer members:** Clearly, the COVID-19 pandemic has had a profound impact on the world of work around the globe. Millions of people across the world have been exposed to the coronavirus and to date more than 3.5 million people have died. Many governments in addressing the health crisis have adopted containment measures including lockdowns and related restrictions in an effort to prevent the spread of the virus. These measures, although necessary for public health, have had devastating consequences for labour markets.
- 225.** While demand has increased in certain sectors, other sectors have completely collapsed. Millions of enterprises have been closed and millions of jobs have been lost. In addition, the crisis has affected enterprises of all sectors and sizes in some way or another. Micro, small, medium-sized enterprises, many of which lack the necessary human and financial resources to weather a crisis of this magnitude have been severely affected and many have closed their doors.
- 226.** In some regions of the world, the percentage of companies that will have to close their businesses will be up to 20 per cent, and at this moment we are far from being out of the crisis. The numbers of infections continue to rise in certain regions and have recently surpassed 170 million worldwide. Employers have made massive efforts in the last

12 months to adapt to the global pandemic to ensure that businesses survive and health and well-being is protected. In these turbulent times, employers have been a trusted partner for governments and workers and become a key resource for information for their employees.

- 227.** The pandemic has had severe effects on both the application and supervision of ILO standards. Many governments of Member States directed their primary attention to coping with the crisis and mitigating its effect and, we have heard, have not been able to send their reports to the ILO. Similarly, many workers' and employers' organizations have not been able to send comments under article 23(2) of the Constitution on standards application issues. The application of many ratified Conventions has had to be temporarily altered to respond to crisis needs. While the application of ratified Conventions has not been suspended during the crisis, the Employers' group is of the view that temporary modification of the application must in some circumstances be considered unavoidable to safeguard business continuation and employment and to try to mitigate the very serious labour market consequences. Such modifications may also be necessary in the recovery process where employers need the necessary flexibility to focus on getting businesses back up and running.
- 228.** The Employer members agree with the three key challenges identified by the Committee of Experts, in pages 13–22 of the 2021 Addendum to the General Report, namely the limitations on rights and freedoms, maintaining the universality, indivisibility, interdependence and interrelation of all human rights and the comments regarding discrimination and marginalization of vulnerable groups. The Employer members also stress the challenges that the COVID-19 pandemic imposed on economic activity, job creation and productivity, as various public health measures were implemented to contain the spread of the virus. The global pandemic has accelerated the digital transformation of the world of work. There are serious concerns that unless much more is done to invest in digital skills and respect of training opportunities, the world may be heading to a jobless recovery and a bigger gap in the digital divide.
- 229.** The Employer members have stressed the importance of sustainable enterprises in creating more income-generating opportunities, including for the vulnerable and in increasing prosperity and quality of life for all. We consider that sustainable enterprises are part of the solution in tackling the impacts of the pandemic in addressing long-term sustainability challenges and seeking positive responses for a resilient recovery. We need more enhanced strategic and determined collaboration between the public and private sector in order to pave the path for an efficient, strong, resilient private sector-led recovery to build back a better and more sustainable future.
- 230.** Therefore, in our view, the supervisory system must adopt a balanced, pragmatic and mindful approach in the promotion, consideration of ratification, application and supervision of international labour standards, that takes into account the needs of sustainable enterprises in line with the Centenary Declaration. The supervisory system must also, in the employers' view, pay greater attention to the needs of sustainable enterprises when assessing compliance with international labour standards.
- 231.** The COVID-19 pandemic has demonstrated the importance of occupational health and safety (OSH) for all workers and employers. We consider that the application in law and practice of ratified OSH Conventions should remain a priority and be done in a balanced manner recognizing the joint responsibility of governments, employers and workers to make safe and healthy working conditions a reality for all. We would like to call the Committee's attention particularly to the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), which recalls the need to promote

continuous improvement of occupational safety and health to prevent occupational injuries, diseases and death through the development, in consultation with the most representative organizations of employers and workers, of a national policy, a national system and a national programme. This Convention highlights the importance of a national preventative strategy and culture surrounding health and safety. A culture in which the right to a safe and healthy working environment is respected at all times and where government, employers and workers actively participate in securing safe and healthy work environments for a system of defined rights, responsibilities and duties and where the principle of prevention is afforded the highest priority.

- 232.** The COVID-19 pandemic has also exposed the vulnerability of our existing social protection systems. At our last Committee session, we examined during the General Survey discussion, the Social Protection Floors Recommendation, 2012 (No. 202), a tripartite consensus standard on the development of social protection floors.
- 233.** In particular, the Employers' group has emphasized that social protection should follow the following key principles: first, sustainable financial basis: social protection systems need to be sustainably financed; second, addressing the informal sector: the development of a national social protection system needs to go hand-in-hand with policies to address the plight of a number of informal sector operators who are neither covered nor contributing to those social systems; third, respect for primacy of national specificities and traditions: in our view, social protection systems need to respond to the specific needs and to be coherent with the socio-economic traditions and culture in respective countries. Social protection systems also are not a one-size-fits-all policy; they can vary greatly among countries and regions depending on national culture, law and practice.
- 234.** In addition, the COVID-19 pandemic has highlighted the importance of strong employment policies. Employment policies at this time have had to constantly maintain a proper balance between public health restrictions and prevention on the one hand, and maintaining, promoting and incentivizing full, productive and freely chosen employment as called for by the Employment Policy Convention, 1964 (No. 122). If public health restrictions and preventative measures are disproportionate, the damage for enterprises, employment and the well-being of workers may be more severe than the damage to public health.
- 235.** The world of work post COVID-19 is forcing governments and the tripartite constituents more than ever to focus on the employability of workers instead of the right to work and job security. How to ensure productive employment? This can only be done if the right mix of policies is in place and adequate coordination is ensured. In line with this, government action must focus on labour market policies that are able to support employment creation and employability, activate untapped labour force resources by making work pay and providing labour market mobility. The linchpin for this determination is to ensure an enabling environment for business and entrepreneurship so that productive employment can be created.
- 236.** Freedom of association is also engaged in light of the COVID pandemic and it is worth reminding the tripartite constituents of the fundamental nature of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in guaranteeing freedom of association both for workers and employers. The Employer members also welcome the universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), this year. This is a historic achievement, committing ILO Members to prohibiting and eliminating all worst forms of child labour, including slavery, forced labour and trafficking. What is required now, as COVID-19 threatens to potentially

reverse these achievements, is increased vigilance to ensure that the negative impact of the pandemic does not put millions of children at risk by forcing them to earn an income to support their families. Governments must assume their responsibility for the proper implementation of Convention No. 182 which they have now all ratified. The International Organisation of Employers (IOE), together with its global network of 150 member organizations representing more than 50 million companies, has long supported the ratification and implementation of Convention No. 182 and all efforts to address child labour in line with target 8.7.

- 237.** Similar to freedom of association, the Employer members express concern with the increase of forced labour due to the COVID-19 pandemic. We call on governments to respect, promote and realize the elimination of all forms of forced or compulsory labour as enshrined in the 1998 Declaration on Fundamental Principles and Rights at Work.
- 238.** We take note of the Committee of Experts concerns with the sharp decrease in the number of labour inspections due to the pandemic. While this may be due to social distancing measures, it nevertheless is important for governments to continue complying with their obligations under the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), especially, in our view, as it regards providing assistance and guidance to companies in taking the necessary health and safety prevention and protection measures to enable business continuity and the maintenance of jobs in the crisis. This may require thinking about new and innovative ways to conduct inspections and provide guidance to companies in these exceptional circumstances.
- 239.** We highlight once again the Centenary Declaration that states “international labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises”. A balanced application of international labour standards, in our view, must take fully into account the special needs of both employers and workers in this exceptional situation and this will be the key for a sustainable and resilient recovery with productive employment and decent work opportunities for all.
- 240. Employer member, Belgium:** The ILO Centenary Declaration provides that international labour standards must respond to changing models in the world of work, protect workers and take into account the needs of sustainable enterprises, while being subject to effective supervision. Enterprises’ needs are particularly relevant in the current context of progressive economic recovery that requires governments to implement COVID-19 recovery strategies in which sustainable enterprises will play a key role. Our work is currently taking place in the context of the ongoing pandemic. With a view to facilitating the recovery from the crisis, it will be necessary to make full use of the flexibility of ILO standards with a view to implementation that is conducive to growth and employment.
- 241.** Governments in the European Union, and in particular in Belgium, must encourage and support effective and constructive social dialogue. From the onset of the pandemic, the social partners in Belgium have shouldered their responsibilities to ensure workers’ safety and health in the workplace. Social dialogue has also contributed to the Government’s decisions on temporary support for hard-hit businesses, as well as for workers forced into unemployment. Fortunately, those measures have prevented most redundancies.
- 242.** Governments must avoid rafts of initiatives to which the social partners have to respond with little notice. Social dialogue requires a minimum of time and numerous skills to

study, consult, negotiate and develop balanced solutions. The challenges are many. The way out of the crisis is gradual, and the recovery is still fragile.

- 243.** Belgian employers wish to play their full role in their country's economic recovery, as well as in the structural reforms needed in the labour market. We expect all partners to commit to the three pillars of sustainable development and for the economic, social and environmental dimensions to be balanced. The ILO remains the benchmark for the social standards that must be respected by all. The work of the Committee of Experts is vital to ensuring that these standards are really given effect throughout the world. The Committee of Experts continues to enjoy our full support.

Statements by Government members

- 244. Government member, Colombia:** Colombia has not been spared by the crisis caused by the pandemic. Since the crisis started, our Government has been attentive and diligent with regard to the major challenge that our country faces as a result of the health and economic emergency that has arisen; it has formulated and implemented various measures aimed at protecting employment and guaranteeing decent work. We wish to take this opportunity to thank the Office for the timely and prompt assistance that it has given to our country in the drawing up of standards issued exceptionally because of the pandemic, specifically provisions on working hours adopted in accordance with the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).
- 245.** In order to mitigate the crisis, the Government of Colombia has adopted various measures, including an unemployment protection mechanism, exceptional payments from termination of employment entitlements, and a programme of assistance for workers whose contracts have been suspended. Measures have also been adopted in relation to: fiscal and monetary policy; financial support for specific sectors; safeguarding social protection; maintenance of employment in occupational safety and health; teleworking and homeworking; the programme of credits for a guaranteed 90 per cent of the nation to protect jobs; the subsidy of 40 per cent of the statutory minimum wage in force for formal employers covering almost 3 million people; and the subsidy for the allowance or bonus that used to be paid in the month of June.
- 246.** With regard to labour inspection, procedures were adjusted to take rapid action to address concerns expressed and requests and complaints made on account of the crisis. It is also important to point out that during the pandemic collective bargaining was not suspended. In fact, Colombia is currently engaged in collective bargaining with the public sector, on the basis of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), and these negotiations are being conducted in a virtual format. Social dialogue forums have continued to function fully, as in the case of the Special Committee for the Handling of Conflicts referred to the ILO.
- 247.** Although the Telework Act has existed in Colombia since 2012, the Home Work Act has been adopted, which applies to both the public and the private sector and includes important aspects such as disconnecting from work.
- 248.** In order to move forward in terms of recovery and confidence in the institutions, the Government will invest over 170 billion Colombia pesos in the economic recovery plan, aimed at moving closer to full employment through a strategy combining support for micro, small and medium-sized enterprises (MSMEs), speeding up infrastructure

projects, providing incentives for the “orange economy” project, and making advances in connectivity and digital transformation.

- 249.** On the other hand, the Committee of Experts’ report indicates that the pandemic crisis resulted in the detection of a normative gap in the field of biological hazards, and this same void was also identified by the Andean Committee of Social Security Authorities. So a request was made to include the pandemic as a biological hazard, coinciding with the Committee’s interpretation. It should be emphasized that Colombia was the first country to classify COVID-19 as an occupational disease.
- 250.** In conclusion, we believe that social dialogue is fundamental for moving forward in this time of crisis and that everyone, including the social partners, must contribute to the search for solutions at such times. The ILO must therefore play a more active role in the search. The ILO Bureau for Workers’ Activities and the Bureau for Employers’ Activities could be more dynamic in regional dialogues, helping to generate synergies and the Office could provide mechanisms to be able to move forward together with States in specific actions that contribute to improvements in the effective application of Conventions. Our Government reiterates its commitment to guaranteeing the protection of labour rights and support for business with the commitment to implement policies aimed at reviving employment.
- 251. Government member United Kingdom:** In response to the COVID-19 pandemic last year, the United Kingdom Government adopted a coordinated strategy to address all the accompanying challenges, including social protection, employment policy, occupational safety and health and other areas in which ILO labour standards apply. The Government has centred on the principle that nobody will be left behind as a result of this pandemic and we have provided an unprecedented level of support to individuals and businesses.
- 252.** The flexibilities in the United Kingdom social protection system, which supports those in and out of work, allowing us to more easily support the low-earning self-employed, those whose earnings fluctuate, allow the United Kingdom to act quickly to meet the needs of people hit by the pandemic. Despite a huge surge in claims, people moving in and out of work and changes in hours people work, the system stood up to the challenges. The Government put in place an unprecedented economic package to mitigate the impact of the pandemic. Working in close cooperation with our social partners, the package included a job retention scheme and self-employment schemes which provide grants to support work in businesses. The Health and Safety Executive (HSE) provided support to all sectors with information, advice and guidance relevant to employers and workers in managing the risks associated with restarting or running their businesses during the outbreak and being COVID secure. Additional financial and human resources were secured to underpin the Health and Safety Executive’s approach to COVID-19.
- 253.** The United Kingdom performs consistently well compared to other large economies on key health and safety outcomes, such as workplace injuries, work-related illness and health and safety practices in the workplace. The effectiveness of the HSE demonstrates that its number of inspectors is sufficient to secure the effective discharge of its duties. The Government’s priority is to deliver a recovery that ensure the United Kingdom is more prosperous, healthier and stronger than before the pandemic. Significant work is now under way to promote job creation and to get people back to work. One of the central aims of the United Kingdom’s G7 presidency is to develop a shared agenda for international action and national economic recovery that builds back better, more inclusively and greener. A major concern of the United Kingdom is the risk that the pandemic reverses years of progress towards the ending of forced labour, human trafficking, child labour and modern slavery globally. We welcome the fact that the

G7 trade ministers recently agreed on the need to continue to work together to protect individuals from forced labour, including mitigating the risks of forced labour in global supply chains, an important labour standards issue.

- 254. Government member, Brazil:** A Worker member of Brazil has referred to some issues that were included in the Committee of Experts report concerning the application of Conventions in Brazil. First of all, I would like to recall that no individual case concerning Brazil has been included on the final list of cases to be considered by this Committee. For this reason, constituents should not engage in discussing such cases. I will restrain myself to recalling that the Committee discussed two times a case on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and no violation was found by the Government of Brazil. Furthermore, Brazil is up to date with its reporting duties and implementation of all the conclusions adopted by this Committee on our case regarding Convention No. 98. The National Labour Council is a tripartite body whose agenda is open to representatives of workers and employers. Since the adoption of the Committee's conclusions on our case concerning Convention No. 98, workers have never raised this subject there, or within any other body nationally.
- 255.** Social dialogue in Brazil is strong, and has been fully respected and duly taken into consideration by the Brazilian Government. The National Labour Council and the Tripartite Permanent Parity Commission have been convened for a record number of times since 2019.
- 256.** On the provisional measures adopted in the context of the pandemic, I would like to say that derogations of labour laws provided for in those instruments are exceptional and time-bound. They were adopted under exceptional circumstances in an emergency situation, in order to provide a timely and robust response to the economic and social crisis that suddenly struck us all. Those measures are aimed at preserving jobs and income, and are similar to the ones adopted by many other countries in the world. They are in agreement with all provisions of the relevant international labour standards ratified by Brazil. Ten million workers were supported by the income support programme; another 60 million informal workers were supported by the emergency cash transfer programme. More than 80 per cent of workers' income has been preserved by Government programmes and income retention is higher for the most vulnerable people.
- 257.** Concerning the pandemic, I would like to state that 46 million people have already received their first dose of COVID-19 vaccine, and 22 million people have received their second dose of the vaccine. This makes us the fourth country in the list of countries which have mostly vaccinated at this stage.
- 258. Government member, China:** The representative of Public Services International (PSI) mentioned that some health workers in the Hong Kong Special Administrative Region had invoked their rights under the Nursing Personnel Convention, 1977 (No. 149), but were faced with administrative sanctions. We feel obliged to point out the factual anomaly in such a misleading statement and are grateful for your agreement to grant us the opportunity here. The fact is that Convention No. 149 actually does not apply to the Hong Kong SAR, as China has not ratified and the Hong Kong SAR has not applied the Convention. We submit, for record, that it is a serious mistake to base any accusation against the Hong Kong SAR on Convention No. 149.
- 259.** As a matter of fact, health workers who chose to withdraw from performing emergency duties at the peak of Hong Kong's difficult battle against the COVID pandemic in 2020 did so, not because they wanted to improve their employment terms, but for other

political reasons advocated by other protest groups at the same time. While the Government of the Hong Kong SAR takes the labour right to strike seriously and is committed to safeguarding such right under our laws, the Trade Unions Ordinance of Hong Kong specifies that strike by a trade union refers to cessation of work relating to the terms or conditions of employment. Withdrawal from performing emergency services by individual health workers in 2020 clearly fell outside the remit of strike. Therefore, there is no question of referring to it as a labour union claiming its right to strike.

Reply of the Chairperson of the Committee of Experts

- 260.** I would like to express my gratitude for the invitation to the Committee of Experts for its Chairperson to attend this meeting once again. I am honoured to represent the Committee of Experts on this occasion and I can assure you that I will inform my colleagues of the debates and opinions expressed in this forum. Without a doubt, the annual visit by the Worker and Employer Vice-Chairpersons to the Committee of Experts meeting and your invitation to us to participate in your work strengthen the links between the Committees and underline the complementarity of the supervisory work that we undertake.
- 261.** During my visit this year, I have noted certain comments relating to the criteria established to distinguish between observations and direct requests, differences in the examination of compliance with ratified Conventions and Recommendations and the possibility of providing more detailed information on the footnotes inviting Governments to provide information to the Conference. We have also noted your comments regarding the possibility of presenting our report by country, rather than by subject; the use of a hyperlink or hyperlinks to cite previous reports; the expansion of the practice of consolidated comments; and the appropriateness of taking into account the needs of sustainable enterprises in the supervisory work.
- 262.** I have noted your comments with differing opinions on issues of interpretation relating to 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).
- 263.** With regard to the comments on the criteria that the Committee of Experts has established to distinguish between observations and direct requests, the Committee of Experts has had the opportunity to express its views on this subject and in its 2020 report it emphasized that the application of these criteria, which are by no means new, is not an exact science based on a mathematical formula. Their use has been refined continuously over the years. The number of observations and direct requests made each year varies and is based on the information available to the Committee of Experts. In any case, I can assure you that we will continue to ensure that the existing criteria are followed.
- 264.** With regard to the information relating to the footnotes in which governments are invited to provide information to the Conference, I am pleased to report that we have considered the wording in question. I am sure that you have seen that the Committee of Experts includes a paragraph in the corresponding observation that provides specific information explaining the reasons why it was decided to include a footnote.
- 265.** With regard to the interpretation of Conventions, and in particular the references to Convention No. 87, I am bound to remind the Committee that the Committee of Experts has discussed this matter extensively, from the time when Professor Yozo Yokota was Chairperson until that of my predecessor, Judge Abdul Koroma. The Committee of

Experts reiterated that it acts within the framework and context of its mandate and in the exercise of its independence as a specialized body within the Organization's supervisory bodies. We have also been informed that the ILO Governing Body intends to hold a discussion on the adoption of measures to ensure legal certainty and that in this context the possibilities provided for under article 37 of the ILO Constitution will be discussed. We will follow the discussions and any decisions taken in this regard closely.

- 266.** In terms of considering the needs of the constituents and their representatives, I am pleased to recall that in its report the Committee of Experts has systematically highlighted the importance of employers' and workers' organizations providing observations on the application of ratified Conventions and in relation to the preparation of General Surveys. These observations provide up-to-date information from the social partners to the Committee of Experts and are vital to evaluating the application of Conventions in national law and practice. I encourage the social partners to continue, and even increase this practice, which is extremely useful to the system.
- 267.** All the opinions expressed in the course of the discussions during this Conference will be communicated to my colleagues in the Committee of Experts. The Committee of Experts' subcommittee on working methods meets annually, during our session, and will certainly examine carefully all the issues raised. I am sure that the next visit by the Vice-Chairpersons to the Committee of Experts will allow us to continue a meaningful dialogue, as has always been the case.
- 268.** Once more, I thank you for your invitation and I trust that dialogue between both Committees will continue in future.

Reply of the representative of the Secretary-General

- 269.** The Committee's discussions on the General Report and the General Survey prepared by the Committee of Experts have, as usual, been rich in terms of the sharing of information and analysis on the implementation of international labour standards in the context of which we are well aware, and on compliance with constitutional reporting obligations and their supervision. Many of you have taken the floor at this stage of our debate to confirm the importance of the standards-related mandate of the International Labour Organization and I have taken due note of all the views expressed on the role of the Office as a key actor in the development and implementation of the ILO standards policy.
- 270.** No specific questions have been raised for the Office this year and I would therefore merely wish to say a few words concerning our technical assistance portfolio in the field of international labour standards and to confirm that we will continue to respond to all requests that we receive for technical assistance. I have clearly taken due note of all the requests that have been made, especially today, concerning the reporting obligations on ratified Conventions. It is clear that our priorities in relation to technical assistance will be adjusted in light of the outcomes and conclusions that your Committee adopts at its final sitting.
- 271.** May I also confirm that, once the restrictions on international travel have been lifted, we will resume the planning of the various missions requested, including by your Committee. And I must say that I am looking forward to being able to meet some of you again without going through this camera, both in Geneva and in your respective countries.
- 272.** Finally, please allow me to conclude, very exceptionally, on a more personal note. The representative of the International Organisation of Employers yesterday in her intervention paid tribute to the work of the Office and in particular the whole team that

assisted the Committee of Experts to prepare its General Survey on promoting employment and decent work in a changing landscape. My colleagues and I are grateful for his special thoughts for our colleague Maria Marta Travieso, who made a significant contribution to the preparation of this General Survey and who would have so liked to be able to participate in our discussions yesterday and today. We will convey to her your messages of encouragement and the outcome of your discussions. I thank you for your kind attention.

Concluding remarks

- 273. Employer members:** I would like to thank the Governments and the Worker members for their rich and interesting contributions to the discussion on the General Report, the discussion on the impact of COVID-19 on the application and supervision of international labour standards, and to the rich discussion of the General Survey concerning eight employment instruments.
- 274.** The Employer members also very much appreciate the replies from the Chairperson of the Committee of Experts and the representative of the Secretary-General. The presence of the Chairperson of the Committee of Experts, Judge Dixon Caton, and the ongoing dialogue between the Committee of Experts and the Conference Committee is fundamental in our view, not only for ILO constituents to better understand the standards-related requirements and the technical observations of the Committee of Experts, but also to facilitate the Experts' understanding of the realities and practical needs of the users of the supervisory system and participants in the Committee.
- 275.** We were very much pleased to hear the comments of Judge Dixon Caton in which she welcomed the comments regarding the cooperation and dialogue that continues and is ongoing between the Committee of Experts and this Committee, and welcomed her comments about the fundamental importance of cooperation and dialogue between employers and workers and their inputs in particular.
- 276.** We also believe that the work of the Committee of Experts clearly constitutes a major contribution to the successful functioning of this Committee and the regular supervisory system as a whole. While maintaining its independence, the Employer members are of the view that it still remains important for the Committee of Experts to hear the ILO's tripartite constituents' views and opinions, and to implement measures to make the regular standards supervisory system more user-friendly, effective, transparent and balanced, as well as to facilitate the understanding and application of international labour standards. The Centenary Declaration, which represents the tripartite consensus for the future work of the ILO, including the work of the ILO supervisory system, is clear in confirming the following: the setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust and up-to-date body of international labour standards and to further enhance transparency in this process. International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises. Labour standards must also be subject to authoritative and effective supervision.
- 277.** The Employer members have highlighted several issues in respect of our concerns. However, these have been highlighted in the spirit of mutual respect and understanding. In line with the Centenary Declaration, in our view, the Committee of Experts and the Conference Committee must take into account the needs of sustainable enterprises in their deliberations and assessment of the application of international labour standards.

This is in no way to derogate from worker protection needs. We cannot confuse the wording, in the spirit of the Centenary Declaration. However, making the needs of sustainable enterprises more visible in the ILO standards supervisory system, in our view, will contribute to a more balanced application of international labour standards and a higher profile of those same standards. This seems to be of particular relevance in the current context where Member States are designing or implementing COVID-19 recovery strategies in which sustainable enterprises are expected to play a central role as economic and social stabilizers for society.

- 278.** In addition, in respect of the issue concerning the Committee of Experts' differentiation between observations and direct requests, we appreciate Judge Dixon Caton's clarification of those distinctions. However, we remain concerned that in making numerous substantial comments in the form of direct requests, the Committee of Experts is excluding a major part of the standards application from tripartite scrutiny, discussion and transparency. The figures we presented were simply to make a point that we must continue to ensure that we have transparency in the work of the Committee of Experts, so as to allow the proper functioning of this Committee.
- 279.** In addition, as regards the assessments of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), as well as other Conventions, the Employer members requested the Committee of Experts and the Office that supports the work of the Committee of Experts, to continue to respect the language of the Conventions, the scope of the Conventions and also the flexibility afforded by the provisions of these Conventions, in order to allow Member States and social partners to find ways of implementing their obligations under international labour standards, in line with the national standards and economic reality of each Member State.
- 280.** The Employer members have made comprehensive submissions on the General Survey. We agree with the Committee of Experts on a number of points, but have also respectfully expressed our disagreement on some points in an effort to contribute our view to this broader discussion. The main message from the discussion, from the Employers' point of view with respect to the General Survey, is that it must be necessary to keep in mind that in order to ensure a sustainable job-rich recovery from the global pandemic and to protect livelihoods in implementing Employment Policy Convention, 1964 (No. 122), and employment policies and programmes, due attention should be given to creating a truly enabling environment for enterprises, including micro, small and medium-sized enterprises. Economies and societies need intermediate and long-term measures to emerge from the COVID-19 crisis stronger and more resilient than before.
- 281.** ILO assistance on employment policies should include advice on measures that help enterprises play their role in this recovery process. In this context, we must note that the Worker spokesperson's comments, in which he was concerned with our expressing disagreement with the Committee of Experts, were out of place in that this is the process by which the Employer members can provide feedback and comments on the General Survey in the spirit of transparency and open social dialogue. Expressing disagreement in areas of divergence is part of the system of healthy social dialogue.
- 282.** The Employer members look forward to ongoing exchanges between the Conference Committee and the Committee of Experts in 2022. The Employer members would like to reaffirm their full commitment to continuing to improve the international labour standards supervisory system, including working to ensure that it remains credible, relevant, balanced and transparent as the ILO continues into its second century. In

particular, to conclude, in order for the standards supervisory system to contribute meaningfully to a sustainable and resilient recovery from the pandemic, balanced assessment and recommendations are required.

- 283. Worker members:** We express thanks to all the participants who took the floor during the discussion. Thanks also go to the Chairperson of the Committee of Experts for the clarifications provided, and to the representative of the Secretary-General. We join in wishing our colleague in the International Labour Standards Department a swift recovery. I would like to come back to several points that were raised by different speakers during the discussion of the General Report.
- 284.** The Worker members recall that our Committee is not appointed to assess the work of the Committee of Experts or give it instructions. Of course, it is always possible to express dissatisfaction with the content, as my colleague, the spokesperson of the Employers' group, indicated.
- 285.** The suggestion by the Employer members that the promotion of sustainable enterprises be incorporated into the examination of standards is, in our opinion, irrelevant. The Committee of Experts and our Committee are appointed to monitor compliance with standards and not to promote concepts that do not fall under any standard-setting instrument. Such considerations are only relevant when formulating new standards but certainly not when monitoring compliance with existing standards. Incidentally, I would point out that our Organization's mandate is centred on worker's rights. And the Centenary Declaration recalls, in this regard, that the ILO must develop "its human-centred approach to the future of work, putting workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies". It should also be recalled that enterprises are a means of ensuring the production of goods and services. Consequently, it must be ensured that the attention we afford these means does not take precedence over the ultimate goal, namely the promotion and improvement of workers' rights.
- 286.** The Employer members deemed it useful to present considerations concerning in particular the right to collective bargaining. It is not for us to discuss this here and now, since the issue is not on the agenda. But we nevertheless wish to indicate that the Worker members categorically reject the vision expressed. We wish to recall that the right to collective bargaining is a fundamental right, as reaffirmed by both the Declaration of Philadelphia and the Centenary Declaration. And these two texts even set forth that this right is guaranteed for all workers. It also appears that, with regard to Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Employer members base their statements on a position that they attribute to the Committee of Experts – but a position that, in our opinion, the experts have clearly not taken.
- 287.** In any case, potential divergences between the employers and workers may exist but in no way concern the Committee of Experts. This is an independent body, which is appointed to monitor compliance with standards and which, on this basis, interprets the meaning of Conventions and Recommendations. In the discharge of its mandate, it is under no obligation to consider the points of view or desiderata of one group or another.
- 288.** Based on the position of the Employer members, the Committee of Experts would have authority only where it took account of the views that they express. We can ask ourselves, then, what would remain of this body's authority if its vision was dictated by a group, state or government, and if its interpretations should change depending on the mood or changes in interests. The Committee of Experts' independence is, therefore, the guarantee of its authority.

289. Some members have also taken the liberty of revisiting here the selection and appointment procedure for the Committee of Experts. That is a discussion that is irrelevant and does not fall within the competence of our Committee.
290. I would also like to raise a point regarding direct requests. It has been stated that the recourse, by the Committee of Experts, to direct requests prevented the possibility of having a tripartite discussion on the issues raised in these requests. But it should also be noted that our Committee is not appointed to lead a tripartite discussion on the report of the Committee of Experts but rather to examine the measures taken by Member States in order to give effect to the provisions of the Conventions. In this regard, the report of the Committee of Experts constitutes the basis of this discussion. In addition, it is not for our Committee to interfere in the working methods of the Committee of Experts, which is free to organize and coordinate its work as it sees fit.
291. It must be noted that we spend a lot of time on issues that are rather peripheral. In the view of the Workers, it is preferable that in the future we benefit from our exchanges with the Committee of Experts to address the only question that we think matters: how can we improve respect for workers' rights throughout the world?

C. Reports requested under article 19 of the Constitution

General Survey and its Addendum: Promoting Employment and Decent Work in a Changing Landscape

292. The Committee dedicated a sitting to the discussion of the General Survey carried out by the Committee of Experts concerning the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and its 2021 Addendum. The record of this discussion is contained in section A of Part Two of this report.

Concluding remarks

293. At the meeting on the adoption of the outcome of the discussions, the following statements were made by members of the Committee.
294. **Employer members:** The Employer members are pleased with the engaging and interesting discussion on this year's General Survey on the eight ILO employment instruments. The General Survey and the Committee's tripartite discussions were timely, given the severe impact the ongoing COVID-19 pandemic is having on employment. The Committee's discussion was an opportunity, among others, to highlight the efforts that governments, employers and workers have jointly undertaken to safeguard employment during the crisis as far as possible, and the need for prioritizing employment in the recovery and building-forward processes. The tripartite discussion and the outcome showed the outstanding role of sustainable and resilient enterprises as economic and social stabilizers for societies.
295. We would like to take the opportunity to reiterate some important points made in the discussion. First, to ensure sustainable job-rich recovery from the crisis and to protect livelihoods in implementing Convention No. 122 on employment policies and

programmes, due attention should be given to creating a truly enabling environment for enterprises, including for micro-, small and medium-sized enterprises. Economies and societies need intermediate and long-term measures to emerge from the crisis stronger and more resilient than before. Office assistance on employment policies should include active measures and advice on those measures that help ensure that enterprises can play their role in this process and create employment opportunities.

- 296.** Second, Convention No. 122 requires ratifying Member States to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. While the Convention does not prescribe the means and strategies to achieve this goal, we would like to recall that the ILO Centenary Declaration states, in this regard, that the ILO must direct its efforts to supporting the role of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises. We are pleased to see this recognized in the outcome of the discussion. We trust that the Committee of Experts will give due consideration to the enabling environment necessary for sustainable enterprises in future assessments and considerations on Convention No. 122 as well as other Conventions in the area of employment.
- 297.** As regards the impact of new technologies – automation and artificial intelligence, as well as robotization – on employment, and its impact on employment policies, the Employer members are of the view that these have considerably improved working conditions, and that the reduction of hazards in many sectors is a by-product of these advancements. We would add that new technologies also have significant potential to contribute to the creation of full and decent employment. While, to be sure, there are many new challenges arising from the introduction of new technologies that need to be assessed and considered, in doing so, measures should be given preference that do not hamper the employment-creating effects of such new technologies, including for people with disabilities.
- 298.** Third, while the employment relationship in most countries still remains the main form of dependent labour, the diversification of the world of work and the emergence of new and alternative forms of work should be acknowledged and must be welcomed. These new forms of work have significant potential for integrating more people in the labour market, and thus have the ability to contribute to full, productive and freely chosen employment in line with Convention No. 122.
- 299.** Fourth, transitioning from the informal to the formal economy is central to development. We favour a progressive approach involving sustained measures and policies to achieve full and productive employment, to reduce poverty, including measures and policies that minimize the costs and increase the benefits of formality. The transition process needs to take into account the specific country context and the existing potential. Promotion of an enabling business environment with a focus on entrepreneurship, job creation, and skills development in the formal sector is critical to absorb informal activity.
- 300.** Fifth, we note from the General Survey that the ratification proposals for the three Conventions examined in this General Survey, that is to say, Conventions Nos 122, 159 and 177, are limited. In particular, there seem to exist significant ratification obstacles for Convention No. 177, which is also the least ratified among the three Conventions. In our view, the lesson learned from this is that it is not advisable to set internationally binding rules on particular forms of work, particularly when these forms of work are very diverse, nationally and internationally, as is the case with home work. We also have doubts regarding the usefulness and appropriateness of Recommendation No. 198 in

view of its unduly narrow focus on the employment relationship, which can, in fact, conflict with the concept of the independent contractor relationship.

- 301.** Having said this, the Employer members consider that the other employment instruments examined in the General Survey, namely Conventions Nos 122 and 156, Recommendation No. 168, Recommendation No. 169 and Recommendation No. 204, overall impressively retain their relevance as guideposts for designing balanced policies that help achieve the objective of full, productive and freely chosen employment. The importance of a policy focus on employment and business continuity as crisis stabilizers has become very obvious in the ongoing COVID-19 pandemic. The above ILO standards, when their implementation is thoroughly adapted to the national situation, in our view can indeed contribute in a meaningful way to allow Member States to build more resilient societies, economies and institutions, and thus pave the way towards achieving a sustainable future of work.
- 302.** The outcome document clearly recognizes the private sector as a principal source of economic growth and job creation, the need to promote an enabling environment for entrepreneurship and sustainable enterprises, and the rule of sustainable enterprises as generators of employment and promoters of innovative and decent work.
- 303.** The Employer members welcome the shared commitment of the tripartite constituents to build back better, with a human-centred and job-rich recovery, by developing, implementing, monitoring and reviewing strong, proactive employment policies, underpinned by constructive social dialogue, and a respect for fundamental rights at work. Effective evidence-based employment policies should be firmly grounded on relevant, reliable and gender-disaggregated data.
- 304.** The Employer members request the Office to take into account the General Survey, the detailed views expressed in the discussion that followed, and the outcome of the discussion in its work and technical assistance services.
- 305. Worker members:** We welcome the adoption of these conclusions, which largely reflect the content of our exchanges. The topic addressed this year is timely, just as our societies are preparing to find their way towards a post-COVID recovery. Employment policies in all their dimensions will be crucial in this context and will have to draw on lessons learned from the pandemic. Our conclusions highlight the importance of having a human-centred and, more precisely, workers' rights-centred approach.
- 306.** An economic activity is lasting and sustainable only if it is in conformity with the rights – all the rights – of workers. In this regard, international labour standards, which are the vehicle for these rights, must be placed at the heart of programmes and actions, and serve as benchmarks for the initiatives that are adopted. The instruments examined must be promoted without exception or reservation, and their ratification must be widely encouraged.
- 307.** It is not possible to discuss employment policies without giving particular attention to the informal economy, which continues to be a reality for many workers around the world. It is essential to tackle this issue by evaluating its causes, such as the deregulation of labour rights. This evaluation is necessary in order to provide appropriate responses with a view to ensuring the transition to the formal sector as set out in Recommendation No. 204. In the same vein, it is important to give full effect to Recommendation No. 198, which represents a suitable framework for combating disguised employment relationships by guaranteeing primacy of fact over the parties' description. Our discussions have also enabled us to highlight the extent to which women are particularly

exposed to fragile work situations, such as informal work, telework and part-time work. These characteristics need to be taken into account when formulating policies.

- 308.** Many of the issues examined within the framework of the General Survey require proactive measures on the part of the States. This role is fundamental, whether through public investment, guarantee of workers' rights, or expansion of and access to public services. It is therefore fundamental that this role is not diminished by austerity measures, the disastrous consequences of which we have already witnessed in the relatively recent past.
- 309.** Social dialogue led with the workers' and employers' representatives must also serve as an engine in the implementation of the commitments made here. Lastly, I wish to note that the General Survey and the Committee's conclusions must be seen as a road map for the States but also for the Office as part of their interventions and missions on the matter.
- 310. Government member, Philippines:** The Philippines watched the outcome of the discussion on the General Survey and its Addendum. We note with the highest appreciation the dedication of the Committee in giving close guidance to Member States to ensure their compliance with international labour standards in both legislations and in implementation. The near conclusion of the 109th Session of the International Labour Conference is proof of both our fortitude and ingenuity, not only in rising above challenges but, more importantly, in faithfully fulfilling our obligations as members of the great family of nations regardless of any tests or circumstance.
- 311.** In our continuous drive to reopen safely, we need to fortify our collective efforts. Our present situation calls for further collaboration to support, expound and magnify the advantages of technological and digital transformation. We cannot stress enough the importance of proper social dialogue in our policy framework and in the formulation of national economic recovery plans as we navigate our way towards a better normal. We stand witness today to our commitment in overcoming these unprecedented circumstances through a universal framework to build back better, maximizing constructive and effective social dialogue. We are steadfast in advancing human-centred policy responses, putting human rights and core labour standards as vanguards. After all, this pandemic challenges not only our healthcare systems but also our commitment to human dignity, equality and social justice through the advancement of decent work principles.
- 312.** The Philippine Government stands firm by its mandate to promote and protect the workers' constitutionally guaranteed fundamental rights and welfare.

Outcome of the discussion of the General Survey and its Addendum: Promoting Employment and Decent Work in a Changing Landscape

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

Introduction

- 314.** The Committee examined the General Survey and Addendum carried out by the Committee of Experts on *Promoting employment and decent work in a changing landscape*, which covered selected employment instruments, notably the Employment Policy Convention, 1964 (No. 122); the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159); the Home Work Convention, 1996 (No. 177); the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168); the Employment Policy (Supplementary Provisions) Recommendation, 1984

(No. 169); the Home Work Recommendation, 1996 (No. 184); the Employment Relationship Recommendation, 2006 (No. 198); and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Addendum, carried out by the Committee of Experts following the outbreak of COVID-19 in early 2020, examined the impact of the pandemic on the strategic objective of employment, particularly its impact on the application of the above-referenced instruments. The Committee welcomed the timely opportunity to discuss the application in law and practice of the eight ILO instruments in the area of productive employment and decent work, given the devastating effects that the COVID-19 pandemic is having on an ever-changing world of work.

- 315.** The Committee welcomed the General Survey and Addendum, noting that they provided a sound background for its discussions. It considered the central role of Convention No. 122 as a governance Convention and noted that Convention No. 122 requires ratifying States to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. The national employment policy should be developed, implemented, monitored and reviewed in consultation with the social partners and persons affected by the measures to be adopted. Moreover, the Convention calls for employment policies to be coordinated with other social and economic policies, in particular policies on education, training and lifelong learning.
- 316.** The Committee recalled that employment is one of the four strategic objectives of the Decent Work Agenda and has been a primary concern of the ILO since it was founded. It noted that employment is at the heart of the ILO's social justice mandate, expressed in the ILO Constitution and reaffirmed in the 1944 Declaration of Philadelphia, as well as in the 2019 Centenary Declaration, which calls on the tripartite constituents to develop "effective policies aimed at generating full, productive and freely chosen employment and decent work opportunities for all". Moreover, the Committee recalled that the 2030 Agenda for Sustainable Development integrates the principle of full, productive and freely chosen employment in Sustainable Development Goal 8, and that this key principle is inextricably linked to the other SDGs, particularly Goal 1 (ending poverty), Goal 4 (education), Goal 5 (gender equality) and Goal 10 (reducing inequalities).

The situation and needs of Member States

- 317.** The Committee expressed concern at the severe impact of the COVID-19 pandemic on economies and societies around the world. It recognized that labour markets and institutions of work, including educational and vocational training institutions and systems, were being subjected to severe shocks, despite concerted efforts by governments, employers' and workers' organizations to mitigate these impacts. To date, millions of workers have lost their jobs and livelihoods, with disadvantaged groups, such as young persons, women, workers in the informal economy, homeworkers and persons with disabilities being particularly hard hit. The Committee further noted that enterprises of all sizes have been forced to cease or reduce their operations due to containment measures, including quarantines and lockdowns.
- 318.** The Committee's discussion highlighted the measures that governments, employers and workers have undertaken to mitigate the effects of the pandemic, particularly measures to protect jobs, preserve incomes and support enterprises to continue their activities to the extent possible. The Committee welcomed the commitment of the tripartite constituents to ensuring a fair and just as well as a sustainable and inclusive recovery from the crisis, noting that the pandemic has shown the importance of comprehensive employment policies that take into account changes in the world of work, including

environmental and social changes and technological advancements, as well as the need to protect workers and their rights.

- 319.** Stressing the importance of building back better with a human-centred approach to the future of work and ensuring a job-rich recovery, as well as to better prepare for future crises, the Committee recalled the ILO Centenary Declaration, which states that the ILO “must direct its efforts to supporting the role of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises” and reaffirms “the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers”.
- 320.** The Committee noted that many countries have begun to transition from emergency measures to interim and longer-term recovery measures. Most have taken measures to counter the effects of the pandemic on the labour market, as well as to provide social protection, including income support for those in need of assistance, and financing of wage subsidies. Some have taken measures to extend and regulate the possibilities for telework and working from home, as these arrangements have become significantly more prevalent due to the pandemic and have proven key to protecting jobs during the crisis. A number of countries have also taken measures to provide needed childcare services for emergency and frontline workers, which enable both women and men to continue working.
- 321.** The Committee emphasised the key role of social dialogue in coordinating national responses to the pandemic, noting that a number of countries have negotiated tripartite agreements aimed at protecting jobs, preserving incomes and supporting enterprises during the crisis.

Common commitments

- 322.** The Committee welcomed the shared commitment of the tripartite constituents to build back better with a human-centred approach to the future of work by developing, implementing, monitoring and reviewing strong, proactive employment policies underpinned by constructive social dialogue and respect for fundamental rights at work.
- 323.** To ensure a human-centred, sustainable and job-rich recovery from the COVID-19 pandemic and protect decent jobs and livelihoods, the Committee recognized the need to develop and implement, in consultation with employers’ and workers’ organizations, comprehensive, inclusive and productive employment policies and programmes aligned with Convention No. 122 that are gender-responsive and evidence-based. Moreover, such policies should take into account the situation of disadvantaged groups who face difficulties in accessing the labour market, protect workers and promote an enabling environment for entrepreneurship and sustainable enterprises, in particular micro-, small and medium-sized enterprises, as well as cooperatives and the social and solidarity economy.
- 324.** The Committee recalled that, as the Committee of Experts noted in its Addendum, national economies and societies will require a mix of short, intermediate and long-term employment policy measures to enable them to build stronger and more resilient labour markets and institutions of work that ensure full, productive and freely chosen employment and decent work, so as to improve the living standards of workers and their families. It further recalled the need to develop a human-centred approach to the future of work as expressed in the Centenary Declaration, which puts workers’ rights and the needs, aspirations and rights of all people at the heart of social and economic policies.

Consequently, employment policies should, as a major goal, foster the creation and preservation of decent, stable and lasting employment, safeguard workers' rights and livelihoods, address unemployment and underemployment and reduce poverty; while promoting sustainable enterprises as generators of employment and promoters of innovation and decent work. Such policies should also facilitate just economic, social and environmental transitions that can assist countries to prepare for a brighter future of work for all.

- 325.** The Committee welcomed the shared commitment among the tripartite constituents to developing national employment policies and programmes that put international labour standards at the heart of the global and national responses to the pandemic, taking into account the needs of sustainable enterprises. The Committee noted that the strategic objective of employment is intrinsically linked to the other three strategic objectives pursued by the ILO's work, namely fundamental principles and rights at work, social protection and social dialogue. Elements, such as gender equality, an enabling environment for sustainable enterprises, including for micro-, small and medium-sized enterprises, improved labour market information systems, transition from informality, adequate protection for workers, vocational education and training and lifelong learning, and supporting inclusive social dialogue for developing and implementing sustainable solutions should form part of comprehensive employment policies and programmes.
- 326.** Noting that women around the world still face obstacles to accessing employment, particularly in decision-making positions, persistent gender wage gaps and a disproportionate burden of unpaid work, the Committee expressed a shared commitment to promoting gender equality and addressing the decent work deficits that women still face in national policies to achieve full, productive and freely chosen employment.
- 327.** The Committee recognized the role of the private sector as a principal source of economic growth and job creation and supported the role of the public sector as a significant employer and provider of quality public services. In order to support a job-rich recovery, the Committee stressed the need for the public authorities to invest in strengthening labour market and educational institutions, improving access to relevant quality education, training and lifelong learning opportunities, as well as to improve labour market information systems to anticipate labour market needs.
- 328.** The Committee noted that governments and social partners have a joint responsibility to address existing and anticipated skill gaps and to pay particular attention to ensuring that education and training systems are responsive to labour market needs in order to help enhance workers' capacity to make use of the opportunities available for decent work.
- 329.** The Committee noted the common commitment among the tripartite constituents to give particular attention to facilitating the transition to the formal economy. The Committee stressed the need to assess efforts made to implement Recommendation No. 204 as well as to examine the structural causes of informality.
- 330.** The Committee noted the growing use of home work, in particular during the COVID-19 pandemic. While noting that home work has moved beyond traditional crafts and production activities, and that teleworking and other new business models have emerged due to improved information technology, the Committee stressed the need to promote, as far as possible, equal treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where

appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise, noting the opportunities that home work can provide for workers with family responsibilities, workers in rural or distant areas or workers with disabilities.

- 331.** The Committee welcomed the strong commitment among the tripartite constituents to ensuring equal treatment and effective implementation of productive employment and inclusive social policies. The Committee welcomed the use of technology to enable persons with disabilities to access and participate in rehabilitation, training and employment. As noted in the General Survey, in addition to quotas, many countries have also put in place financial incentives and assistance, including in relation to provision of reasonable accommodation, for enterprises recruiting persons with disabilities, to promote employment and decent work for persons with disabilities on the open labour market and foster recognition of their abilities and contribution to their economies and the larger society.

ILO means of action

- 332.** Stressing the importance of building a human-centred and job-rich recovery, as well as the need to shape a sustainable, resilient, secure and inclusive future of work, the Committee recalled the Centenary Declaration, which states that the ILO must direct its efforts to “supporting the roles of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises” and support governments in “strengthening the institutions of work to ensure the protection of all workers and reaffirming the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers.”
- 333.** The Committee noted that effective, evidence-based employment policies should be firmly based on reliable and gender disaggregated data and use relevant international labour standards as guideposts for designing balanced policies that help achieve the objective of full, productive and freely chosen employment.
- 334.** The Committee underlined the high value of Office technical assistance to Member States in strengthening data collection and processing capacities and promoting the benefits of and rationale for compiling improved gender-disaggregated data.
- 335.** It also called upon the ILO to support the elaboration and implementation of well-targeted national comprehensive employment policies, based on tripartite consultation, and to closely monitor developments in this area, including through employment and decent work impact assessments and the implementation of recovery measures.
- 336.** The Committee stressed the importance of supporting national social dialogue processes and providing capacity for social partners in this regard.
- 337.** The Committee requested the Office to take into account the General Survey and its Addendum on *Promoting employment and decent work in a changing landscape*, the discussion that followed and the outcome of its discussion, in relevant ILO work.

D. Compliance with specific obligations

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

- 338.** During a dedicated sitting, the Committee examined the cases of serious failure by Member States to respect their reporting and other standards-related obligations. As explained in document D.1, Part V, the following criteria are applied: failure to supply the reports due for the past two years or more on the application of ratified Conventions; failure to supply first reports on the application of ratified Conventions for at least two years; failure to supply information in reply to all or most of the comments made by the Committee of Experts; failure to supply the reports due for the past five years on unratified Conventions and Recommendations; failure to submit the instruments adopted for at least seven sessions to the competent authorities; and failure during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated. The Chairperson explained the working methods of the Committee for the discussion of these cases. The procès-verbaux of this discussion is found in section B of Part Two of this report.
- 339. Worker members:** Given the inescapable constraints of the particular context that we are experiencing, the Committee has modified the procedures for the special sitting that it usually holds on the subject of cases of serious failure to respect reporting and other standards-related obligations. Nevertheless, these modifications enable us to address this fundamental question, in the first place through written observations, while reserving the possibility subsequently for the listed governments to provide new information during the sitting and enabling the spokespersons of the Workers' and Employers' groups to make final observations during the sitting too.
- 340.** The Committee of Experts' report shows clearly that the current crisis has had a serious impact on the fulfilment of constitutional obligations by Member States. Even though we can recognize the difficulties encountered by Member States in this regard, the Committee of Experts rightly recalls that the ILO Constitution does not provide for any exception to these obligations, even in times of crisis. The fact remains that in today's context of crisis resulting from the COVID-19 pandemic, we can see a worrying trend towards an increasing number of violations of fundamental rights, whether in relation to occupational safety and health or with respect to the exercise of the fundamental freedoms of association and collective bargaining. All of this makes dialogue between the ILO and the Member States even more essential than in normal times.
- 341.** Member States should also be reminded that these reporting obligations are precisely what enable the ILO to gain a better understanding of the difficulties faced by Member States in the application of ILO instruments and to provide suitable responses to these difficulties.
- 342.** Without compliance with these fundamental obligations on the part of Member States, the ILO cannot fully discharge its role either through its supervisory system or in its other areas of action. So it is the Member States themselves that are the victims of non-fulfilment of their constitutional obligations since the ILO is diminished in its capacity to provide adequate responses, particularly at a time of crisis. It is therefore essential to raise this issue and to insist that countries which fail to meet their obligations make the

necessary arrangements without delay and take all possible steps to fully respect their constitutional obligations.

- 343.** Even though this year is undeniably a peculiar year in which we cannot fail to note a drastic reduction in the fulfilment of reporting obligations, we must not lose sight of the fact that the decrease in the number of reports received is a worrying trend that we have been bound to deplore for a number of years. Although the ILO certainly has a role to play in providing assistance, it is for Member States in the first place to allocate sufficient resources to enable them to respect the obligations imposed on them by the ILO Constitution.
- 344.** As regards the reporting obligations relating to ratified Conventions, we cannot fail to note a very sharp reduction in the number of reports received by comparison with last year. The proportion of the number of reports received during the last session of the Committee of Experts (859) compared with the number of reports requested by the Committee of Experts (2,004) was only 42.9 per cent compared to 70.7 per cent for the preceding session, in other words 27.8 per cent less. This is a significant decline that gives cause for concern and it cannot be justified by the crisis alone, bearing in mind the observations that we have made above.
- 345.** It also appears from the Committee of Experts' report that of all the reports requested from governments, only 26.5 per cent of them were received in time, namely by 1 October. Governments have been less punctual than last year, since 39.6 per cent of reports were received in time last year. This is also a significant decline. Already in the previous year we noted a decrease regarding the submission of reports in time. This is a worrying trend and it needs to be reversed strongly in the years to come. It is vitally important that governments submit their reports in time so as not to disrupt the smooth functioning of the ILO supervisory system and to enable the ILO to be fully informed of the challenges arising for Member States with respect to launching a post-COVID recovery.
- 346.** Furthermore, 16 countries have not provided any reports for two or more years and 12 countries have not provided any first reports for two or more years. First reports are the reports which are due further to the ratification of a Convention by a Member State. These first reports are of vital importance since they enable an initial evaluation of the application of the Conventions concerned in the Member States.
- 347.** The ILO Constitution also imposes the obligation on Member States to indicate the representative organizations of employers and workers to which copies of reports on ratified Conventions are communicated. The Committee of Experts' report contains a positive element in this regard: it indicates that all Member States have met this obligation.
- 348.** Tripartism is indeed the foundation of the ILO. It is therefore essential that the social partners are involved in monitoring the application of international labour standards in their countries. Communicating the reports sent to the ILO to these organizations enables them to contribute to the work of evaluating the conformity of national law and practice with international labour Conventions. It is also essential that there is genuine tripartite momentum to ensure that this formality is implemented.
- 349.** Each year the Committee of Experts formulates observations and direct requests to which countries are invited to reply. This year 47 countries have not replied (compared with 44 last year). As the Committee of Experts has emphasized, the number of comments to which there has been no 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 send all the requested information.

- 350.** In view of the figures causing even greater concern that those of recent years – which may partly be explained by the crisis context – the deep concern of the Committee of Experts is shared by the Workers' group. While recalling that the prime responsibility for meeting reporting obligations rests on the Member States, we ask the Office to be particularly attentive to the difficulties encountered by Member States, especially because of the health crisis, and to adapt and strengthen initiatives already taken in the past to reverse the negative trend observed for many years and which the health crisis is only making worse. This means ensuring more effective follow-up with respect to countries which seriously fail to meet their constitutional obligations and ensuring that these Member States resume without delay the task of respecting their reporting obligations with an eye to emerging from the crisis.
- 351.** The Committee of Experts, in collaboration with the Office, recently launched a new positive initiative in this regard and the first results of this can already be seen. This is the urgent appeals procedure, whereby the Committee of Experts is able to examine the application of the relevant Convention, in terms of the substance, on the basis of information accessible to the public, if the government has not sent a report despite having been urged to do so. This procedure is applicable in cases where the Member State has not sent reports on ratified Conventions for three or more years (four countries are concerned this year) and in cases where the country has not sent any first reports for three or more years (five countries are concerned this year). This year nine Member States are likely to have the substance of their respective cases examined next year by the Committee of Experts on the basis of publicly accessible information if they do not provide the expected report in time.
- 352.** As indicated above, this procedure already seems to be yielding positive initial results since seven of the 14 reports for which urgent appeals were launched have been received in the meantime. This is a very positive outcome and we are hopeful that this Committee of Experts' initiative in collaboration with the Office will produce further good results in the future.
- 353.** Every year our Committee devotes its attention to a General Survey. This cannot be achieved without the transmission of the reports provided by the Member States of our Organization. It is therefore vitally important that Member States send their reports as part of the preparation of the General Surveys so that we can gain an overview of the application in law and in practice of ILO instruments, even in countries which have not ratified the Conventions under examination. The General Surveys are invaluable instruments which enable us to hold extremely interesting debates and have a glimpse of prospects for the future. Many General Surveys published in the past are still used today to shed light on possible interpretations of ILO Conventions and Recommendations. However, we are bound to note that 21 countries have not supplied 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 made a valuable input to the overview that the General Survey provides.
- 354.** Cases of serious failure to submit 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 for ensuring, at the national level, official communication of the ILO's standard-setting initiatives to the competent authorities, further to which the Member State can contemplate possible ratification. This year 48 countries are in a situation of serious failure to submit, compared with 36 last year.

This amounts to as many missed opportunities for promoting international labour standards adopted by the ILO.

- 355.** It is essential that Member States constituting cases of serious failure to respect constitutional reporting obligations make every possible effort to comply without delay with the obligations imposed on them. These Member States are not alone in facing these obligations. They can count on the ILO, which has always shown great willingness to assist Member States with fulfilling their obligations. We therefore invite the Office to continue to provide Member States with the necessary assistance.
- 356.** However, we must also firmly remind Member States that they have a responsibility to meet their obligations vis-à-vis the ILO. Their credibility and the effectiveness of the various ILO bodies are at stake. The ILO, for its part, must be firm in requiring the replies and reports that States have to provide on the basis of their obligations and must give the necessary impetus for dialogue between the ILO supervisory bodies and the Member States. This dialogue is fundamental to the effective application of standards and their dissemination.
- 357. Employer members:** The discussion this year takes place against the all-overshadowing backdrop of the ongoing pandemic which has had severe effects on both the application and the supervision of ILO standards. We note that the Committee of Experts once again expressed concerns in the 2021 Addendum to its Report at the low number of government reports received by the 1 October deadline, which was exceptionally modified to allow governments more time under the special circumstances of COVID-19. We fully understand that last year was an exceptional year as governments were primarily concerned with managing the pandemic, but we nonetheless count on them to continue complying with their reporting obligations under article 19, 22 and 35 in a timely manner and to do so in consultation with the most representative employer and worker organizations. This is important – and it cannot be repeated often enough – because it is government reports that provide the core basis for our supervisory work.
- 358.** With regard to Governments' compliance with reporting obligations on ratified Conventions, we regret to see that even with the extended 1 October deadline there is a decrease in the number of reports received – only 26.5 per cent compared to 39.6 per cent last year. This just adds to our disappointment with the continued low levels of reporting over the past years. While we understand that the Office has limited finance and human resources, we trust it will nevertheless continue its efforts to provide assistance and encourage governments to meet their reporting obligations in consultation with the most representative employer and worker organizations.
- 359.** We note with real concern that according to paragraph 102, none of the reports due have been sent for the past two or more years from 16 countries. The Committee of Experts rightly urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions. We invite these Member States to request ILO technical assistance.
- 360.** In terms of first reports, we note that like last year, only five of the 20 first reports due were received by the time the Committee's session ended. According to paragraph 104, 12 Member States have failed to supply a first report for two or more years. Out of these 12 Member States, we are particularly concerned about the serious failure of the following countries: (i) Congo – no reporting on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), since 2015, the Maritime Labour Convention, 2006 (MLC, 2006), since 2016, and the Work in Fishing Convention, 2007 (No. 188), since 2018; (ii) Equatorial Guinea – no reporting on the Food and Catering (Ships' Crews) Convention,

1946 (No. 68), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), since 1998; (iii) Gabon – no reporting on the MLC, 2006, since 2016; (iv) Maldives – no reporting on the MLC, 2006, since 2016; (v) Romania – no reporting on the MLC, 2006, since 2017.

- 361.** First reports are vital to provide the basis for a timely dialogue between the Committee of Experts and the ILO Member States on the application of a ratified Convention. We strongly encourage the governments of these five countries to request technical assistance from the Office and to provide the Committee of Experts the overdue first reports without further delay.
- 362.** In paragraph 110, 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 for what reasons they are not responding to the Committee of Experts comments: Is it a lack of understanding of or disagreement with the content of observation or direct request? Or is it for other reasons? We understand that COVID-19 might be one significant factor for this, but if there are any other reasons, the Governments should let the Office know, should they require more assistance and/or have ideas to improve the reporting process.
- 363.** We note with regret that paragraph 155 records 21 countries as not having provided reports on unratified Conventions and Recommendations requested under article 19 of the Constitution for the past five years. We note that the great majority of cases of failure to report are either developing or small island states or both. We suggest that the Office give appropriate attention to this demographic to better assist it to prioritize and focus the assistance it can and does provide to states to meet their reporting requirements.
- 364.** We welcome the decision taken by the Committee of Experts to take up 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 on these cases. This makes it possible to call governments concerned before the Conference Committee and enables the Committee of Experts to examine the substance of the matter at its next session even in absence of a report. We welcome that seven out of 14 first reports on which urgent appeals were issued have been received, with technical assistance provided by the Office.
- 365.** Turning now to the social partners' role and participation in the regular supervisory system. As part of their obligations under the ILO Constitution, governments of Member States have an obligation to communicate copies of their reports to representatives of employers' and workers' organizations. Compliance with this obligation is necessary to ensure proper implementation of tripartism at the national level. In paragraph 149, we observe that social partners submitted 757 comments to the Committee of Experts this year – 230 of which were communicated by the employers' organizations and 527 were by workers' organizations. We trust the Office will continue to provide technical assistance, as well as capacity-building to social partners, to enable them, where appropriate, to send comments to the Committee of Experts.
- 366.** From our side, employers' organizations' members of the International Organization of Employers (IOE) are working with the invaluable support of the IOE secretariat 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. Comments from employers'

organizations are of particular importance to inform the Committee of Experts about the needs and realities of sustainable enterprises in a given country with regard to particular ratified Conventions.

367. We trust that the Committee of Experts will reflect these comments, as well as any additional comments by the employers in the discussion of the Conference Committee, fully in their observations.

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

368. In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19(5), (6) and (7) of the ILO Constitution. These provisions required Member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.
369. The Committee noted that, in order to facilitate its discussions, the report of the Committee of Experts mentioned only the governments which had not provided any information on the submission to the competent authorities of instruments adopted by the Conference for at least seven sessions (from the 99th Session (2010) to the 108th Session (2019), because the Conference did not adopt any Conventions and Recommendations during the 97th (2008), 98th (2009), 102nd (2013), 105th (2016) and 107th (2018) Sessions). This time frame was deemed long enough to warrant inviting Government delegations to the dedicated sitting of the Committee so that they may explain the delays in submission.
370. The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. It noted the specific difficulties mentioned by certain delegates in complying with this constitutional obligation, and in particular the intention to submit shortly to competent authorities the instruments adopted by the International Labour Conference. Some governments have requested the assistance of the ILO to clarify how to proceed and to complete the process of submission to national parliaments in consultation with the social partners.
371. The Committee expressed deep concern at the failure to respect the obligation to submit Conventions, Protocols and Recommendations to national parliaments. It recalled that compliance with the obligation to submit Conventions, Protocols and Recommendations to national competent authorities was a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. It also recalled that governments could request technical assistance from the Office to overcome their difficulties in this respect.
372. The Committee noted that the following countries were still concerned with the serious failure to submit the instruments adopted by the Conference to the competent authorities: **Albania, Bahamas, Bahrain, Belize, Plurinational State of Bolivia, Brunei Darussalam, Comoros, Congo, Croatia, Democratic Republic of the Congo, Dominica, El Salvador, Equatorial Guinea, Eswatini, Gabon, Gambia, Grenada, Guinea, Guinea-Bissau, Haiti, Hungary, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Liberia, Libya, Malaysia, Malta, Marshall Islands, Pakistan, Papua New Guinea,**

Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic, Timor-Leste, Tuvalu, Vanuatu, Yemen and Zambia. The Committee expressed the firm hope that appropriate measures would be taken by the Governments concerned to comply with their constitutional obligation to submit.

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

- 373.** The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. Some governments have requested the assistance of the ILO. The Committee recalled that the submission of reports on the application of ratified Conventions is a fundamental constitutional obligation and the basis of the system of supervision. It also recalled the particular importance of the submission of first reports on the application of ratified Conventions. It stressed the importance of respecting the deadlines for such submission. Furthermore, it underlined the fundamental importance of clear and complete information in response to the comments of the Committee of Experts to permit a continued dialogue with the Governments concerned. In this respect, the Committee recalled that the ILO could provide technical assistance to contribute to compliance in this respect.
- 374.** The Committee noted that, by the end of the 2020 meeting of the Committee of Experts, the percentage of reports received (article 22 of the ILO Constitution) was **40** per cent (68.1 per cent for the 2019 meeting). Since then, further reports have been received, bringing the figure to **42.8** per cent (as compared with 70.9 per cent in June 2019).
- 375.** The Committee noted that no reports on ratified Conventions have been supplied for the past two years or more by the following States: **Congo, Djibouti, Dominica, Equatorial Guinea, Grenada, Guyana, Lebanon, Madagascar, Saint Kitts and Nevis, Saint Lucia and Vanuatu.**
- 376.** The Committee also noted that first reports due on ratified Conventions have not been supplied by the following countries for at least two years: **Albania, Congo, Equatorial Guinea, Gabon, Guinea, Romania, Sao Tome and Principe and Tunisia.**
- 377.** The Committee noted that no information has yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2020 from the following countries: **Afghanistan, Antigua and Barbuda, Bangladesh, Barbados, Belize, Plurinational State of Bolivia, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Kyrgyzstan, Lebanon, Liberia, Madagascar, Mauritius, Montenegro, Mozambique, Papua New Guinea, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Sierra Leone, South Sudan, Syrian Arab Republic, Tuvalu, Ukraine, Uganda, Vanuatu and Zambia.**

1.3. Urgent appeals

- 378.** Following the decision of the Committee of Experts to institute a new practice of launching urgent appeals for cases corresponding to countries which have failed to send a report due under article 22 of the Constitution for at least three years and to draw the attention of the Committee on the Application of Standards to those cases, the Committee invited the countries concerned to provide information during the examination of cases of serious failure to fulfil reporting obligations, and expressed the

hope that the Governments of **Congo, Dominica, Equatorial Guinea, Gabon, Grenada, Romania** and **Saint Lucia** will supply their first reports due as soon as possible.

- 379.** The Committee brought to the attention of these Governments that the Committee of Experts could examine in substance, at its next session, the application of the Conventions concerned on the basis of publicly available information, even if the Government has not sent the corresponding report. The Committee recalled the possibility of governments availing themselves of the technical assistance of the Office in this regard.

1.4. Supply of reports on unratified Conventions and Recommendations

- 380.** The Committee stressed the importance it attaches to the constitutional obligation to supply reports on unratified Conventions and Recommendations. These reports permit a better evaluation of the situation in the context of the General Surveys of the Committee of Experts. In this respect, the Committee expressed **deep concern** at the failure to respect this obligation and recalled that the ILO can provide technical assistance to contribute to compliance in this respect.
- 381.** The Committee noted that over the past five years none of the reports on unratified Conventions and Recommendations, requested under article 19 of the Constitution, have been supplied by: **Belize, Botswana, Chad, Congo, Dominica, Grenada, Guyana, Haiti, Liberia, Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Somalia, South Sudan, Timor-Leste, Tuvalu** and **Yemen**.

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

- 382.** The Committee welcomes the fact that no Member State has failed to indicate during the past three years the names of the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated. The Committee pointed out that the fulfilment by governments of their obligation to communicate reports and information to the organizations of employers and workers was a vital prerequisite for ensuring the participation of those organizations in the ILO supervisory system. The Committee expresses the firm hope that this is a sign of genuine tripartite social dialogue in all ILO Member States. The Committee encourages Member States to continue in that direction.

2. Application of ratified Conventions

- 383.** The Committee noted with **interest** the information provided by the Committee of Experts in paragraph 86 of its report, which lists new cases in which that Committee has expressed its satisfaction at the measures taken by governments following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. In addition, the Committee of Experts has listed in paragraph 89 of its report cases in which measures ensuring better application of ratified Conventions have been noted with interest. These results are tangible proof of the effectiveness of the supervisory system.

384. At its present session, the Committee examined 19 individual cases relating to the application of various Conventions.⁶

2.1. Specific cases

385. The Committee considered that it should draw the attention of the Conference to the discussion it held regarding the cases of the application of the **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)** by **Belarus**, the application of the **Abolition of Forced Labour Convention, 1957 (No. 105)** by **Zimbabwe**, and the application of the **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)** by **El Salvador**. The full record of these discussions, the Committee's conclusions and the government statements following their adoption, appear in Part Two of this report.

2.2. Continued failure to implement

386. The Committee recalls that its working methods provide for the listing of cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed. The Committee did not have any such cases to mention this year.

3. Participation in the work of the Committee

387. The Committee wished to express its appreciation to the **39** governments which collaborated by providing information on the situation in their countries and participating in the discussion of their cases.

388. The Committee nevertheless **regretted** that the Governments of the following States failed to take part in the discussions concerning their country and the fulfilment of their reporting and other standards-related obligations: **Albania, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Brunei Darussalam, Chad, Comoros, Congo, Croatia, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Guyana, Haiti, Hungary, Kuwait, Kyrgyzstan, Lebanon, Libya, Malaysia, Malta, Marshall Islands, Mauritius, Montenegro, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Solomon Islands, Syrian Arab Republic, Timor-Leste, Tunisia, Tuvalu, Uganda, Vanuatu, Yemen and Zambia**.

389. The Committee noted with **regret** that the Governments of the following Member States which were not represented at the Conference could not participate in the discussion concerning their countries, regarding fulfilment of their reporting and other standards-related obligations: **Dominica, Gambia, Grenada, Guinea-Bissau, Marshall Islands, Timor-Leste and Tuvalu**.

390. Overall, the Committee expresses **regret** at the large number of cases of serious failure by Member States to respect their reporting and other standards-related obligations. The Committee observes that some governments have provided information after the session dedicated to examining this question.⁷ While acknowledging the efforts made in this regard, the Committee trusts that in the future governments will act swiftly to enable it to carry out this examination in full knowledge of the facts. The Committee

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

⁷ Belize, Gabon and Somalia.

recalls that governments may request technical assistance from the Office to overcome their difficulties in this regard.

- 391. Worker members:** Sixty-six Member States were invited to provide written explanations relating to serious failures to comply with reporting and other standards-related obligations. We have received written information from only seven of them. We thank the latter, but these particularly low figures give rise to deep concern in the Workers' group. We bitterly regret the fact that the 59 other Member States have not provided any written information. We have emphasized in our written observations the fundamental nature of the dialogue that needs to be established between the Member States of the ILO, particularly through scrupulous compliance with these standards-related obligations. This dialogue would appear to be even more essential during a period of crisis.
- 392.** In the written information provided by Governments, we have taken due note of the difficulties encountered by certain Member States and we note with satisfaction that they have generally called for Office assistance, and that the ILO systematically responds favourably and very effectively to such requests. This ILO support must be maintained and reinforced to guarantee over time the capacity of these Member States to comply with their reporting and other standards-related obligations. These Member States must however be aware that it is essential to allocate the necessary resources for compliance with these obligations, and that not everything can be left to Office assistance.
- 393.** We have heard on several occasions that the health crisis has affected the capacity of governments to fulfil their obligations. While recognizing the undeniable impact that the pandemic has had, it however seems to us important to recall, on the one hand, that the ILO Constitution does not envisage any circumstances in which standards-related obligations can be suspended, as indicated by the Committee of Experts in paragraph 97 of the Addendum to its report and, on the other, that failure to fulfil most of these obligations must continue for several years to be classified as a "serious failure".
- 394.** The failures referred to therefore often go back to a period that preceded the beginning of the pandemic. It also emerges from the written information provided and from certain Government interventions that there is a clear need for training. Member States must therefore not fail to seize the opportunities of the training programmes established by the ILO, and particularly those intended for the representatives of Member States. The training programmes of the International Training Centre intended for ILO constituents are a valuable aid in this regard. Reference should also be made here to the many very useful ILO resources that are available to Member States, and particularly the technical assistance provided by the many standards specialists in the field, the Web Managing ILS reporting website, and the many other tools developed within the framework of the ILO programme and budget.
- 395.** The ILO is also continuing its efforts to reinforce the capacities of its constituents through new tools, as shown by the placing on line of a first version in English of the Guide on established practices across the supervisory system, which is still being translated into French and Spanish. This tool will also be developed in the form of an application, as announced by the Representative of the Secretary-General of the Conference.
- 396.** We call on Member States that have not provided written information to our Committee, despite the invitation to do so, to be included in the conclusions of the present discussion, That prejudices the discussion in the present special sitting of our Committee and means that we do not know the intentions of the Governments concerned, unless

they have come to speak during the sitting. We regret in this respect that very few Governments have responded during the sitting.

- 397.** We have taken due note of the commitments made by certain Governments in their written information and in certain interventions and we hope that these commitments will be followed up by specific action to ensure full and complete compliance with their obligations. We also call on all of these Governments, and particularly those that have not provided any information to the Committee, to bring an end as soon as possible to the serious failings indicated. Over and above formal compliance with these obligations, it is necessary for Member State to ensure the effective social dialogue procedures that underlie these obligations.
- 398.** Allow me, finally, to react to certain of the observations made by the Employer spokesperson. The Worker members are open to discussions intended to facilitate greater compliance by Member States with their standards-related constitutional obligations. However, it does not appear to us to be possible to achieve this objective through an approach involving the consolidation or simplification of standards.
- 399.** We also wish to emphasize the fact that the act of ratifying international labour Conventions must be guided by the will of Member States to give effect to the principles of law and freedom that they contain. Fears related to the capacity to comply with reporting obligations must never be a barrier to ratification. For that purpose, Member States can rely on Office technical assistance and on tripartite social dialogue.
- 400.** Finally, it seems to us to be important to conclude by recalling, based on the mandate of the Committee of Experts as set out in paragraph 43 of the Addendum to its report, that while taking into account the comments of workers and employers contributes to the broad recognition of the technical role and moral authority of the Committee of Experts, it can in no event influence the independent and impartial examination by the Committee of Experts of the content and meaning of the provisions of Conventions. We therefore firmly reject the observations of the Employer spokesperson, which call into question the independence of the Committee of Experts and which, moreover, bear no relation to the purpose of the present discussion.
- 401. Employer members:** In order to be effective, the regular ILO supervisory system relies on government reports that contain relevant information and are sent regularly and on time, as well as additional comments by the social partners where needed to clarify the situation. Without these inputs, the Committee of Experts and the Committee on the Application of Standards cannot properly supervise the implementation of ILO standards. We understand that last year was a particularly challenging year for all of us and we appreciate all the efforts made to enable the supervisory system to continue to do its work.
- 402.** We hope our continued efforts to streamline reporting and extending the possibilities for e-reporting will help facilitate government reporting and increase the number of reports and social partners' comments received in the future. In our view, these efforts need to be complemented by a significant consolidation, concentration and simplification of ILO standards. In that regard, we hope that the work of Standards Review Mechanism will help us move forward. Last but not least, we would stress that it is important for governments before ratifying ILO Conventions to make sure that they not only have in place the capacity to implement the respective Conventions but also the capacity to meet their regular reporting obligations.

E. Adoption of the report and closing remarks

403. The Committee's report was adopted, as amended.
404. **Government member of Brazil, speaking on behalf of the group of Latin American and Caribbean countries (GRULAC).** GRULAC reiterates the commitment of our countries to the supervisory mechanisms for the application of standards and to compliance with ratified Conventions by each of our Member States. We value the efforts made by the Committee of Experts and the Committee on Freedom of Association in the meetings held with the Workers' and Employers' groups. However, we note with concern that Governments have not been included in such important meetings.
405. I wish to draw to the attention of the Committee that, in complying with the corresponding obligations, Governments commit in good faith to the standards supervisory system. By that, GRULAC understands that all the parties should participate in these meetings. Our countries have always been clear on the supervisory mechanisms, and particularly as our region has the most cases in the Committee on Freedom of Association and we are repeatedly called before the Committee on the Application of Standards. This is also due to the fact that a high number of Conventions have been ratified by Latin American and Caribbean countries.
406. GRULAC has reiterated that the methods of work of the Committee on the Application of Standards need to be revised to take into account the significant and legitimate concerns raised by Governments with a view to true tripartism. On page 4 of the Addendum to the 2020 Report of the Committee of Experts on the Application of Conventions and Recommendations, it is indicated that: "Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose." In this regard, it is necessary to indicate that we value these meetings. Nevertheless, GRULAC must emphasize that this practice, which has been followed for several years, by not inviting Governments, distorts the tripartite nature of the ILO. Accordingly, Governments must be invited to these types of meetings.
407. The work of the Committee has shown that governments play a fundamental role, not only because they are responsible for the application of Conventions, but also because they are constantly seeking to strengthen social dialogue in each country. When they are denied the opportunity to participate in this type of meeting and they are not involved in all activities, as is the case with the Committee, they lose their role as constituents and merely remain simple spectators.
408. In conclusion, with a view to continuing to contribute to the strengthening of the ILO supervisory mechanisms, GRULAC proposes that the Committee should request the Committee of Experts to consider the possibility of also allowing a representative of the Government group to attend the next special sitting to which the Worker and Employer Vice-Chairpersons are invited.
409. **Government member of Portugal speaking on behalf of the European Union (EU) and its Member States:** The candidate countries Montenegro and Albania, the European Free Trade Agreement (EFTA) countries Iceland and Norway, the members of the European Economic Area, as well as the Republic of Moldova and Georgia align themselves with this statement. We would like to thank the Chair of the Conference, the Chair of the Committee, the Rapporteur, as well as the Director General and the Office for their dedication and perseverance in making this Conference a success and ensuring that this important Committee's work could go on despite the special circumstances. In the same vein, we would like to thank the spokespersons of the Workers and Employers

for their constructive spirit and contributions. We welcome Governments' positive approach and engagement in the process. The Committee embodies a true essence of tripartism and we strongly believe that commitment to the work of our Committee to improve the implementation of the Conventions should remain a priority for all constituents.

- 410.** We welcome, not only with immense satisfaction but also with relief, that the discussion at the Committee on the Application of Standards finally took place after a one-year deferral. We strongly believe in the fundamental importance of international labour standards and the effective and authoritative supervisory system, especially during crises such as the one resulting from the COVID-19 pandemic. We are firm advocates of the need for an independent, expert-based, efficient and robust supervisory system to oversee the implementation of ILO Conventions. We are convinced that a well-functioning supervisory system is crucial in ensuring the credibility of the Organization's work as a whole. Putting this system under pressure of any kind would not only be inefficient and ineffective but very worrying, in particular in the current context of the pandemic.
- 411.** We believe that international labour standards have a central role in addressing socio-economic regression and in putting recovery efforts on a more resilient footing. The full implementation of international labour standards and the effective and authoritative supervisory system are fundamental pillars of the recovery from this crisis. This is also in line with the Centenary Declaration on the Future of Work and the resolution concerning a global call to action for a human-centred recovery from the COVID-19 crisis.
- 412.** We strongly reaffirm our support to the Committee of Experts' observations that recovery measures should never weaken the protection afforded by labour and social protection laws, as that would only further undermine social cohesion and stability, and erode citizens' trust in public policies. We therefore underline the critical importance of effective and genuine social dialogue to elaborate and implement responses grounded in respect for rights at work while leaving no one behind. Similarly, the relevance of continued support to constituents and provision of comprehensive policy guidance and technical assistance from the ILO cannot be overstated.
- 413.** We also express our support to the Committee of Experts' re-affirmation of the premise that the right to strike should be understood as an intrinsic component and logical consequence of freedom of association and the right to organize as defined in ILO Convention No. 87. We fully trust the independence and impartiality of the Committee of Experts, which is a crucial aspect of ILO's supervisory system.
- 414.** The Conference Committee is a unique mechanism that enables all constituents to discuss the implementation of ILO Conventions in a constructive and tripartite manner, based on unbiased and independent observations by experts. It enables the exchange of views and fosters progress. In this respect, we welcome that the Committee's conclusions are more action-oriented and provide guidance to identify key recommendations and necessary actions for each case and situation in order to actively support progress towards decent work for all. We encourage ILO Member States to comply with the conclusions to the greatest extent possible, where appropriate with the support of Office technical assistance and/or direct contact missions.
- 415.** The European Union and its Member States will continue to fully support the ILO's supervisory system and the promotion of the ratification and implementation of international labour standards. We remain convinced that they provide for the most

elaborate and one of the most valuable examples of a multilateral rules-based order, which has gained even more importance during this crisis.

- 416. Employer members:** On behalf of the Employer members, I would like to endorse the report of the Committee on the Application of Standards and recommend its adoption. This year, the Committee took place for the very first time in a virtual format. Overall, the Employer members are pleased that the Committee was able to successfully conclude its work on time, thanks to the discipline and cooperation of all delegates. In particular, we thank the Chair, Ms Corine Elsa Angonemane Mvondo, for the effective time-management of our work. This was a difficult job and you handled it beautifully.
- 417.** We must also take this moment to highlight some of the challenges of the virtual format. Regrettably, we noticed that members from some regions were not able to participate effectively due to time zone differences, and note challenges with respect to connectivity. Furthermore, the fixed and limited time sessions meant that we had to compromise in some instances on the depth of meaningful discussions.
- 418.** The Employer members hoped that we could have discussed fewer cases, but more thoroughly. The Employer members also note that, despite these time constraints, the Committee once again demonstrated its ability to conduct a results-oriented tripartite dialogue and adopt clear, consensual and straightforward conclusions. Regarding the discussion of individual cases, the Employer members were pleased to learn that many governments have already started taking remedial actions, or intend to do so in the near future, in respect of compliance with the Convention in question. We noted positively that the majority of governments constructively engaged in the Committee process and expressed a clear and firm commitment to engagement in the supervisory system. We welcome these expressions of commitment and encourage the constructive engagement with the supervisory system.
- 419.** In addition, the Employer members consider of utmost importance that assessments of the Committee are based on sound and balanced evidence. After all, the credibility of the Committee's conclusions depends on a solid factual foundation. Establishing facts may often be a difficult process requiring time and resources, but a necessary one. Governments should make particular efforts to provide complete and updated information in consultation with the social partners to facilitate this important supervisory work.
- 420.** The Employer members have also, on various earlier occasions, called upon the Committee of Experts to orient its preparatory observations of compliance with ratified Conventions more strictly to the text of the Conventions and that the Committee of Experts, in this regard, should fully adhere to the applicable methods of the Vienna Convention on the Law of Treaties in respect of interpretation issues. Where ILO Conventions deliberately grant flexibility in implementation, for instance through the use of general terms, this must not be undone by restrictive interpretations by the Committee of Experts. Furthermore, the Employer members call upon the Committee of Experts to adequately reflect the needs of sustainable enterprises in its compliance assessments. This is an important element highlighted in the ILO Centenary Declaration, which must also be duly recognized in the ILO standards supervisory system. It is also more important than ever, emerging out of the COVID-19 pandemic, that the needs of sustainable enterprises be taken into account.
- 421.** The Employer members would like to take this opportunity to encourage the Committee members, the Committee of Experts and the Office to continue cooperating towards increasing the transparency, efficiency, balance, relevance and tripartite governance of

the ILO standards supervisory system in a good-faith manner, and in a constructive manner. On behalf of the Employer members, we make a number of proposals in this regard. The first is to ensure better readability and user-friendliness; users of the Committee of Experts' report need clear, balanced and up-to-date presentation of the issues. Comments made by the Committee of Experts should be based on sound analysis and explain the compliance problems in an easily comprehensible manner. Recommendations for remedial action, in our view, should be straightforward, concrete and verifiable. Presenting the observations by country, in our view, would also be helpful.

- 422.** In respect of the double-footnoted cases, the Employer members would appreciate if the Committee of Experts could elaborate further on the reasons why a case has been double-footnoted. This should be done not only in the respective observations, but also in the General Report, in our view.
- 423.** In respect of the issue of hyperlinks, the Employer members are of the view that in the electronic version of the Committee of Experts' comments, hyperlinks related to earlier comments and Conference Committee discussions should be made available.
- 424.** In addition, an important issue is access to the submissions from social partners. It would be desirable if the text of the submissions made by employers' and workers' organizations to the Committee of Experts was made available via hyperlinks in the electronic version of the Committee of Experts' report, and on the NORMLEX website. To date, while NORMLEX contains information on which employers' or workers' organizations have made submissions, the text of the submissions is currently not available. In our view, this strikes at the heart of the transparency of the process.
- 425.** In addition, access to mission reports is an important component of this process. As stated in the 2017 joint statement of workers and employers, reports of follow-up missions regarding the Committee's conclusions, or a summary with the non-confidential and concrete results of the mission, should be published on the Committee's webpage or in the NORMLEX database within a reasonable period after a mission is completed. Where such reports are referred to in observations, access to them could also be facilitated via hyperlinks.
- 426.** We trust, in addition, that the Committee's webpage, which is a central portal for any information of relevance to the Committee's work, will be further expanded and upgraded.
- 427.** In respect of the question of the Committee highlighting cases of progress, the Employer members are of the view that the Committee discussed a number of cases containing elements of progress this year. We are of the view that this provides an important opportunity for the Committee to showcase good practice by ILO Member States in the application of international labour standards, and to comment, on a tripartite basis, governments' successful efforts to improve their compliance with ratified Conventions. This point is particularly important to the Employer members and we are in favour of increasing the share of cases which highlight progress on the shortlist of cases discussed.
- 428.** In respect of the issue of follow-up to Committee conclusions, the Employer members would like to place emphasis on the importance of the follow-up to the Committee's conclusions. In our view, the Committee conclusions represent clear, tripartite consensus on compliance issues, and thus define and set out the mandate of related Office technical assistance and follow-up missions. In this spirit, specialists from the Bureau for Employers' Activities and the Bureau for Workers' Activities should be involved in the follow-up action to assist employers' and workers' organizations from the

respective countries in contributing to the solution of compliance issues in a way that takes into account their needs. Reports on technical assistance provided and missions undertaken should be made available online within a reasonable period.

- 429.** The key role that the Office plays in helping countries better comply with their standards-related obligations cannot be stressed enough. We trust that this will continue to be done in a balanced and practical manner in consultation with the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) as employers' and workers' secretariats. The Employer members firmly believe these proposals could further improve the relevance and acceptance and transparency of the regular ILO standards supervisory system. We remain available and look forward to discussing these proposals in more detail at the next informal tripartite consultations on the working methods of the Conference Committee.
- 430.** In conclusion, the Employers note with satisfaction the constructive overall operation of this year's virtual Committee session. In our view, discussions were held respecting time limits. In most cases, consensus was reached where possible, disagreements or divergence of views, where they exist, were respectfully highlighted and discussed.
- 431.** I would like to conclude with words of thanks and appreciation to the International Labour Standards Department for facilitating this virtual format. We know this was a very large job and we congratulate all of those involved in making this year's zoom Committee meetings happen smoothly. Also, a special thanks goes to the Chairperson for the fair parliamentary running of the Committee's meetings this year and the very effective time management. Please allow me also a moment to thank the Employers' group, in particular the members who participated in the preparation and presentation of the Employer perspective on the individual cases as well as the General Survey. I would finally like to express my gratitude to the IOE and Bureau for Employers' Activities. Last but not least, I thank my friend, the spokesperson of the Worker members and his team, as well as the Government representatives that participated actively in the Committee and whose work ensured that our discussions were constructive and productive.
- 432. Worker members:** We have come to the end of our work. It has been carried out in very particular circumstances, which have forced us to adopt a number of exceptional measures. This is true regarding, especially, the reduction in the number of cases, which has caused much frustration within our group, as many workers around the world continue to have their rights infringed. We can nevertheless be satisfied that we have adopted significant conclusions for the cases examined and we hope that they will have an impact on reality.
- 433.** In this regard, it is with deep concern that we learn of the deterioration of the situation in certain cases discussed this year by our Committee. We call on the Governments concerned to act wisely and ensure the full implementation of the conclusions adopted. Furthermore, our Organization will not accept that reprisals be taken as punishment for discussions held here. To give full effect to our conclusions, we suggest that the Bureau for Workers' Activities and the Bureau for Employers' Activities be associated with their implementation.
- 434.** Our work is based on the report of the Committee of Experts. We cannot overemphasize the independence of the Committee. Contrary to what has sometimes been implied, it is not simply a technical committee that prepares the work of our Committee. It is a fully-fledged supervisory body that freely and independently examines compliance with the Conventions and Recommendations. This independence would be severely damaged if it were to act on suggestions that it should promote vague concepts. Even in the event

that they could be taken into account, they would only be relevant when formulating standards but in no way when enforcing them. Let me be clear on this point. The Worker members are not at all opposed to discussing a concept such as sustainable enterprises. This discussion, however, has nothing to do with supervising standards. It can be held in another ILO forum, as we did, in fact, in 2007. In addition, the suggestions made by the Employer members concerning the right to collective bargaining, and with which the Worker members do not agree, must be set aside.

- 435.** It is therefore essential to respect the independent expression of the Committee of Experts concerning all the issues examined, including the right to strike. In this regard, the Worker members wish to recall their position. The right to strike is a fundamental right that is integral to freedom of association and covered by Convention No. 87.
- 436.** We would also like to emphasize that the Conference Committee on the Application of Standards is not mandated to provide guidance or instructions to the Committee of Experts, and certainly not to oversee its work. In this respect, the dialogue between the two Committees, which is based on mutual respect and an equal footing, is intended solely to highlight their complementarity and enable them to discuss their future cooperation.
- 437.** I mentioned at the start of my statement that our session this year has been impacted by the pandemic. The same applies to the international labour standards, which have really been put to the test. It was thus important that some of our discussions were dedicated to the pandemic. Allow me to underscore the need to respect standards, a fortiori, in contexts such as this pandemic. There is not one standard-setting body for prosperous times and another for troublesome eras. The standards should also be at the heart of the post-Covid recovery, with particular attention on instruments that offer a suitable framework to that end, such as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). Further, it is important that the supervisory bodies ensure specific follow-up to the measures taken during the pandemic and continue to examine their conformity with the standards of our institution.
- 438.** I would now like to turn to certain events that arose during our discussions. We have had to deplore the fact that, on several occasions, some participants deemed it useful to describe certain cases as progress cases. Everyone is free to assess the situation as they see fit, at the risk of putting their credibility on the line. However, we are sure that all reasonable people here would easily agree that it is totally inappropriate to talk about progress when people continue to lose their lives because of their beliefs. I would like to recall that a case can only be qualified as a progress case if both the Workers' and Employers' groups explicitly agree to define it thus. No cases were designated as such this year.
- 439.** We have also noted that some delegates have taken it upon themselves to determine what falls within the scope of the discussion and what falls outside of it. We wish to recall that our Committee's mandate is to ensure respect by Member States of the ratified Conventions. Anything that relates to compliance of the State in question with the Conventions falls within the scope of our Committee's discussions.
- 440.** In addition, it is important to us to come back to the way that some people have used points of order, taking it upon themselves to interrupt the interventions and requesting that statements be removed from the record. On the one hand, raising a point of order is a modality that can only be used in exceptional cases and when there is a clear breach of the rules. It is the exclusive responsibility of the Chairperson to manage the debates and no delegate is entitled to take that role. On the other hand, it is clear that this kind

of attitude rather reveals a lack of tolerance towards other opinions. Social dialogue is not, however, simply a slogan that is bandied about on occasions, but a practice that implies that we accept to listen to and discuss different opinions. It is by confronting contradictory positions that conflicts are overcome and relations eased. Censorship, contempt and denial have never advanced an idea.

- 441.** Allow me to conclude on a personal note. In the midst of raucous discussions, we sometimes engage in bitter arguments by adding to the rhetoric. But in order to evaluate the value of our work, it is important to ask ourselves to what degree our exchanges can contribute to improving the lives of the people concerned by our discussions. This is the mandate of our Organization, which calls for the improvement of working conditions and the adoption of truly humane labour regulations. This is the only question that matters, and the only one to give meaning to our work and determine our level of satisfaction.
- 442.** I would like to proceed, as usual, with a few words of gratitude. On behalf of the Worker members, I extend my sincere thanks to the Chairperson of our Committee, Ms Corine Elsa Angonemane Mvondo, who has led the discussions very calmly, taking on the thankless task of ensuring observance of the speaking time, and the whole Office for the enormous work carried out in a hitherto unknown extraordinary system. I particularly wish to thank the representative of the Secretary-General, Ms Corinne Vargha, for her flawless investment, and the interpreters and the conference services for their invaluable support, without which our activity could not take place. I would like to thank the delegates who contributed to our discussions for their input, and the spokesperson of the Employers' group, Ms Sonia Regenbogen, and her team, who illustrate that differences do not preclude respect. I, of course, thank my group, the Workers' group, for its active participation and solidarity. In particular, I would like to thank those who have accepted the role of spokesperson in the examination of certain cases. I thank all those with whom I collaborate directly, those of the ITUC, the Confederation of Christian Trade Unions (CSC) and our colleagues from the Bureau for Workers' Activities.
- 443. Chairperson:** Before bringing our work to a close, I would like to express my gratitude to all the members of the Committee for what has been accomplished, despite the difficulties arising from the virtual format of this session, the lack of time, and the different time zones which we have all had to cope with.
- 444.** I would like to take this opportunity to apologize if I upset any of you in any way, perhaps by interrupting you abruptly during your statement. I assure you that this was nothing personal. It was simply the result of paying particular attention to good time management to ensure that we could finish our work. I hope that you won't hold this against me.
- 445.** I would also like to thank the two Vice-Chairpersons for the constructive understanding that we have experienced throughout our work. Lastly, I would like to thank the secretariat, without whose support we would have been unable to accomplish anything, and I also wish to express my gratitude to the interpreters and to all the technicians who are unseen but without whom we would have been unable to work.
- 446.** I now close the session of the Committee on the Application of Standards.

Geneva, 18 June 2021

(Signed) Ms Corine Elsa Angonemane Mvondo
Chairperson

Mr Pedro Pablo Silva Sanchez
Reporter

Annex I

Committee on the Application of Standards

Date: 13 May 2021

▶ Work of the Committee

I. Work of the Committee

1. This document (D.1) sets out the manner in which the work of the Committee on the Application of Standards (CAS) is carried out. It is submitted to the Committee for adoption when it begins its work at each session of the Conference.¹ This document reflects the results of the discussions and informal tripartite consultations that have taken place, since 2002, on the working methods of the Committee, including on the following issues: the elaboration of the list of individual cases to be discussed by the Committee; the preparation and adoption of the conclusions relating to these individual cases; time management and respect for parliamentary rules of decorum.
2. This document takes into account the results of the last informal tripartite consultations on the working methods of the CAS, held on 30 March, 12 April and 27 April 2021. These consultations examined the special adjustments to the working methods of the Committee required to allow it to discharge its constitutional obligations within the framework of a fully virtual session of the Conference and a reduced number of sittings.

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

3. Under its terms of reference as defined in article 7, paragraph 1, of the Standing Orders of the Conference, the Committee is called upon to consider:
 - (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
 - (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
 - (c) the measures taken by Members in accordance with article 35 of the Constitution.
4. In accordance with article 7, paragraph 2, of the Standing Orders of the Conference, the Committee submits a report to the Conference. Since 2007, in response to the wishes expressed by ILO constituents, the report of the Committee has been published both in

¹ Since 2010, the document is appended to the General Report of the Committee.

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

5. Questions related to the composition of the Committee, the right to participate in its work and the voting procedure are regulated by section H of Part II of the Standing Orders of the Conference.
6. Each year, the Committee elects its Officers: its Chairperson and Vice-Chairpersons, as well as its Reporter.

III. Working documents

A. Report of the Committee of Experts

7. The basic working document of the Committee is the report of the Committee of Experts on the Application of Conventions and Recommendations (Report III (Parts A and B)), printed in two volumes.
8. Report III (Part A) contains, in Part One, the General Report of the Committee of Experts, and in Part Two, the observations of the Committee of Experts concerning the sending of reports, the application of ratified Conventions and the obligation to submit the Conventions and Recommendations to the competent authorities in Member States. At the beginning of the report there is an index of comments by Convention and by country. In addition to the observations contained in its report, the Committee of Experts has, as in previous years, made direct requests which are communicated to governments by the Office on the Committee's behalf.²
9. Report III (Part B) contains the General Survey prepared by the Committee of Experts on a group of Conventions and Recommendations decided upon by the Governing Body.
10. This year, in the light of the deferral of the 109th Session of the Conference to 2021, the Governing Body decided to invite the CAS to examine in 2021 the 2019 Report III (Parts A and B), as updated by the Committee of Experts at its 91st Session, in December 2020.

B. Summaries of reports

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

C. Other information

12. The secretariat prepares documents (which are referred to, and referenced, as "D documents") which are made available⁴ during the course of the work of the Committee through its [web page](#) to provide the following information:

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

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

⁴ D documents will be made available online on the Committee's dedicated web page.

- (a) reports and information which have reached the International Labour Office since the last meeting of the Committee of Experts; based on this information, the list of governments which are invited to supply information to the Conference Committee due to serious failure to respect their reporting and other standards-related obligations is updated;⁵
- (b) written information supplied by governments to the Conference Committee in reply to the observations made by the Committee of Experts, when these governments are on the preliminary list of cases or on the list of individual cases adopted by the Conference Committee;⁶
- (c) written information supplied by governments that have been requested to supply information on cases of serious failure to respect reporting or other standards-related obligations for the stated periods;⁷
- (d) written information supplied by delegates during the general discussion.⁸

IV. General discussion

- 13.** In accordance with its usual practice, the Committee begins its work with the consideration of its working methods on the basis of this document. The Committee then holds a discussion on general aspects of the application of Conventions and Recommendations and the discharge by Member States of standards-related obligations under the ILO Constitution, which is primarily based on the General Report of the Committee of Experts.
- 14.** In the context of the tripartite consultations held in March and April 2021, it was decided that this year, on an exceptional basis in view of the special circumstances in which the session of the Committee will take place, the general discussion will be divided into two segments of 90 minutes each. One segment will be devoted to the discussion of the General Report and the other to the item “Application of international labour standards in the context of the COVID-19 pandemic”. In view of the speaking time limits for these discussions (see Part IX below), delegates may also submit written information. This information will be published 24 hours before the relevant sitting, translated into the three languages, and included in the Committee’s final report.⁹
- 15.** The Committee will also hold a discussion on the General Survey, entitled *Promoting employment and decent work in a changing landscape*. The General Survey concerns the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).¹⁰

⁵ See below Part V.

⁶ See below Part VI (supply of information).

⁷ See below Part V.

⁸ See below Part IV.

⁹ The Committee’s report will distinguish between written information and information shared orally.

¹⁰ It should be recalled that the subjects of General Surveys have been aligned with the strategic objectives that are examined in the context of the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for

16. At the informal tripartite consultations in March–April 2021, it was decided that, exceptionally, a single three-hour sitting would be devoted to the discussion of the General Survey, with the usual speaking times (see below, Part IX). It was also confirmed that the discussion would be structured around three generic questions, on the understanding that this would not have the effect of restricting speakers' presentations to those issues addressed in the General Survey. The generic questions are:
- progress and challenges in the implementation of the instruments under examination;
 - measures to be taken to promote Conventions and their ratification in the light of the good practices and obstacles identified; and
 - pathways for future ILO standards action and technical assistance.

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

17. Governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods. These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting will not be called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.
18. In the context of the informal tripartite consultations in March–April 2021, it was decided that this year, on an exceptional basis, a special procedure would be set up for the consideration of cases of serious failure to respect reporting obligations:
- the governments concerned are invited to communicate written information on such failures by **20 May 2021**;
 - the Employer and Worker spokespersons are invited to send their general comments **no later than Thursday, 3 June 2021**;
 - the Office will publish a document compiling the information received, in the three languages, **24 hours before the sitting devoted to the examination of these cases**;
 - during the sitting, the governments concerned may, if they so wish, provide information on any new development, with a maximum speaking time of two minutes, and the Employer and Worker spokespersons will present their concluding remarks.
19. It should be recalled that the Committee identifies the cases on the basis of criteria which are as follows:¹¹

a Fair Globalization (2008). The discussion of General Surveys by the Committee will continue to be held one year in advance of the recurrent discussion under the new five-year cycle of recurrent discussions adopted by the Governing Body in November 2016. The full synchronization of General Surveys and their discussion by the Committee will be re-established under the new cycle in the context of the recurrent discussion on social protection (social security) to be held by the Conference in 2020 (see GB.328/INS/5/2 and GB.328/PV (paras 25 and 102)).

¹¹ These criteria were last examined by the Committee in 1980 (see *Provisional Record* No. 37, International Labour Conference, 66th Session, 1980, para. 30).

- none of the reports on ratified Conventions have been supplied during the past two years or more;
 - first reports on ratified Conventions have not been supplied for at least two years;
 - none of the reports on unratified Conventions and Recommendations requested under article 19, paragraphs 5, 6 and 7, of the Constitution have been supplied during the past five years;
 - no indication is available on whether steps have been taken to submit the instruments adopted during the last seven sessions of the Conference to the competent authorities, in accordance with article 19 of the Constitution;¹²
 - no information has been received as regards all or most of the observations and direct requests of the Committee of Experts to which a reply was requested for the period under consideration;
 - the government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of reports and information supplied to the Office have been communicated.
20. At its 88th and 89th Sessions (2017 and 2018), the Committee of Experts decided to institute a new practice of launching “urgent appeals” on cases corresponding to certain criteria of serious reporting failure.¹³ The aim is also to draw the attention of the CAS to these cases, so that governments may be called before it. Thus, at its session in November–December 2020, the Committee of Experts issued urgent appeals to four countries that had failed to send the reports requested for three years or more, and to five countries that had failed to send a first report for three years or more.¹⁴ The countries to which urgent appeals have been addressed will be invited to provide information to the Committee during the examination of cases of serious failure to comply with reporting obligations.

VI. Individual cases

21. The Committee considers a certain number of cases relating to the application of ratified Conventions. These cases are selected on the basis of the observations published in the report of the Committee of Experts.
22. **Preliminary list.** Since 2006, an early communication to governments of a preliminary list of individual cases for possible discussion by the Committee concerning the application of ratified Conventions has been instituted. Since 2015, the preliminary list of cases has been made available 30 days before the opening of the International Labour Conference. The preliminary list is a response to the requests from governments for early notification, so that they may better prepare themselves for a possible intervention before the Committee. It may not in any way be considered definitive, as the adoption of

¹² This time frame begins at the 96th Session (2007) and concludes at the 106th Session (2017) of the International Labour Conference, bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009), 102nd (2013) and 105th (2016) Sessions.

¹³ See paras 9 and 10 of the General Report of the Committee of Experts, Report III (Part A), International Labour Conference, 107th Session, 2018.

¹⁴ See paras 103 and 106 of the General Report of the Committee of Experts, Report III (Part A), International Labour Conference, 109th Session, 2020.

a final list is a function that only the Committee itself can assume. During the informal tripartite consultations of March 2019, it was decided to provide the opportunity for governments appearing on the preliminary list of cases to provide, if they so wished, written information to the Committee. This information provided, on a purely voluntary basis, should concern only new developments not yet examined by the Committee of Experts. They must be transmitted in at least one of the three working languages of the Office at the latest two weeks before the beginning of the opening of the session of the Conference ¹⁵ and, to the extent possible, shall not exceed 2,000 words.

23. Establishment of the list of cases. The list of individual cases is submitted to the Committee for adoption, after the Employers' and Workers' groups have met to discuss and adopt it. The final list is normally adopted at the beginning of the Committee's work, ideally no later than its second sitting. In the context of the informal tripartite consultations in March–April 2021, it was decided that this year, on an exceptional basis, the final list could be adopted during the early opening sitting of the session of the Committee, to be held on 28 May 2021.

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

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

25. There is also the possibility of examining one case of progress as was done in 2006, 2007, 2008 and 2013. ¹⁶

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

27. Automatic registration. Since 2010, cases included in the final list have been automatically registered and scheduled by the Office, on the basis of a rotating alphabetical system, following the French alphabetical order. The "A+5" model has been

¹⁵ During the informal tripartite consultations, it was agreed that the deadline for sending this information would be 20 May 2021.

¹⁶ See paras 83–89 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for identifying cases of progress are also reproduced in Appendix II of this document.

chosen to ensure a genuine rotation of countries on the list. This year, the registration will begin with countries with the letter “Y”. Cases will be divided into two groups: the first group of countries to be registered following the above alphabetical order will consist of those cases in which the Committee of Experts requested governments to submit full particulars to the Conference (“double-footnoted cases”).¹⁷ The Office will then register the second group, which will comprise the other cases on the final list, also following the above-mentioned alphabetical order. It should be noted that, in the context of the informal tripartite consultations in March–April 2021, it was agreed that, this year, the Office would adapt this practice in respect of planning to take account of different time zones and the complexity of cases.

- 28.** Information on the agenda of the Committee and the date on which cases may be heard is available:
- (a) through the *Daily Bulletin* and the Committee’s dedicated web page;
 - (b) by means of a D document containing the list of individual cases and the working schedule for the examination of these cases, which is made available to the Committee as soon as possible after the adoption of the list of cases.¹⁸
- 29. Supply of information.** Prior to their oral intervention before the Conference Committee, governments may submit written information that will be summarized by the Office and made available to the Committee.¹⁹ This written information is to be provided to the Office at least two days before the discussion of the case. It serves to complement the oral intervention by the government representative of the country concerned. It may not reproduce the information contained in the oral statement nor any other information already provided by the government. The total number of pages is not to exceed five pages.
- 30. Adoption of conclusions.** The conclusions regarding individual cases are proposed by the Vice-Chairpersons and submitted by the Chairperson to the Committee for adoption. The conclusions should take due account of the elements raised in the discussion and information provided in writing by the government. The conclusions should be short, clear and specify the action expected of governments. They may also include reference to the technical assistance to be provided by the Office. The conclusions should reflect consensus recommendations. Divergent views can be reflected in the Committee’s record of proceedings.
- 31.** Conclusions on the cases discussed will be adopted at dedicated sittings. During the informal tripartite consultations of March–April 2021, it was agreed that the conclusions of all the individual cases would be adopted at a single dedicated sitting at the end of the session of the Committee.²⁰ The conclusions are made visible on a screen and at the same time a copy of these conclusions is provided to the government representative concerned in one of the three working languages, chosen by the government. Given the virtual format of the session, this year the draft conclusions will be transmitted to a person designated by the government concerned a few hours before the adoption of the text. The government representatives may take the floor after the Chairperson has announced the adoption of the conclusions.

¹⁷ See para. 80 of the General Report of the Committee of Experts.

¹⁸ Since 2010, this document is appended to the General Report of the Committee.

¹⁹ See above Part III(C).

²⁰ The sitting dedicated to the adoption of conclusions on individual cases is scheduled for Friday, 18 June.

32. As per the Committee's decision in 1980,²¹ Part One of its report will contain a section entitled "Application of ratified Conventions", in which the Committee draws the attention of the Conference to: (i) cases of progress, where governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee; (ii) certain special cases, which are mentioned in special paragraphs of the report; and (iii) cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed – including "urgent appeals" (see section V).

VII. Participation in the work of the Committee

33. As regards failure by a government to take part in the discussion concerning its country, despite repeated invitations by the Committee, the following measures will be applied, in conformity with the decision taken by the Committee at the 73rd Session of the Conference (1987), as amended at the 97th Session of the Conference (2008),²² and mention will be made in the relevant part of the Committee's report:
- In accordance with the usual practice, after having established the list of cases regarding which Government delegates might be invited to supply information to the Committee, the Committee shall invite the governments of the countries concerned in writing, and the *Daily Bulletin* shall regularly mention these countries.
 - Three days before the end of the discussion of individual cases, the Chairperson of the Committee shall request the Clerk of the Conference to announce every day the names of the countries whose representatives have not yet responded to the Committee's invitation, urging them to do so as soon as possible.
 - On the last day of the discussion of individual cases, the Committee shall deal with the cases in which governments have not responded to the invitation. Given the importance of the Committee's mandate, assigned to it in 1926, to provide a tripartite forum for dialogue on outstanding issues relating to the application of ratified international labour Conventions, a refusal by a government to participate in the work of the Committee is a significant obstacle to the attainment of the core objectives of the International Labour Organization. For this reason, the Committee may discuss the substance of the cases concerning governments which are registered and present at the Conference, but which have chosen not to be present before the Committee. The debate which ensues in such cases will be reflected in the appropriate part of the report, concerning both individual cases and participation in the work of the Committee. In the case of governments that are not present at the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised.²³ In both situations, a particular emphasis will be put on steps to be taken to resume the dialogue.

²¹ See footnote 12 above.

²² See *Provisional Record* No. 24, International Labour Conference, 73rd Session, 1987, para. 33; and *Provisional Record* No. 19, International Labour Conference, 97th Session, 2008, para. 174.

²³ In the case of a government which is not accredited or registered to the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised. It was considered that no country should use inclusion on the preliminary list of individual cases as a reason for failing to ensure that it was accredited to the Conference. If a country on the preliminary list registered after the final list was approved, it should be asked to provide explanations (see *Provisional Record* No. 18, International Labour Conference, 100th Session, 2011, Part I/54).

VIII. Minutes of the sittings – Verbatim

- 34.** In the context of the informal tripartite consultations on the working methods of the Committee of November 2018 and March 2019, it was decided that the general discussion, the discussion of the General Survey, as well as the discussion of cases of serious failure to respect reporting or other standards-related obligations and the discussion of cases in which governments are invited to respond to the comments of the Committee of Experts (“individual” cases) will be produced in the form of verbatim transcripts. Each intervention will be reproduced *in extenso* in the language of work in which it has been delivered, or failing that, chosen by the government – English, French or Spanish – and the verbatim draft minutes will be made available online on the Committee’s dedicated web page.²⁴ It is the Committee’s practice to accept amendments to the verbatim draft minutes of previous sittings prior to their adoption by the Committee. The time available to delegates to submit amendments to the verbatim draft minutes will be clearly indicated by the Chairperson when they are made available to the Committee. The amendments should be clearly highlighted and submitted electronically.²⁵ In order to avoid delays in the preparation of the Committee’s report, no amendments may be accepted once the draft minutes have been approved. To the extent that the discussions are reproduced *in extenso* in the form of verbatim draft minutes, their amendments will be limited exclusively to the elimination of transcription errors.
- 35.** Following the informal tripartite consultations, it was also decided to reorganize the two parts of the Committee’s report. The first part of the report of the Committee will contain the verbatim minutes of the general discussion, the outcome of the discussions on the General Survey, the conclusions adopted following the examination of the “automatic” cases and the examination of the “individual” cases²⁶ – including, where appropriate, the special paragraphs, – as well as the verbatim minutes of the discussion on the adoption of the report and the closing remarks. This first part of the report will be produced in the form of a consolidated document and will be translated into the three languages for adoption by the Conference in plenary session.
- 36.** The second part of the report of the Committee will consist of trilingual (patchwork) verbatim minutes of the discussion of the General Survey, the discussion of “automatic” cases and the discussion of “individual” cases. These verbatim minutes will be available online on the Committee’s web page as they are adopted. The second part of the report of the Committee will be submitted to the plenary sitting of the Conference for adoption only in electronic format.
- 37.** The full report (first and second parts) translated into the three languages will be made available online 30 days after its adoption by the plenary sitting of the Conference.

²⁴ These new modalities result from the informal tripartite consultations of March 2016. Delegates who will be intervening in a language other than English, French or Spanish will be able to indicate to the Secretariat in which of these three working languages their intervention should be reflected in the verbatim draft minutes.

²⁵ Please refer to Appendix III or contact the secretariat in relation to the procedure for amendments to draft minutes.

²⁶ This year, as it has been decided that the Committee will adopt all the conclusions at the end of its session, it will not be possible in practice to reproduce all the conclusions in the first part of the Committee’s report. These conclusions will nevertheless be set out in the second part of the report.

IX. Time management

- 38.** Every effort will be made so that sessions start on time and the schedule is respected. During the informal tripartite consultations in March–April 2021, the speaking time limits applicable during the examination of individual cases were reviewed to take into account the special circumstances in which the Committee will have to fulfil its mandate given the limited number of sittings available and the virtual nature of the discussions. The speaking times to be applied on an exceptional basis will be as follows:
- 15 minutes for the government whose case is being discussed;
 - 10 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 6 minutes for the Employer and Worker members, respectively, from the country concerned, to be divided between the different speakers of each group;
 - 4 minutes for Government groups;
 - 3 minutes for the other members;²⁷
 - 10 minutes for the concluding remarks by the government whose case is being discussed;
 - 6 minutes for the concluding remarks by the spokespersons of the Workers' and the Employers' groups.
- 39.** Furthermore, with regard to the general discussion, it was decided, again on an exceptional basis, to limit the speaking time for each of the segments of the general discussion as follows:
- 15 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 5 minutes for statements by Government groups;
 - 3 minutes for the other members.
- 40.** Speaking time limits applicable to the discussion of the General Survey will remain the same, namely:²⁸
- 15 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 10 minutes for Government groups;
 - 5 minutes for the other members;
 - 10 minutes for the concluding remarks by the spokespersons of the Workers' and the Employers' groups.

The Chairperson, in consultation with the other Officers of the Committee, may nevertheless decide to reduce the time limits where the situation of a case would warrant it, for instance, where there is a very long list of speakers. These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.

²⁷ This time limit may be reduced to two minutes by the Chairperson, in consultation with the other Officers of the Committee, for instance where there is a very long list of speakers.

²⁸ These arrangements result from the informal tripartite consultations of March 2016.

41. During interventions, the remaining time available to speakers will be displayed on the screen and will be visible to all speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.
42. The list of speakers will also be visible on the screen. Early registration on that list of delegates intending to take the floor is encouraged.²⁹ At the informal tripartite consultations in March–April 2021, it was decided that a list of speakers would be drawn up 24 hours before the examination of each individual case. Delegates who are accredited to the Conference and registered in the Committee should request their inclusion on the list of speakers by sending an email to CAN2021@ilo.org. The speaking times will be adjusted according to the number of speakers registered. Speakers who have not registered in advance may be given the floor if time allows.
43. In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case.³⁰

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

44. All delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters.
45. It is the role and task of the Chairperson to maintain order and to ensure that the Committee does not deviate from its fundamental purpose to provide an international tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

²⁹ These arrangements result from the informal tripartite consultations of March 2016.

³⁰ See Part VI above.

Appendix 1

Criteria developed by the Committee of Experts for footnotes

Excerpts of the General Report of the 2021 Addendum to the 2020 Report of the Committee of Experts (109/III(A))

123. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2021.

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

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

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

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

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

Appendix 2

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

Excerpts of the General Report of the 2021 Addendum to the 2020 Report of the Committee of Experts (109/III(A))

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

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

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

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

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

[...]

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

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

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

Appendix 3

Procedure for amendments to verbatim draft minutes

This note provides information on the new procedure for amendments to verbatim draft minutes referred to in Part VIII of document CAN/D.1. It should be noted that each intervention is reflected *in extenso* in the verbatim draft minute only in the working language used or chosen by the delegate for this purpose¹ (English, French or Spanish). The verbatim draft minutes will be made available online on the Committee's dedicated web page.

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

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

Delegates should submit their amendments to the secretariat **electronically** in "track changes" via the following email address: CAN2021@ilo.org. In order to make amendments directly in track changes, delegates are invited to request the "Word version" of the verbatim minutes by sending an email to the address above.

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

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

Annex II

International Labour Conference
109th Session, Geneva, June and December 2021

▶ CAN/D.2

Committee on the Application of Standards

Date: 28 May 2021

▶ **Cases regarding which Governments are invited to supply information to the Committee**

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

GOVERNMENTS INVITED TO SUPPLY INFORMATION TO THE COMMITTEE

COUNTRY	CONVENTION NUMBER
BELARUS**	87
BOLIVIA, PLURINATIONAL STATE OF	131
CAMBODIA	87
CHINA - HONG KONG SAR	87
COLOMBIA	87
EL SALVADOR	144
ETHIOPIA	87
GHANA**	182
HONDURAS	169
IRAQ	111
KAZAKHSTAN	87
KIRIBATI	182
MALDIVES	MLC, 2006
MOZAMBIQUE	122
NAMIBIA	111
ROMANIA	98
TAJKISTAN**	81
TURKMENISTAN**	105
ZIMBABWE	105

** Double-footnoted cases