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PART TWO

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Report of the Committee on the Application of Standards

PART TWO

OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES

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I. OBSERVATIONS AND INFORMATION CONCERNING REPORTS ON RATIFIED CONVENTIONS (ARTICLES 22 AND 35 OF THE CONSTITUTION)

A. Discussion of cases of serious failure by member States to respect their reporting and other standards-related obligations

The Employer members noted a general improvement in terms of compliance with reporting obligations, with an increase of around 6 per cent as compared to last year. They noted in particular the efforts made by eight countries with persistent difficulties in previous years (Grenada, Ireland, Kiribati, Kyrgyzstan, Libya, Sao Tome and Principe, Seychelles and Sierra Leone), which had now complied with their constitutional obligations vis-à-vis ratified Conventions. Despite this progress, the Employer members believed that the reporting situation was still not satisfactory given that more than a quarter of all due reports on the application of ratified Conventions were not received by the time of the meeting of the Committee of Experts (only 34.1 per cent were received on time). Further steps were therefore needed to address the problem at its roots. As far as ratifying countries were concerned, the Employer members stressed that these countries should not just rely on the offer of technical assistance but take their responsibility for reporting seriously. Even before ratifying an ILO Convention, countries needed to consider whether they would be able to discharge their reporting obligation and, if need be, reinforce their reporting capacities. From a wider perspective, there was a need to consolidate and simplify ILO Conventions and thus focus reporting on the essential. Identifying ways to do so would be a task for the standards review mechanism. The Employer members trusted that it would soon be operational.

The Worker members stated that although some countries had made an effort, an effective supervisory system implied that each State had to meet its obligations. Submitting instruments to the competent authorities was therefore part and parcel of the process. Unless that was done, the competent authorities could have no knowledge of the ILO's instruments and of the action taken by the Organization. As to the failure of some countries to respond to the Committee of Experts' comments, the latter had to be able to analyse government reports on the subject. It was essential that there be fewer and fewer cases each year of countries failing to meet their standards-related obligations.

(a) Failure to supply reports for the past two years or more on the application of ratified Conventions

The Committee took note of the information provided.

The Committee recalled that the transmission of reports on the application of ratified Conventions was a fundamental constitutional obligation and the basis of the system of supervision. The Committee stressed the importance of transmitting the reports; not only the transmission itself but also with regard to the scheduled deadline. In this respect, the Committee recalled that the ILO could provide technical assistance in helping to achieve compliance with this obligation.

In these circumstances, the Committee expressed the firm hope that the Governments of Burundi, Comoros, Equatorial Guinea, Gambia, San Marino, Somalia, Tajikistan and Vanuatu which to date had not presented reports on the application of ratified Conventions, would do so as soon as possible, and decided to note these cases in the corresponding paragraph of the General Report.

(b) Failure to supply first reports on the application of ratified Conventions

A Government member of Kazakhstan recalled that cooperation between the ILO and Kazakhstan was an important aspect of his country's foreign policy and that Kazakhstan systematically complied with its obligations as a Member of the ILO. Its first report on the Safety and Health in Construction Convention, 1988 (No. 167), would be submitted to the Office before the end of the Conference and the report for 2014 would be sent within the deadline.

The Committee took note of the information provided and of the explanations given by the Government representative who had taken the floor.

The Committee reiterated the vital importance of the transmission of first reports on the application of ratified Conventions. In this respect, the Committee recalled that the ILO could provide technical assistance to contribute to compliance with this obligation.

The Committee decided to note the following cases in the corresponding paragraph of the General Report:

- **Afghanistan**
  - since 2012: Conventions Nos 138, 144, 159, 182;
- **Equatorial Guinea**
  - since 1998: Conventions Nos 68, 92;
- **Sao Tome and Principe**
  - since 2007: Convention No. 184;
- **Vanuatu**
  - since 2008: Conventions Nos 87, 98, 100, 111, 182;
  - since 2010: Convention No. 185.

(c) Failure to supply information in reply to comments made by the Committee of Experts

A Government representative of Ghana stated that his country's report supplying information in reply to comments made by the Committee of Experts would be finalized in the course of the Conference and submitted to the Office.

A Government representative of Afghanistan noted the comments made by the Committee of Experts concerning his country's failure to supply first reports on the application of four ratified Conventions. He indicated that work was currently being undertaken with a view to providing the first reports but problems were being experienced in consolidating the information received from different government entities. To address this issue, consideration was given to establishing a unit working exclusively on reporting under ILO Conventions. He requested ILO technical assistance to help in such endeavour and to build the capacity of the members of such a unit so as to be able to provide the reports due on time.

A Government representative of Cambodia recognized that his Government was late in supplying information in reply to comments made by the Committee of Experts on Conventions Nos 87 and 98, although the reporting obligation concerning many other Conventions had been discharged on time. The technical assistance of the ILO had been requested to strengthen the capacity of the members of the Inter-Ministerial Committee that had been set up to collect and provide information and draft comments on these matters. On 29 April 2014, ILO technical assistance on reporting obligations had been provided as the starting point of a capacity-strengthening process. He hoped that

this fruitful cooperation would allow fulfilling the reporting obligation in the near future.

A Government representative of Mauritania recalled that Mauritania, member State of the ILO since 1961, had ratified around 40 Conventions and was strongly attached to the values of social justice and peace. Between 2008 and 2012, the reports had always been submitted within the deadlines. The delays in sending reports in 2013 had been due to problems relating to human resources. ILO technical assistance from the ILO Country Office in Dakar had been requested in that regard.

A Government representative of Thailand said that her Government had taken measures with regard to reporting on ratified Conventions in response to the comments made by the Committee of Experts. According to the General Report, there were five reports pending. However, prior to the publication of this report, the Government had submitted its reports on Convention Nos 14 and 105. She confirmed that the remaining reports on Conventions Nos 19, 122 and 182, along with the reports due this year, would be submitted by August 2014.

A Government representative of Angola indicated that the Ministry of Public Administration, Work and Social Security was concerned about the issue of submission. The problem had been that submissions could not be made since the instruments had not been translated into Portuguese. The above Ministry, supported by the Ministry of Foreign Affairs, had undertaken to translate those instruments. In that respect, he reiterated the request for technical assistance. It was envisaged that the process would be completed by the end of the year and that the Office would be informed of any action carried out.

A Government representative of Eritrea indicated that in 2012, his Government had sent the required reports on 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) on time. It was unfortunate that they had not been received, and he apologized for the inconvenience caused. However, his Government had prepared a new detailed report based on the comments made by the Committee of Experts on the two Conventions, as well as on other Conventions for which it was due to report on this year, which would be submitted on 1 June 2014. Moreover, the Labour Proclamation had been amended in light of the Committee of Experts' comments. Regarding the allegation made by the International Trade Union Confederation that in practice there was no collective bargaining in Eritrea, he stated that the Labour Proclamation declared trade unions to be legal entities with the right to elect their representatives according to their constitutions and without the interference of public authorities. To date, there were more than 230 workers' associations, and the Government had registered more than 110 collective agreements, figures which indicated that trade unions were in fact exercising their rights freely. The ILO's technical assistance was of paramount importance to improving the implementation of standards.

A Government representative of Guyana said that in 2012, the Government had been severely behind with regard to the discharge of its reporting obligation and had explained at the time some of the constraints it was facing and had expressed its commitment to corrective measures. His Government had since submitted 16 of the reports that were outstanding and was working to complete the rest by the deadline of 1 September 2014. Part of the reason for not submitting reports was however a lack of capacity, and the Ministry of Labour had addressed the issue by employing additional staff who would assist in preparing the reports. Also since 2012, Guyana had ratified the Occupational Safety and Health Convention, 1981 (No. 155) and the Domestic Workers Convention, 2011 (No. 189). The Government was dedicated to fulfilling its reporting commitment, and in that regard it was working with the ILO Regional Office in Trinidad and Tobago to train young officers to be able to produce reports.

The Committee took note of the information provided and of the explanations given by the Government representatives who had taken the floor.

The Committee underlined the vital importance, to permit ongoing dialogue, of clear and complete information in response to comments of the Committee of Experts. In this respect, the Committee expressed serious concern at the large number of cases of failure to transmit information in response to the comments of the Committee of Experts. The Committee recalled that governments could request technical assistance from the Office to overcome any difficulty that might occur in responding to the comments of the Committee of Experts.

The Committee urged the Governments of Burundi, Cambodia, Comoros, Croatia, Dominica, El Salvador, Equatorial Guinea, Eritrea, Gambia, Ghana, Guinea, Guyana, Haiti, Malaysia – Peninsular, Malaysia – Sarawak, Malta, Mauritania, Rwanda, San Marino, Sierra Leone, Syrian Arab Republic, Tajikistan, Timor-Leste, Turkmenistan and Vanuatu, to make all efforts to transmit as soon as possible the required information. The Committee decided to note these cases in the corresponding paragraph of the General Report.

(d) Written information received up to the end of the meeting of the Committee on the Application of Standards [1]

Bulgaria. Since the meeting of the Committee of Experts, the Government has sent replies to all Committee's comments.

Congo. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Djibouti. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Dominican Republic. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Ecuador. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Eritrea. Since the meeting of the Committee of Experts, the Government has sent replies to all Committee's comments.

Kazakhstan. Since the meeting of the Committee of Experts, the Government has sent the first report on the application of Convention No. 167.

Lao People's Democratic Republic. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Malawi. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Mali. Since the meeting of the Committee of Experts, the Government has sent all reports due on the application of ratified Conventions and replies to all Committee's comments.

Mongolia. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Slovakia. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

Thailand. Since the meeting of the Committee of Experts, the Government has sent replies to the majority of the Committee's comments.

[1] The list of the reports received is in Appendix I.

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

UGANDA (ratification: 1963)

A Government representative emphasized that before a new minimum wage was fixed, there was a need for a comprehensive study on wage trends in different economic sectors, which should include an analysis of employment trends, the cost of living and wage trends by profession and geographical region. Fixing a minimum wage without regard to those factors could destabilize Uganda's macroeconomic framework and affect employment trends. The Government had prepared a paper to reactivate the Minimum Wages Advisory Board for submission to Cabinet; Cabinet was expected to have approved the new Wages Board by September 2014. Once approved, the Wages Board should complete its work within six months and submit its recommendation to Cabinet by the end of April 2015. Cabinet was expected to have considered the recommendation by June 2015, and the new minimum wage was to be implemented by July 2015. His Government was ready to follow the recommendation of the Committee of Experts, and looked forward to receiving financial and technical assistance from the ILO in order to complete the wage-fixing process in a manner beneficial to workers, employers and the Government.

The Worker members stated that the Committee of Experts had been highlighting for years several serious shortcomings mainly related to the freezing of the minimum wage since 1984, a situation justified by the "non-reactivation of the Minimum Wages Board". In this connection, the Committee of Experts had recalled that "the fundamental objective of the Convention, which is to ensure to workers a minimum wage that guarantees a decent standard of living for them and their families, cannot be meaningfully attained unless minimum wages are periodically reviewed to take account of changes in the cost of living and other economic conditions. … When minimum rates of pay are left to lose most of their value so that they ultimately bear no relationship with the real needs of the workers, minimum wage fixing is reduced to a mere formality void of any substance." Each year, the Committee of Experts observed that the Government did not respond to its repeated requests. The Worker members regretted that, while the Government had announced in June 2013 the initiation of a process of identification of persons that could be appointed to the Minimum Wages Board and the continuation of a study, no information on new developments had been received since. It appeared that the Government did not intend to adjust wages as long as the exploitation of oil and gas did not benefit the country. In the Worker members' view, the question of the composition of the Minimum Wages Board was only an unacceptable pretext. They also referred to the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), according to which the wage-fixing body should take account of the necessity of enabling workers to maintain a suitable standard of living; provision should be made for the review of the minimum rates of wages fixed when requested by the workers or employers who are members of such a body; and provision should be made for the inclusion in the wage-fixing body of one or more independent persons and, as far as possible, of women among the workers' representatives and the independent persons. The Worker members denounced that the Government sought to evade its obligations under the Convention by simply taking no action to ensure that the body referred to in Recommendation No. 30 was functional. Furthermore, the Worker members recalled that the Convention also required to consult the social partners and suggested that consultations could be arranged in a less formal but nonetheless effective manner. Referring to the examples of good practices cited in the 2014 General Survey as regards the publication of minimum wages in the *Official Journal* (Gambia, Guatemala, Kenya, Slovakia, United Republic of Tanzania and Tunisia), the Worker members highlighted that publication constituted a substantial formality. The objective of the Convention, which had given birth to other Conventions, such as the Minimum Wage Fixing Convention, 1970 (No. 131), was that all categories of workers would be covered by a minimum wage. For the majority of Ugandan workers, the current salary was not enough to live decently. Compliance with the provisions of the Convention and the introduction of a minimum wage, reviewed according to appropriate mechanisms, would enable those workers, including women (especially those in the informal sector), to live better. The Worker members therefore requested the Government to comply with the provisions of the Conventions and refrain from using inappropriate arguments to evade its obligations. Emphasizing the link between human rights and human dignity, the Worker members stressed that this was the only way to promote economic growth and stimulate the local economy.

The Employer members recalled the history of the Committee of Experts' examination of the case between 2006 and 2013. In the course of that examination, the Committee of Experts had been concerned about the inactivity of the Minimum Wages Board. That inactivity had resulted in a national minimum wage rate which had remained unadjusted since 1984, and the Committee of Experts had repeatedly requested the Government to take action to reactivate the Board. The Committee of Experts, however, had expressed its regret due to the absence of follow-up action taken by the Government, apart from its indication that a process of identifying the persons to be appointed to the Board had commenced, which had not been followed up. The Employer members expressed their concern about the lack of government action on minimum wage fixing and urged the Government to take prompt action in order to ensure the reinstitution and proper functioning of the minimum wage fixing machinery in accordance with the Convention, without further delay. They encouraged the Government to avail itself of the technical assistance of the Office and to carry out its work for reactivating the minimum wage fixing machinery in full consultation with the social partners.

The Worker member of Uganda stated that the minimum wage fixing machinery, established under the 1964 Minimum Wages Advisory Board and Wages Councils Act, had reviewed the minimum wage until 1984, when it had adopted a rate of 6,000 Uganda shillings (UGX) per month (approximately US$2.3). Since then, it had not made any further review. While the Government and Employer members argued that a minimum wage would deter investors, the neighbouring countries with higher minimum wage rates had attracted more investors. The Minimum Wages Advisory Board was established under the General Notice No. 176 in 1995. In 1998, upon the urging of the workers in the country, a study had been conducted and the Minimum Wages Advisory Council had recommended an inter-industry rate of UGX58,000 (approximately US$25), but that was rejected. Since then, that machinery was no longer in place. The absence of minimum wage fixing machinery meant the weak implementation of the spirit and letter of the National Constitution and development policies, and the abuse of human rights and the worsening of the plights of women. The Ugandan National Constitution provided that all Ugandans had a right to a life in dignity. The National Development Plan of Uganda identified the maintenance of a minimum wage

as a critical step to increase access to gainful employment, tackle inequality and stimulate growth. The minimum wage was also a human rights issue, as affirmed in article 23 of the Universal Declaration of Human Rights. The current stagnant minimum wage of UGX6,000 presented a clear violation of workers' rights. Similarly, the absence of minimum wage fixing machinery had increased exploitation and discrimination against workers, especially those in the informal economy. Reports indicated that 50 per cent of employed women worked in the three lowest-paying economic sectors: agriculture; household; and mining and quarrying. The workers in the country had petitioned the Speaker of Parliament in 2000 for an intervention on this matter. A bill on the re-adjustment of the minimum wage rate had been tabled, debated and subsequently passed, but had never become law because the President had refused to assent to it. Uganda was one of the poorest countries in the world with a large part of its population living below the poverty threshold of US$1.2 a day. Social protection provisions were limited only to some sections of formal employment. Therefore, for most persons, labour was their main asset and income source. The lack of a process to set minimum wages had left workers vulnerable to exploitation; a minimum wage would protect the most vulnerable workers.

The Employer member of Uganda expressed appreciation for the comments made by the Government and the Worker member from Uganda. The Government's attempts to revise the minimum wage in 1995 had been unsuccessful. Since then, the Government had attempted to reconstitute the Minimum Wages Board and had asked the social partners to submit nominations to that effect, but unfortunately the Board had not been re-established. Uganda had experienced economic challenges, especially when the interim Government had come into power, but many of those challenges had been overcome and the country was now realizing a growth in GDP. She expressed her hope that the Government would follow through on the commitments it had made before the Committee concerning its renewed efforts and that it would report on the positive results.

The Worker member of Kenya compared the situation of Uganda to that of Kenya, where minimum wages assisted workers in both the formal and informal economies. In Uganda, 24.5 per cent of people lived below the national poverty line, 56 per cent of people worked in the informal economy and 36 per cent of the labour force reportedly constituted the working poor. Cane cutters, for example, earned UGX120,000 (approximately US$46.9), while others were paid less. Some had to work overtime or take on additional responsibilities at the expense of their health and family time. In contrast, plantations earned an excess of US$100 million per year and had assets of US$375 million. The income of the cane cutters, as well as other workers such as home and business cleaners, domestic workers, food vendors, construction site porters and radio journalists, usually did not amount to US$3 per day and was not liveable. Families continued to disintegrate owing to the mobilization of children to support family earnings, and clearly, the absence of a minimum wage exacerbated the practice of child labour and the worst forms of child labour. She echoed the request of the Committee of Experts that the Government move without delay to put into motion the process to establish the appropriate minimum wage fixing machinery.

The Worker member of Congo expressed his concern over the level of the minimum wage in Uganda. The Committee of Experts had repeatedly noted that, to play its part in social policy, the minimum wage should not be allowed to fall below a socially acceptable level and should retain its purchasing power in terms of a basket of basic consumer goods. However, the cost of living had increased significantly in Uganda, which continued to be one of the poorest countries in the world, without the Government doing anything during the past 30 years to remedy such an unjust situation. The Government should revive the Minimum Wages Board without further delay.

The Worker member of Brazil recalled that, as indicated in the report of the Committee of Experts, the minimum wage rate had not been readjusted since 1984. In its reports, the Government had indicated that it had only just initiated the process of identifying the social partner members to be appointed to the Minimum Wages Board, and that a paper, the subject of which was unknown, had been prepared for submission to the competent authority. Apparently, after 30 years without a readjustment, even the social partners to be appointed had not yet been identified. The report of the Government was a clear demonstration of its profound lack of interest in fulfilling its obligations under the Convention. The minimum wage was a significant tool for combating poverty, distributing income and creating employment and, consequently, for boosting the economy, especially in southern countries. In all countries in which an effective policy on revaluation of the minimum wage was implemented, its effectiveness could be seen not only as a driver for economic development but also as a key instrument for decent job creation. The way in which the Government had dealt with the matter was concerning. The Committee should therefore urge the Government to afford the necessary importance to the matter, follow up on the consultative process as a matter of urgency, and take effective measures to fix a national minimum wage which was adjusted to the needs of Uganda.

The Worker member of Nigeria recalled that, since Uganda's Minimum Wage Order had been enacted in 1950, real efforts to advance wage regulations had failed. Previous efforts to put minimum wage fixing machinery in place had been well over 20 years ago, in 1984. The Government had continued to ignore the spirit and letter of the Convention, leaving workers without the protection of wage regulation mechanisms. The national economic situation showed that there was an urgency to assist those who were working and living in poverty from further hardship. According to the current GDP, consumer price index statistics and food inflation rate statistics, the economy was doing well, and yet many workers were not able to buy food for themselves or their family members. A 2013 ILO study showed that, in 2005, slightly over 50 per cent of waged and salaried workers in Uganda were poor, with 30 per cent living in extreme poverty. That situation had worsened owing to the effects of the financial and economic crises. A 2009–10 Labour Market Survey indicated that of the 24.4 per cent of the population who were living below the poverty line, 21 per cent were classified as "working poor" who earned a median monthly income of UGX50,000 (approximately US$20). The Government had reportedly refused the demands of the organized labour community to establish, without further delay, the necessary minimum wage fixing machinery, had deliberately stalled a 2012 attempt by the workers to place a minimum wage bill in Parliament and had even arrested workers' leaders for demanding to be included in the composition of the Minimum Wages Board. That situation should not continue, and the Committee should extract a firm and time-bound commitment from the Government on the constitution of a minimum wage fixing machinery.

The Government representative reaffirmed that the Government was taking steps to ensure that it complied with the requirements of the Convention, although there remained problems with a lack of technical and financial support. The process would go ahead, with or without ILO technical assistance. That previous year, the Gov-

ernment had signed a new tripartite charter with the stakeholders, with whom the Government was now working in cooperation. The stakeholders had made their submissions regarding representation on the Minimum Wages Board, which the Government was currently considering. Contrary to the statement of the Worker member of Uganda, the Government did not consider that the minimum wage would deter investors. Rather, the Government had been cautious owing to the level of unemployment. Efforts had been made to address the issue of unemployment by formulating policies and instruments that had ensured increased numbers of jobs, including, for example, youth employment programmes which aimed to reduce youth unemployment. It was also not true that some workers had been arrested for raising issues concerning minimum wages, nor was it accurate that the population was living below the poverty line as a result of not having a minimum wage. On the contrary, the situation had been improving, with the GDP increasing since the 1990s. The Government expressed its commitment that, by July 2015, the process of having minimum wage fixing machinery in place would be concluded.

The Employer members expressed their appreciation for the Government's commitment to reinstituting the minimum wage fixing machinery by July 2015. The Committee's conclusions should reflect the Government's commitment, indicate its concern about the lack of government action up to now, recommend that the Government's action be in accordance with the Convention and in full consultation with the social partners, and refer to the use of the technical assistance of the Office.

The Worker members noted that the Government was again planning to delay re-establishing the wage-fixing machinery until September 2015, but it needed to stop providing excuses to avoid fulfilling its obligation to set a minimum wage. It should live up to the commitments it had made to the Conference Committee and, without further delay, arrange for the Minimum Wages Board to progress with its work. The Government should therefore request ILO assistance and then submit a progress report to the Committee of Experts in 2015.

BOLIVARIAN REPUBLIC OF VENEZUELA
(ratification: 1944)

A Government representative recalled that the Convention had been ratified in 1944 and it had only been 35 years later that the minimum salary had been fixed for the first time, without any governments being invited during that period to the Committee on the Application of Standards. He indicated that the 1991 Labour Act had established a tripartite committee, with the legal mandate to adjust the minimum wage annually, consisting solely of the Confederation of Workers of Venezuela (CTV) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS). He noted that in the committee, the employers' position had prevailed and the minimum wage had been adjusted only on four occasions. He added that the latest of those adjustments had been in 1997, in exchange for eliminating the system of calculation of social benefits and compensation for unfair dismissal. Therefore, in 1998, an increase had been decided outside the framework of the committee, since it had not taken any decisions itself. The process of drafting a new Constitution had begun in 1999 and had entailed 17,346 assemblies, bringing together over 5 million workers. In over 90 per cent of those assemblies the request had been put forward for a mandatory annual adjustment of the minimum wage and the abolition of the tripartite committee. The Constitution established the obligation to guarantee workers a minimum living wage which had to be revised and adjusted each year. Within five years, the minimum wage had been standardized at the national level, removing differences in regions and activities, and extending coverage to the informal economy. All the above appeared in the General Survey on minimum wage systems. He added that there were collective agreements that included provisions to adjust the agreed salary scale once the minimum wage had been adjusted. Over 15 years of the application of the constitutional obligation in question, 26 adjustments had been made, with an average year-on-year growth rate of the minimum wage of 26.4 per cent, which was 3.5 percentage points above inflation for that period. In addition, the unemployment rate had fallen from 15.2 to 7.2 per cent and the gross domestic product had continued to grow at a steady rate. He observed that the current system of minimum wage fixing surpassed the requirements set out in Convention No. 26, making it strange that now that an effective and efficient system was in place the Government had been called before the Committee on the Application of Standards. He firmly rejected the repeated observations which amounted to alleging that in the Bolivarian Republic of Venezuela there was an absence of social dialogue on the fixing of the minimum wage. He indicated that for the purpose of minimum wage fixing, technical and not political criteria were taken into account, such as the cost of a basic basket of goods. Additionally, he mentioned the intrinsic connection between the minimum living wage and the amount of pensions, the adjustment of which benefited over 2.5 million people.

Every 1 May the trade union with the largest worker representation, which was currently the Bolivarian Socialist Workers' Confederation, and the workers' federations of the principal economic sectors were consulted. That consultation was sent in written form to other trade unions, despite their scant representativity, in order to express their opinion in that regard. In respect of the employers' organizations, consultations were held with the Venezuelan Federation of Small, Medium and Artisanal Industries (FEDEINDUSTRIA), an organization which grouped the sectors most affected by minimum wage fixing, and the Farmers' Confederation (CONFAGAN). The same report was sent, without fail, to FEDECAMARAS so that it could express its opinion. He emphasized that the consultation on the minimum wage had always been conducted in equal conditions, of which there was proof. With reference to the comments of the Committee of Experts, he stated that there was no mention of non-compliance, but rather of a request for information on methods of consultation. In his view the Committee on the Application of Standards should not be politized. He noted that in the past it had been FEDECAMARAS which had been absent from the dialogue, as it had shown little interest in the minimum wage. He recalled that when, in the framework of the reform of the Basic Labour Act, the methods of consultation on the fixing of minimum wages were revised in the National Assembly, not only did FEDECAMARAS not participate, but it also promoted a national strike and an oil boycott to demand the stepping down of President Chávez. Only recently had the current leaders of FEDECAMARAS expressed interest and requested that consultations on the minimum wage should take place with more advance notice. He stated that there were standing working groups with many employers' chambers in which representatives of FEDECAMARAS were included, and concluded that the above organization should decide if it would continue to engage in dialogue or would prefer to nurture such inconsistency.

The Employer members recalled that the list of cases adopted in the Committee on the Application of Standards was initially the subject of bipartite negotiations, with subsequent tripartite approval from all the ILO's constitu-

ents. It was on this basis that they were commenting on the non-compliance of the Bolivarian Republic of Venezuela with Convention No. 26, which was the result of a lack of tripartite consultation on fixing the minimum wage. They observed that, since 2008, five observations of the Committee of Experts had dealt with application of the abovementioned Convention by the Bolivarian Republic of Venezuela. A new Labour Act, promulgated in May 2012, had abolished the tripartite committee comprising representatives of the Government, the employers and the workers, and had replaced it with "broad consultation of social organizations and institutions in socio-economic matters". The reform had given even more discretionary powers to the Government to choose the parties consulted, without expressly providing for the inclusion of the most representative employers' and workers' organizations in the broad consultation. In 2014, the minimum wage had been increased twice, on 6 January and 29 April, respectively, without due or effective consultation of the most representative employers' organization in the country, which included some 300 chambers representing the 14 main economic sectors. They referred to the call made by the Committee of Experts in its 2014 report to carry out real and effective consultation of employers' and workers' organizations, with their participation in equal numbers and on equal terms. They recalled that the Committee on the Application of Standards had already indicated the fundamental importance that it attached to real consultations in good faith with the social partners in minimum wage fixing, and they emphasized that "consultation" had a different connotation from mere "information", as well as from "co-determination".

They also recalled that the fixing of increases in the minimum wage without due consultation had been considered in the report of the high-level mission which had visited the country at the end of January 2014. The report, which had subsequently been approved by the Governing Body at its 320th Session (March 2014), recommended that dialogue with the participation of the tripartite bodies should be restored. That was fully consistent with the broad consultation required by Venezuelan law. Despite this, with respect to the increase in the minimum wage carried out in April 2014, the Government had sent a communication to FEDECAMARAS requesting that it adopt a position within 15 days. That communication had been received on 21 April 2014, at the end of the Easter week, leaving only six working days until the deadline. In spite of the very limited time, FEDECAMARAS had replied to the communication on the final day of the allotted period. That day, on 21 April 2014, before the expiry of the deadline, the Government had announced a 30 per cent increase in the minimum wage, published in the *Official Gazette* on that date. They understood that real and effective tripartite consultations with the most representative employers' and workers' organizations were essential for the application of both Convention No. 26 and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). They therefore proposed that the Committee should urge the Government to give full effect to the tripartite consultations prescribed by Convention No. 26 and take steps to secure full observance of the obligation to consult employers' and workers' organizations on an equal footing in decision-making on minimum wages.

The Worker members considered that the involvement of all the social partners, in the form of a consultation, was a vital component of minimum wage fixing, the adjustment of minimum wages and their enforcement. The discussion on the Minimum Wage Fixing Convention, 1970 (No. 131), in the context of the General Survey, had demonstrated that the participation of the social partners was also an important issue in the context of that Convention. They therefore reminded the Government that consultation, or the offer of participation to the social partners, was not to be confused with mere information, or with negotiation. Neither did the concept of full consultation necessarily imply that an agreement would be reached. The country had not ratified Convention No. 131, but the wage-fixing machinery had been guaranteed by the Constitution since 2000. According to the explanations given by the Government, it intended, by means of the mechanism it had put in place, to resolve one of the issues brought up by the Worker members in their intervention on the General Survey when they had referred to the Declaration of Philadelphia. The minimum wage did not represent a balancing price between the supply and demand for labour; but it was the level of income that allowed a person to live in dignity in a specific country. They added that, in view of the fact that the rules for minimum wage fixing in the Bolivarian Republic of Venezuela were in line with the most important principles of ILO standards, the Worker members considered that the Government should ensure widespread consultations on wages, their rates and adjustments on equal terms with all the social partners without exception. Indeed, this specific issue, in relation to the minimum wage, had been raised during the tripartite high-level mission to the Bolivarian Republic of Venezuela, which had visited Caracas from 27 to 31 January 2014. While it had emerged following the mission that the concept of an inclusive consultation should only be understood in this respect if FEDECAMARAS was granted a right to be consulted every time the interests of its members were at stake, and they emphasized that this should also apply to trade union organizations and other existing independent employers' organizations. The Worker members said that the Government could easily establish the conditions for broad and inclusive consultation procedures. Finally, they reminded the Government that it had undertaken to find a solution to the 30 cases of violations of workers' rights submitted by the unions to the high-level mission.

The Employer member of the Bolivarian Republic of Venezuela recalled that the Act adopted in 2012 provided for broad consultations with social organizations and socio-economic institutions, but did not expressly include the most representative organizations of workers and employers. The Government was creating an alternative mechanism which did not comply with the Convention. The lack of social dialogue had been emphasized by the high-level tripartite mission that had visited the country in January 2014. Nevertheless, the Government had once again failed to send consultation letters at the appropriate time, and the organizations had not had the effective opportunity to give their opinions. The Government had consulted the Bolivarian Socialist Workers' Federation, FEDEINDUSTRIA and CONFAGAN, but had not properly consulted FEDECAMARAS, because it had adopted the decision on the new minimum wage and published it in the official gazette prior to the expiry of the deadline for responding. Consultation on minimum wages was carried out in a discretionary manner. In 15 years, FEDECAMARAS had not been convened to discussions on the issue of minimum wages. The current difficult economic situation in the country meant that discussion on minimum wages was even more necessary. FEDECAMARAS had raised several questions with the Government, but had not been heeded. The high inflation rate (59 per cent annually), the exponential rise in consumer basics (more than four minimum wages) and the increase in the poverty index (27.3 per cent) showed that the purchasing power of the Venezuelan people had been seriously affected. FEDECAMARAS had also indicated

to the Government the need to adopt measures to adjust economic and monetary policies so that the minimum wage would provide a basis for establishing fair remuneration. Sincere, in-depth, effective and constructive dialogue was necessary to find solutions. Without appropriate government policies, employment and businesses were at risk.

The Worker member of the Bolivarian Republic of Venezuela recalled that since 1999 the minimum wage had been increased on 26 occasions and collective bargaining had been widely promoted in various sectors. The minimum wage also covered workers in the informal sector and in agriculture. He expressed his surprise at the discussion of non-observance of the Convention by his country and at the methods used for the selection of cases. Since the adoption of the national Constitution in 1999, consultation and social dialogue had had constitutional status. With respect to the preparation of the Basic Labour Act (LOTTT), the workers had held 2,500 assemblies. The minimum wage had been adopted taking account of the cost of the basic consumer basket, the consumer price index and inflation. Since 1999 there had been broad social dialogue in the country with the participation of all sections of society, resulting in improved tripartite dialogue. Owing to the participation of the workers, the social wage had been complemented with, among other things, the monthly food bonus, the food purchase subsidy, the provision of books and computers for students, workers' housing, low-cost recreation facilities and free health care. He condemned the violent assaults on workers, as a result of which 42 persons had died, and also the attack on public and educational institutions. He called the Committee to give its views on that subject.

The Government member of Costa Rica, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), referred to the information provided by the Government on the development of the minimum wage in the country and actions it had carried out in accordance with the Constitution. He also noted the labour law provisions regarding the obligation of the executive authorities to revise and annually adjust the national minimum wage, following broad consultation and the gathering of opinions from different social and institutional organizations on socio-economic matters. Noting also the 2014 General Survey of the Committee of Experts which reported the positive progress made by the country on this issue, he expressed GRULAC's hope that the Government would continue to fulfil the requirements of Convention No. 26, which granted States parties the freedom to decide the nature and form of the minimum wage fixing machinery, and the methods to be followed for its application.

The Employer member of Colombia, speaking also in his capacity as a member of the Committee on Freedom of Association, expressed the concern of the Employer members at the Government's disregard for social dialogue, which was the heart of the tripartite system. Social dialogue should be encouraged by workers, employers and governments. The Bolivarian Republic of Venezuela was a member of the ILO and as such should respect its obligations. The LOTTT had modified the consultative mechanism and excluded FEDECAMARAS from social dialogue, even though it was the most representative employers' organization. The high-level tripartite mission, which had taken place in January 2014, had recognized the most representative nature of FEDECAMARAS. However that organization could not participate in the Labour Advisory Council. The issue was also examined by the Committee on Freedom of Association in Case No. 2254. The Committee on Freedom of Association, in its *Digest of decisions and principles*, emphasized that the process of consultation on legislation and minimum wages helped to give laws, programmes or measures adopted or applied by public authorities a firmer justification and helped to ensure that they were well respected and successfully applied.

The Worker member of Brazil recalled the experience of his country with regard to minimum wage fixing. As a result of the efforts of the labour movement and social pressures for the revaluation of the minimum wage, a public policy was developed after 2000 for the regular and progressive increase of the minimum wage. This policy contributed to increasing domestic consumption and helped the country recover from the recession. This positive result was not due only to the Government, but to the joint work of the social partners, and reinforced the importance of Convention No. 26. The creation of fixation methods for the minimum wage was the responsibility of governments, pursuant to Article 1 of the Convention. Article 91 of the Constitution established the procedure to fix the minimum wage, in line with Article 1 of the Convention. Article 3 of the Convention provides that Members are free to decide the nature and form of the minimum wage fixing machinery in consultation with the workers' and employers' organizations. However, it still had not been demonstrated that such consultations had not taken place. During the discussion, there had been only rhetorical assertions that the Government was not complying with the Convention as by setting the minimum wage unilaterally, with no facts demonstrating this to be the case. Without such facts, it was difficult for this Committee to effectively examine breaches of the Convention, unless it was the intention of the Employer members to stress the utility of minimum wages or of setting a higher minimum wage through the selection of this case. Should that not be the case, the Government, employers and workers of the Bolivarian Republic of Venezuela should strengthen social dialogue in order to find a solution.

The Government member of Algeria noted with interest the statement made by the Government representative. Since 2000, the Government of the Bolivarian Republic of Venezuela had been committed to genuine consultations with the social partners in good faith regarding the issue of setting the minimum wage. Referring to paragraph 202 of the 2014 General Survey of the Committee of Experts, he recalled that the consultation required under the Convention was not negotiation to reach an agreement, but a process to assist the competent authority in taking a decision. On the basis of the information provided by the Government, it was evident that it had been acting in conformity with the Convention, guided by a willingness to provide decent jobs to the workers in the country. The conclusions of the Committee should therefore only refer to issues relating to the Convention.

The Employer member of Mexico emphasized the importance of the discussion, which dealt not only with the violation of a Convention, but also with the ILO standards system as a whole. The Government recognized that it had not complied with the Convention with regard to the obligation of consultation. That also implied a violation of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which had been ratified by the Bolivarian Republic of Venezuela in 1983. The Committee should not merely request explanations on the way in which compliance was ensured with the obligation to consult workers' and employers' organizations regarding minimum wage fixing, but it should demand full compliance with that obligation. The tripartite system was at stake. In its observation of 2012, the Committee of Experts had already referred to existing deficiencies in social dialogue on the part of the Government

and to the lack of consultation, particularly with regard to the adoption of labour and social legislation. That demonstrated the Government's constant lack of compliance with the provisions of the Convention, which prescribed consultation of the representative organizations of workers and employers. In conclusion, the speaker called for the seriousness of the circumstances to be reflected in the Committee's conclusions.

The Worker member of Uruguay stated that it was undeniable that social dialogue existed in the Bolivarian Republic of Venezuela. Each country had the right to establish the system of social dialogue that best suited it. The Government had increased the minimum wage on 26 occasions since 1999, taking account of the consumer price index and inflation. Discussion of the present case went beyond compliance with the Convention. The Employer members who were calling for compliance with this Convention, were the same who were jeopardizing the whole ILO standards system.

The Government member of the Plurinational State of Bolivia stated that his country endorsed the statement made on behalf of the GRULAC countries and that the measures taken by the Government with a view to increasing the minimum wage should be duly noted, each country being free to determine its own minimum wage fixing methods. The efforts made by the Government in favour of tripartite dialogue, despite the divergent interests of the social partners, should also be noted.

The Employer member of Guatemala observed that there were two aspects to the case: the lack of legal conformity and problems of implementation in practice. The lack of legal conformity had been highlighted through the enactment of the 2012 Act, the wording of which referred to social and institutional organizations dealing with socio-economic matters, instead of the most representative organizations of employers and workers. This wording confirmed the Government's lack of interest in dialogue. It had not sought the opinion of the most representative employers' organization in the country (FEDECAMARAS), and had only consulted it only formally after the decision had been taken to increase the amount of wages. He emphasized that the concern of the employers' was for the absence of effective social dialogue in the country, which was one of the pillars of democracy. The ILO supervisory bodies therefore needed to ensure that the ILO's fundamental principles, and particularly social dialogue, as guaranteed by Convention No. 144, were fully respected in the country.

The Worker member of Cuba indicated that the discussion had allowed him to understand the real situation faced by Venezuelan workers. In a context of crisis and its adverse impact on the workers, it would be strange to criticize a Government for taking protection measures in line with the Convention in response to the demands of the workers. It was rare to see so many measures taken in favour of workers. The regrouping of different existing minimum wages and extending the minimum wage level to the minimum pension had made for greater equality among the workers and had benefited approximately 2.5 million retirees. Since 2000, the periodic revision of the minimum wage had been driven by the objective of social justice, and had resulted in the replacement of a situation where 65 per cent of workers had not received the minimum wage to one of total coverage in 2014. In addition, extensive tripartite social dialogue demonstrated the Government's commitment to finding solutions and strengthening social cohesion and the rule of law, in accordance with international labour standards. The selection of political cases would damage the Committee's credibility.

The Government member of the Islamic Republic of Iran thanked the Government for the information indicating how it intended to secure the full observance of the obligation to consult workers' and employers' organizations on an equal footing with regard to minimum wage fixing. Since 2000, the minimum wage had been reviewed and fixed annually on the basis of recommendations made by the social and economic organizations, as well as workers' and employers' organizations, without affecting the other rights of workers. This revision demonstrated a willingness to engage in constructive consultations on minimum wage fixing with the social partners. It was positive that the Government was enhancing consultations with workers' and employers' organizations, after which it would fix a minimum wage that could cover the basic needs of workers. He called the Government to continue its efforts.

The Worker member of Nicaragua regretted that FEDECAMARAS did not want to accept the social, economic and political changes which had taken place in the country. The employers of the country did not have arguments to counter the Government's efforts to distribute wealth. The Government had increased minimum wages to reverse the delay in the evolution of wages. Those same employers, who called for compliance with the Convention, viewed workers as "collaborators" so as not to pay them, evaded payment of social benefits by outsourcing and threatened to reinterpret international labour standards with new rules. The statistics and the policies carried out by the Government and the development of social dialogue demonstrated that the Government was in compliance with the Convention.

The Government member of Cuba indicated that the information provided by the Government reflected its continuous concern to ensure the social protection of workers and their families, and the particular attention given to the minimum wage fixing policy. For over 14 years, the Government had steadily increased the minimum wage to benefit workers and guarantee decent levels of remuneration that adequately covered basic needs. The General Survey reflected progress achieved by various Latin American countries regarding minimum wage fixing, and the Bolivarian Republic of Venezuela had been mentioned several times as a positive example in areas such as the protection and equal minimum wages for migrant workers, domestic workers, apprentices and persons with disabilities, the policies on periodic revision of minimum wages, and the system of penalties for cases of non-compliance. The level of minimum wage protection in the country had still not been reached by many developing countries. He concluded by expressing support for the statement made by GRULAC.

The Government member of the Russian Federation observed that the issues on which the Government had to reply were simple: how would consultations with the workers' and employers' organizations proceed and how would the latter participate on equal terms in determining the minimum wage? The Government had provided detailed information on the manner in which it fulfilled its obligations under the Convention. The discussion should therefore not be used as an opportunity to level additional accusations that were not related to the case under discussion and there should be no interference in the details of existing procedures in the country and the time frames for consultations. The Government had the capacity to resolve such matters itself.

An observer speaking on behalf of the World Federation of Trade Unions (WFTU) emphasized the importance of the minimum wage in the redistribution of wealth, the increase in consumption, the promotion of development and recovery from crises. The Bolivarian Republic of Venezuela was the leader in Latin America in terms of social, economic and democratic attainments, but its em-

ployers were trying to sabotage the country's revolutionary process by engaging in violent attacks that had caused 42 deaths and wounded 800 people. In the country social dialogue existed and had the support of most of the governments and workers' federations in Latin America. She paid tribute to the efforts of the Bolivarian Socialist Confederation.

The Government member of Myanmar commended the efforts made by the Government to resolve the issue, particularly the fact that annual consultations were held with the employers' and workers' organizations, in accordance with the Convention. He further praised the Government for the measures taken to provide workers with a sufficient minimum wage, which enabled them to live with dignity and to cover their social, intellectual and material needs and those of their families. The efforts made by the Government should be recognized by the Conference Committee. In conclusion, he indicated that the case should not have been brought before the Conference Committee and expected that it would be resolved sooner rather than later.

The Government member of Nicaragua endorsed in full GRULAC's statement on this issue. His Government was concerned at the fact that the Bolivarian Republic of Venezuela had unjustifiably and for political reasons once again been brought before the Conference Committee. He drew attention to the Venezuelan Government's cooperation, dialogue and commitment in its dealing with the ILO, and its efforts to review and fix a minimum wage in line with the recommendations of social and economic organizations and of workers' and employers' organizations, without undermining their rights in any way. In an appeal to countries that had shown their willingness to speak up in defence of the rights of their citizens, he reiterated his Government's support for the Venezuelan Government in the hope that the Conference Committee would cease its age-old practice of politicizing the debate.

An observer representing the International Trade Union Confederation (ITUC), speaking on behalf of the workers' organizations affiliated to the Trade Union Action Unit of Venezuela, regretted that the Government of the Bolivarian Republic of Venezuela was failing to comply with Articles 1 and 3 of the Convention, which emphasized consultation of the social partners. Wages and salaries included all gross remuneration including bonuses, holidays and sick leave. Consultation should be broad and participative. Wages and salaries in the Bolivarian Republic of Venezuela currently met none of those criteria and was imposed unilaterally. The minimum wage should at least cover the cost of a basic basket of goods, as required by article 91 of the Constitution. Despite the conclusions of the report of the high-level tripartite mission that took place in January 2014, there was no social dialogue in the country. He was prepared to enter into a dialogue on a vital adjustable minimum wage that was sufficient to meet the cost of food, housing, transport, health and leisure. Inflation in January 2014 was running at 59.24 per cent and it was expected to reach 73 per cent for 2014 as a whole. What was needed was for the country's production system to be strengthened and for the workers and their organizations, on an equal footing with the employers and the Government, to be guaranteed full participation in any decisions taken with regard to the minimum wage.

The Government member of Uzbekistan believed that the Government of the Bolivarian Republic of Venezuela was fulfilling its obligations under the Convention, in so far as there was a minimum wage fixing machinery in place, the minimum wage was being established in consultation with workers and employers and the workers' interests were protected. The existing system allowed the Government, after consultation, to establish a minimum wage, notwithstanding inevitable disagreements on certain issues, such as inflation. He concluded that his Government would like to see the case successfully resolved.

The Government member of China welcomed the efforts made by the Government of the Bolivarian Republic of Venezuela since 2000 to establish a system for the consultation of the social partners on minimum wages. The Government of China hoped that cooperation between the Government of the Bolivarian Republic of Venezuela and the Office would be strengthened with a view to consolidating this system.

The Government member of Ecuador aligned himself with the statement by GRULAC and welcomed the explanations provided by the Venezuelan Government and the measures adopted. He indicated that, together with GRULAC, the Government of Ecuador trusted that the Bolivarian Republic of Venezuela would continue to comply with the Convention, and in particular with Article 3, which provided that representatives of the employers and workers concerned should be consulted, and that it would continue to take into account the opinions of the social stakeholders. He noted and encouraged the commitment of the Government to provide all workers with an adequate minimum wage to meet the basic needs of themselves and their families regarding health, work, housing and education, and to live a life in dignity.

The Government member of Argentina commended the attention given to a Convention with so much social significance and noted the interventions by the representatives of the social partners. She emphasized that the Convention required consultation, but did not specify the machinery to be adopted, leaving that to be determined by national legislation, provided that it ensured that the opinions of workers and employers were taken into account (Article 3). It was important to emphasize that minimum wage fixing had been incorporated into the Venezuelan Constitution and that, even during times of crisis, the rates had continued to be increased in line with the needs of workers. That had not been the case in other countries faced with economic problems. Based on the interventions of the social partners, it had to be concluded that the Government of the Bolivarian Republic of Venezuela promoted effectively the consultation machinery set out in the Convention. The main question concerned the opportunities granted to employers' representatives who had nevertheless been able to express their views and agree with the increase that had been approved, according to the comments of FEDECAMARAS in the press. Her Government hoped that the intensification of social dialogue would guarantee the effective maintenance of the minimum living wage, which was fundamental for workers in all countries, and which was the objective of the Convention.

The Government representative said that he would restrict his comments to Convention No. 26, even though other speakers, in view of the lack of substance, had raised other issues. The Convention allowed total freedom in fixing the guaranteed minimum wage, which was guaranteed in his country, where over 52 per cent of the members of a workers' confederation had been consulted. If the other workers consulted were included, over 80 per cent of the total workforce had been consulted. He acknowledged that, due to its roots, it was easier for his Government to talk to workers, but it was also restoring dialogue with employers. That was no easy matter in view of the attempted coups d'état. Indeed, the President of the employers had visited offices of the Government and the Ministry of Labour in 2014, something that had not happened since the attempted coup. Referring to the minimum wage, he indicated that there had initially been a 10 per cent increase in response to inflation and that

FEDECAMARAS had considered it moderate and reasonable on the day it was announced, and the next day it had declared that consultations had been held sufficiently in advance. He therefore considered that what FEDECAMARAS said in the Bolivarian Republic of Venezuela was quite different from what was said by the Employer members in the Conference Committee. If the employers wanted to increase the minimum wage further, that could be considered. For the past 15 years, the minimum wage had increased every 1 May in the country. Knowing that, the employers should not have waited until April, but should have acted much earlier. The tripartite commission had ceased functioning in 1998, and the Constitution of 1999 had introduced the minimum wage system. He wondered what issue exactly was being raised, and whether the effectiveness of the minimum wage in the Bolivarian Republic of Venezuela was being challenged. The Convention provided that the minimum wage had to provide a decent remuneration that was as non-discriminatory as possible, and that was what his Government was doing. Turning to Articles 1 and 3 of Convention No. 26, he emphasized that, in accordance with Article 3, every Member ratifying the Convention was free to decide the nature and form of the minimum wage fixing machinery and that the representatives of the employers and workers concerned were to be consulted. He emphasized the word "concerned" and the need for them to have a direct interest in the fixing of the minimum wage. He read out a press release relating to the increase in the minimum wage on 1 May 2014 entitled "FEDECAMARAS considers the wage increase responsible", and indicated that the President of FEDECAMARAS had said that this year they had been consulted sufficiently in advance and had sent a communication to the Ministry of Labour. The Government was working with FEDECAMARAS, with which it had no problem. It held weekly meetings with most of the chambers of employers, and he indicated that the week before he had left for Geneva, he had held a meeting with many of the chambers represented in FEDECAMARAS, at which the subject of the minimum wage had not even been raised. In other words, the employers spoke with one voice in the Conference Committee and another in the Bolivarian Republic of Venezuela. However, the Government was prepared to give them more time and to listen to them, just as it listened to everybody. He concluded that the Convention was fully implemented, and it was to be hoped that that would be reflected in the Conference Committee's conclusions.

The Employer members deplored the unparliamentary language used in certain statements and thanked the Government of the Bolivarian Republic of Venezuela for the information provided. They reiterated that the shortlist of individual cases was negotiated by the Employer and Worker members, and was then adopted on a tripartite basis by the Conference Committee. Convention No. 26 was a technical Convention that had been ratified by the Bolivarian Republic of Venezuela in 1944, and this was the fifth observation that had been made in relation to it since 2008. They considered that it had been demonstrated that the Bolivarian Republic of Venezuela was not in full compliance with the Convention and had not held real and effective consultations, which required good faith and not mere information. The social partners should be given ample opportunity to express their views, which should be given in-depth consideration, even if the final decision-making power lay with the Government. There was a failure to give effect to Article 2 of the Convention, under which the Government could decide to whom the minimum wage would be applied and what method would be used to fix it, although that always had to be done in prior consultation of the social partners, which had not been the case. Article 3 established the freedom to fix the minimum wage, but also required consultation with the employers' and workers' organizations concerned. Article 5 required governments to communicate to the Office on an annual basis a list of the trades and parts of trades in which the minimum wage fixing machinery was applied, indicating the methods as well as the results of the application of the machinery. The Committee's conclusions should call on the Government to comply with the terms of Article 5 and to send the required information to the Office. The Employer members recalled the 368th Report (June 2013) of the Committee on Freedom of Association (CFA), and particularly the conclusions of Case No. 2254 (paragraph 985(g)), in which the CFA stated that it expected that social dialogue would be held and once again requested the Government to convene the tripartite commission provided for in the Basic Labour Act. That conclusion was perfectly applicable to the present case. They also referred to paragraph 52 of the report of the high-level mission that had visited the country in January 2014, which had called for respect for freedom of association, efforts to find shared solutions and inclusive dialogue. In light of the above, the Employer members called for the Government to be urged to ensure full compliance with Convention No. 26, particularly with regard to real and effective consultation of employers' and workers' organizations; and for the Government to be requested to comply with Article 5 of the Convention by supplying annual reports to the Office on the methods adopted and consultation. To ensure closer follow up, they urged the parties to continue requesting specific technical assistance on the Convention and on consultation.

The Worker members thanked the Government and the other speakers for the valuable information they had provided. The report of the high-level tripartite mission that had visited the Bolivarian Republic of Venezuela had been submitted to the Governing Body in March 2014 and contained a series of conclusions constituting guidelines on ways to resolve the case. The aim must therefore be to implement these guidelines. Social dialogue included consultation with representative organizations, negotiations and, depending on the country concerned, the establishment of bodies to resolve disputes that might arise between the social partners. In the Bolivarian Republic of Venezuela, it was important to create the necessary conditions to be able to engage in the inclusive dialogue called for by its National Constitution, which should also be fully compatible with the existence of functional tripartite bodies. The Government should accept ILO technical assistance to establish effective social dialogue and a legal framework that defined the role of the respective parties through objective and democratic procedures. During the high-level mission, the Government had stated its willingness to have recourse to technical cooperation programmes. It should give effect to that as soon as possible.

Forced Labour Convention, 1930 (No. 29)

DEMOCRATIC REPUBLIC OF THE CONGO
(ratification: 1960)

A Government representative noted that the observation of the Committee of Experts referred to massive violations of human rights which were perpetrated by armed groups in the Orientale Province, North and South Kivu and North Katanga. The Government was the first to condemn the violations which had occurred when those territories were under the control of armed groups. Since then, with the support of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo

(MONUSCO), the regular army had taken back those territories, and the Government had initiated judicial proceedings and organized trials resulting in severe convictions of the perpetrators of those crimes. As regards compensation for the victims, the criminals convicted did not have the necessary resources to pay that compensation. The Government called for the cooperation of the international community to grant compensation to the victims, provided that they lodged a complaint and instigated legal proceedings. The Government reaffirmed its commitment to prosecute those who had violated human rights and to put an end to the impunity. In that context, a bill repealing earlier legislation authorizing recourse to forced labour for purposes of national development was before the Parliament. The text would be sent to the Committee of Experts as soon as it had been adopted.

The Worker members recalled that this was the second time that the Committee had been called upon to examine the case and that, in 2011, no Government representative had come forward. The Committee of Experts once again noted massive violations of the Convention in the region, which was rich in natural resources, especially in the mines in the regions of North Kivu, the Orientale Province of Katanga and East Kasai. Forced labour was on the increase in the eastern part of the country, which was in the grip of war, and the Government's attempts to curb it were too limited to be credible. As highlighted by various United Nations Special Rapporteurs, both illegal armed groups and the regular armed forces resorted to forced labour and sexual slavery. Rape, in particular, had become a weapon of war. Men and women from 10 to 40 years of age were subjected to forced labour in quarries, in flagrant violation of the provisions of Convention No. 29, especially Article 25, which required that the exaction of forced labour be effectively punishable as a penal offence. Women, girls and boys were abducted and forced to engage in timber cutting, gold mining and agricultural production for armed groups, which also forcefully recruited porters, domestic workers and bodyguards as combatants. Those actions could particularly be attributed to the Lord's Resistance Army (LRA) and the Democratic Forces of the Liberation of Rwanda (FDLR), as well as to M23 rebels. The Committee of Experts had also referred to the need to repeal legislation allowing the exaction of labour for national development purposes as a means of collecting unpaid taxes and by persons in preventive detention. The Government had indicated that those texts were obsolete and had been repealed de facto, but, in order to guarantee legal certainty, they should be officially repealed by law. In the same way as the Committee of Experts, the Worker members considered that the Government should take measures as a matter of urgency to bring an end to the practices of forced labour and sexual slavery involving civilians, and should ensure that the perpetrators of those violations were brought to justice and the victims compensated.

The Employer members recalled that the Conference Committee had addressed the case in 2011 and that the Committee of Experts had addressed it 19 times since 1991. The Committee of Experts had noted with great concern the plight of men and women who were being used in forced labour situations and, as the Government had confirmed, as sex slaves, particularly in areas of armed conflict. The Committee of Experts had also noted the inadequacy of legal provisions establishing sufficiently dissuasive criminal sanctions against perpetrators of forced labour. While the Employer members did not always agree with the comments made by the Committee of Experts on the Convention, they did agree in the present case, which dealt with serious violations of human rights. Women and children were being forced to work in mines and fields and to transport ammunition and other supplies on behalf of various armed groups. Women were also being forced to become sex slaves and domestic workers. Reports suggested that those violations were being perpetrated by rebel groups and rogue elements of regular forces. While the nature of the conflict was complex, legal security was a right of all citizens and more was expected of the Government. Violators should be apprehended and punished. The Employer members commended the Government for its recent information concerning the prosecution of members of the regular forces for cases of rape in conflict areas. However, more could and should be done to protect the human rights of vulnerable members of society. The Government should have sufficient labour inspectors to inspect zones, such as mining areas, where children and women were reportedly used in forced labour situations, particularly in view of its ratification of the Labour Inspection Convention, 1947 (No. 81) in 1968. The Committee of Experts had also noted the inadequacy of criminal sanctions, which contravened Article 25 of Convention No. 29. Although the Labour Code established sanctions of imprisonment or fines, it only provided for imprisonment for up to six months for instances of forced labour, which was inadequate and not dissuasive. They noted with some degree of cautious optimism the Government's report that the law was being amended to provide for sanctions in line with the Convention, and the information provided to the Conference that a bill was currently being prepared and would be put before the Parliament in the near future. Nevertheless, that information had already been provided by the Government in 2011 and a sense of urgency was needed. The Committee of Experts had also noted concerns in the legislation which required minimum personal contributions related to national development programmes, as well as legislation which authorized persons in preventive detention to be subjected to compulsory labour. The Employer members commended the Government for addressing those provisions in the amendments, which it had conceded were contrary to the Convention. Further, while the issue of human rights abuses was central, and protection for victims was needed, the Employer members also noted the concern that some businesses operating in the country could be subjected to trade sanctions or reluctant trade partners because, in supply chains, businesses had to demonstrate that their operations were conducted in areas which observed international labour standards. They firmly urged the Government to avail itself of all forms of ILO assistance, technical or otherwise, in order to address all contraventions of Convention No. 29.

The Worker member of the Democratic Republic of the Congo stated that the incidence of forced labour was increasing, particularly in the east of the country, which was in the grip of violent conflict, but the Government was not taking sufficient steps to combat the violations perpetrated by both rebel and government forces. The resurgence of sexual slavery and rape was a source of particular concern. The forced recruitment of child soldiers by armed groups was persisting, but the Government was not imposing any effective penalties to stop it. Moreover, the victims of forced labour were also being trafficked for domestic slavery, prostitution or work in agriculture, both within the country as well as to Angola, South Africa, eastern Africa, the Middle East and Europe. All of those occurrences were made worse by the impunity enjoyed by the perpetrators. Existing laws had not been reinforced by the incorporation of effective penalties. The Government should show more determination to investigate, prosecute and penalize the imposition of forced labour. Apart from restoring public safety with the support of MONUSCO, the Government also had to strengthen programmes for

the rehabilitation of victims, build sufficient numbers of schools, recruit teachers and provide essential medical assistance. It was well known that the profits from the exploitation of mineral resources – which were used, for example, in the manufacture of mobile phones – helped to fuel the conflict and that criminal gangs made use of forced labour to exploit those resources. It was up to enterprises, as part of corporate social responsibility, to take action against forced labour or child labour in their production chains.

The Employer member of the Democratic Republic of the Congo confirmed the statements which had been made by the Government. With the support of MONUSCO, the Government had taken effective action since 2013 in order to stop the abovementioned atrocities in the eastern part of the country. With respect to the legislation questioned by the Committee of Experts, the law to repeal it was before Parliament and it should be adopted before the end of the year. The Government's appeal for the solidarity of the international community for the compensation for victims must be heard.

An observer representing Education International expressed her organization's grave concern for the fate of the children who were deprived of schooling and who were victims of forced labour and sexual exploitation. Schools were destroyed or used for military purposes. Children recruited by armed groups were both witnesses and perpetrators of the worst abuses. Massive population displacements had increased the number of children who were living in the street and at risk of becoming victims of exploitation. The fundamental right to children's safety education in the Democratic Republic of the Congo must be restored. To that end, the Government must be urged to ensure the protection of students and teachers, to end impunity for the perpetrators, to ensure the reintegration of children in the education system and to create orphanages for children who had lost their families. The Government should receive technical assistance from the Office to establish an appropriate normative framework which would effectively prohibit the recruitment and exploitation of children, in particular that by the armed forces.

The Government member of Canada indicated that, despite a slight improvement in the country's security since the defeat of the M23 rebels at the end of 2013, the human rights situation remained a concern. Abundant natural resources attracted militias and armed groups – and sometimes units of the Government's armed forces – who were engaged in forced labour against the population, which included the forced recruitment of adults and children to work in mines or sexual slavery and other forms of forced labour contrary not only to Convention No. 29 but also to the Worst Forms of Child Labour Convention, 1999 (No. 182). Canada echoed the Committee of Experts' request to the Government of the Democratic Republic of the Congo to take action to end forced labour by improving access to justice and by ensuring that perpetrators were prosecuted and punished and that victims were compensated. The Committee of Experts had also requested the Government to amend its legislation to bring it into line with the requirements of the Convention.

The Worker member of Italy, speaking also on behalf of the Worker members from Switzerland, indicated that almost half a million workers were exposed to forced labour or slavery in the Democratic Republic of the Congo, one of the most common forms of which was debt bondage in the mining sector. There was also an alarming level of violence, especially sexual violence against women and children in the context of forcible recruitment or armed conflicts. One of the root causes of those forced labour practices was lack of accountability and impunity. Law enforcement was weak in the mining areas of the eastern part of the country, especially in cases in which military or security officers protected their staff against investigations or court proceedings. The military justice system remained weak and susceptible to interference by military or political decision makers. The victims were rarely compensated, even when the State was ordered to do so for violations by state agents. Judges, prosecutors and investigators often lacked adequate training and resources. Although articles 16 and 61 of the Constitution prohibited forced labour and slavery, including imprisonment for debt, neither the Penal Code nor the Labour Code provided for sufficiently dissuasive sanctions. Those dissuasive sanctions must be imposed in order to overcome the culture of impunity that perpetuated the country's humanitarian crisis, which had continued over the past two decades, particularly in the eastern part of the country, resulting in the deaths of an estimated 5 million people. That impunity must be ended and justice must be ensured for those crimes against humanity.

The Government member of Cameroon, while agreeing with the previous speakers that forced labour of women and children could not be tolerated, wished to place the facts in the security context. As had already been noted, it was often rebel factions who were responsible for forced recruitment and sexual violence. Despite its limited military resources, the Government of the Democratic Republic of the Congo had long been committed to responding to that security challenge. For its part, the Government of Cameroon, which had organized a summit on safety in the Gulf of Guinea at the beginning of 2014, considered that action against forced labour was inseparable from the fight against terrorism, since the former was a manifestation of the latter. Moreover, certain proposed measures were dubious. The speaker queried whether more criminal penalties should be imposed when that might lead to overpopulation of the prisons, or whether labour inspectors should be assigned to conflict zones. The top priority had to lie in restoring peace and safety for the population and combating terrorism with the support of the international community, including technical assistance from the Office.

The Worker member of Uganda stated that the Government's effort to eradicate forced labour had not been sufficiently broad or pragmatic. The incidence of forced labour had been, and continued to be, exacerbated by avoidable conflict, and women, children and migrants constituted 70 per cent of the victims. Many children were forced into forced labour in mines as domestic help and porters and about 2,500 children had reportedly been forcefully recruited as child soldiers. About 6,000 women had reportedly been forced into bonded labour to work in farms, turned into sex slaves and trafficked into other countries to work as prostitutes or domestic workers. Approximately 400 women were reportedly raped daily, with 85 per cent occurring in the conflict areas. The Government needed to pursue well-articulated and broad rescue, rehabilitation and empowerment programmes, and should commit to using education policy to rehabilitate children from all forms of forced labour practices. Social and economic empowerment of women victims would go a long way to improve their chances of recovery and a new future. The Government should commit to that.

The Government member of Switzerland stated that his country was aware of the complexity of the situation in the Democratic Republic of the Congo and was extremely concerned by the serious violations of human rights that persisted there. The sexual slavery of women and children, as well as the violence against civilians to force them to work, were among the worst violations of the Convention. Switzerland was also deeply worried about the incidence of child labour in the mining sector. It there-

fore supported the recommendations of the Committee of Experts and reiterated its recommendations made recently at the 19th Session of the Human Rights Council Universal Periodic Review Working Group, in which it urged the Government to take measures as a matter of urgency to bring an end to physical and sexual violence, including violence perpetrated to coerce civilians into forced labour, and to strengthen the judiciary. Switzerland acknowledged the progress made in that area, such as the creation of the National Human Rights Commission, the adoption of texts regulating the Court of Cassation, the Council of State and Constitutional Court, and the bill providing for the establishment of specialized chambers to penalize human rights violations that had been committed during the past 20 years. It encouraged the Government to continue on that course.

The Government representative expressed his appreciation to all speakers for their contribution to the discussion on the application of Convention No. 29 in his country. As the Government had restored its authority over the territories formerly controlled by armed groups, the facts which had been mentioned were largely in the past. The protection of civilians was part of that process of restoration of the State´s authority and the Government had deployed, for that purpose, brigades of specialized police, such as local brigades, with the cooperation of the Belgium Government. Child soldiers were demobilized and reintegrated into the school system. The construction of 1,000 new schools was expected by the end of 2016. It was also planned to recruit and train 1,000 new labour inspectors and to radically reform the judiciary. Despite the complexity of the situation, the Government was sparing no efforts to end human rights violations.

The Worker members thanked the Government and the other speakers for the information provided. The Worker member of the Democratic Republic of the Congo had emphasized that there were economic interests behind that highly alarming situation. While forced labour continued to prevail, and had even increased in the east of the country, the Government's efforts to counter it were too weak to be credible. The conflicts which affected the country and its neighbours were not an excuse for inaction. The Government should commit to taking measures on: prevention in consultation with the social partners; the involvement of the Labour Inspectorate, especially in mines in the regions of North Kivu, Orientale Province, Katanga and East Kasai; and identification, protection and rehabilitation of victims, particularly women and children. Measures should be taken as a matter of urgency to strengthen the Labour Inspectorate and ensure its close cooperation with police and the judiciary system. Genuinely dissuasive penalties should be introduced into the Labour Code and the provisions that contravened the Convention should be repealed. The Government should request an Office technical assistance mission to provide the necessary support.

The Employer members expressed their appreciation concerning the difficulties of policing a troubled zone of conflict. Nevertheless, that did not provide an excuse for failing to take measures to protect the vulnerable members of the population. The Government was urged to finalize its new bill in order to harmonize national law with Article 25 of the Convention by providing sufficiently dissuasive criminal sanctions. Referring to the Government's comment that the victims of forced labour and sex slavery needed to identify themselves for retribution, the Employer members noted that it might be difficult for the victims to do so, partly for fear of reprisals and fear of stigmatization. The Government was urged to put measures in place to protect victims and make access to justice possible. The regular forces should be specially trained to be deployed to areas to assist victims in coming forward. In addition, education on victims' rights should be provided. The Employer members urged the Government to request all forms of ILO assistance that would help remedy the situation.

MALAYSIA (ratification: 1957)

The Government provided the following written information.

The Anti-Trafficking Act 2007 was amended in 2010. The Act came into force on 15 November 2010. It is now known as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. The amendment was made so as to strengthen the regulatory framework to deal more effectively with the issues of human trafficking and smuggling of migrants in Malaysia. Interpretation of trafficking in persons and smuggling of migrants in accordance with the Act is as follows: "Trafficking in persons" is defined as all actions involved in acquiring or maintaining the labour or services of a person through coercion, for the purpose of exploitation. The profit in trafficking comes not from the movement of persons but from the sale of a trafficked person's services or labour in the country of destination. "Smuggling of migrants" means arranging, facilitating or organizing, directly or indirectly, a person's unlawful entry into or unlawful exit from any country of which the person is not a citizen or permanent resident. Virtually every country in the world is affected by this crime, whether as an origin, transit or destination country for smuggled migrants by profit-seeking criminals.

The amended Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 extends its coverage to the following: Section 15(a), to provide for a new offence. This amendment seeks to provide that a person who brings in transit a trafficked person through Malaysia by land, sea or air, or otherwise arranges or facilitates such act commits an offence. Section 17(a), to provide that the prosecution need not prove the movement or conveyance of the trafficked person to prove that the offence of trafficking in persons had occurred. The prosecution needs only to prove that the trafficked person was subject to exploitation. Part III(a). This new Part III(a) contains ten new sections, namely sections 26(a) to 26(j). The new Part III(a) addresses concerns that have arisen about the smuggling of migrants as a criminal activity distinct from legal or illegal activity on the part of the migrants themselves. The sections specifically criminalize the exploitation of migrants and the generation of illicit profits from the procurement of illegal entry or illegal residence of migrants. Section 41(a), to clarify that a smuggled migrant is only entitled to be protected under that Part if he was a trafficked person. Section 61(a), to provide for the admissibility of a deposition made by a trafficked person or a smuggled migrant who cannot be found during a proceeding in court. The deposition must have been made upon an oath before a session's court judge or a magistrate if in Malaysia or a consular officer or a judicial officer if outside Malaysia.

The Council for Anti-Trafficking in Persons (MAPO) was established under the Anti-Trafficking in Persons Act 2007. As far as the amended Act is concerned, MAPO is now known as the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants. The Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants is headed by the Ministry of Home Affairs Secretary-General. Five taskforces were established to support the council's function. MAPO's objective is to make Malaysia internationally accredited as being free of illegal activities in connection with human trafficking and smuggling of migrants. Hence, MAPO's main function is to prevent and eradicate human trafficking and migrant smuggling crimes through comprehensive enforcement of the Act.

MAPO's other roles are as follows: Formulate and oversee the implementation of a national action plan on the prevention and suppression of trafficking in persons including the support and protection of trafficked persons. Make recommendations to the minister on all aspects of prevention and suppression of trafficking in persons. Monitor the immigration and emigration patterns in Malaysia for evidence of trafficking and to secure the prompt response of the relevant government agencies or bodies, and non-governmental organizations to problems on trafficking in persons brought to their attention. Coordinate in the formulation of policies and monitor its implementation on issues of trafficking in persons with relevant government agencies or bodies and non-governmental organizations. Formulate and coordinate measures to inform and educate the public, including potential trafficked persons, on the causes and consequences of trafficking in persons. Cooperate and coordinate with international bodies and other similar regional bodies or committees in relation to the problems and issues of trafficking in persons including support and protection of trafficked persons. Advise the government on the issues of trafficking in persons including developments at the international level against the act of trafficking in persons. Collect and collate the data and information, and authorize research, in relation to the prevention and suppression of trafficking in persons. Perform any other functions as directed by the minister for the proper implementation of the Act.

Apart from the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, Malaysia has a comprehensive framework of laws and regulations to protect labourers, irrespective of whether local or foreign. In addition, there are nine laws and regulations, specifically, to address the issue of forced labour as follows: Employment Act 1955 which provides minimum protection to employees with regard to their terms and conditions of service consisting of working hours, wages, holidays, retrenchment benefits, etc. Workers Minimum Housing Standards and Amenities Act 1990 (Act 446) which prescribes the minimum standards of housing, to require employers to provide medical and social amenities for workers. Workmen's Compensation Act 1952 (Act 273) which provides payment of compensation for injuries sustained in accidents during employment. Children and Young Persons (Employment) Act 1966 which provides regulations to protect children and young persons who are engaged in employment in terms of working hours, type of work, abuse, etc. Occupational Safety and Health 1994 which provides regulations to secure the safety, health and welfare of persons at work against risks to safety or health arising out of the activities of persons at work and providing industrial codes of practice to maintain or improve the standards of safety and health. Factories and Machinery Act 1967 (Act 139) which provides the control of factories with respect to matters relating to the safety, health and welfare of persons therein, the registration and inspection of machinery and for matters connected therewith. National Wages Consultative Council Act 2011 which aims to set up a council to recommend the minimum wage for various sectors, regions and jobs. Labour Ordinance (Sabah Cap. 67) which provides minimum protection to employees with regard to their terms and conditions of service consisting of working hours, wages, holidays, retrenchment benefits, etc. in Sabah. Labour Ordinance (Sarawak Cap. 76) which provides minimum protection to employees with regard to their terms and conditions of service consisting of working hours, wages, holidays, retrenchment benefits, etc. in Sarawak.

In addition, before the Committee, **a Government representative** outlined the various measures taken to monitor, prevent and suppress the problem of forced labour and human trafficking. The Government had ratified several international instruments and adopted several pieces of domestic legislation in this regard. These included the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act. This Act required the establishment of a Council for Anti-Trafficking Persons, which included Government representatives and civil society groups, and had been established in 2008. The Government had also adopted the National Action Plan on Trafficking in Persons (2010–15) which outlined the national efforts to combat trafficking in persons in the areas of prevention, rehabilitation, protection and prosecution. The Plan complemented the existing legislation and aimed to provide direction and focus to efforts in order to prevent and suppress trafficking in persons. With regard to cases of trafficking, there had been an increase in the number of cases brought to court. Out of the 128 cases brought in 2013, 114 were still pending before the courts. There had also been five convictions in such cases, and the penalties of imprisonment imposed in these cases would act as a deterrent to prospective perpetrators of this crime. In addition, 128 operations related to trafficking in persons had been conducted in 2013, resulting in 89 investigations, 140 arrests and 650 victims rescued. For the purpose of uniformity, Standard Operating Procedures had been launched in November 2013 for enforcement agencies to ensure a commitment to the process of identification, referral, assistance and social inclusion of presumed or identified victims of trafficking in persons. In addition, 911 protection orders and interim protection orders had been granted. Based on complaints, as well as regular inspections, 1,663 investigations had been conducted at workplaces, while a total of 33,185 inspections had been conducted by the Department of Labour of Peninsular Malaysia. The Government was conducting awareness raising nationwide regarding the new Minimum Wages Order 2012, in order to deter labour exploitation of foreign workers. As of 2014, all employers were mandated to implement this Order, including for foreign workers. Additionally, initiatives to prevent forced labour and better protect victims of trafficking were being undertaken, including steps to: amend the Private Employment Agency Act, 1981; draft a Regulation for Domestic Workers; allow those victims of trafficking who did not require further protection and care to engage in work; and implement a pilot project for a shelter run by a non-governmental organization. In addition, the anti-trafficking legislation, supplemented by the Employment Act, 1955, and other pieces of labour legislation, addressed the issue of labour exploitation. Moreover, in order to regulate the recruitment of foreign workers, the Government had signed Memoranda of Understanding with eight source countries covering the formal sectors, as well as with the Government of Indonesia regarding the recruitment and placement of domestic workers. Moreover, the Government was currently negotiating with four other governments with the intention of concluding such agreements. The entirety of these measures indicated that the Government was committed to combatting trafficking in persons and smuggling of migrants in Malaysia.

The Worker members indicated that Malaysia was a destination country for trafficking in men, women and children for purposes of prostitution and forced labour. Despite the written information supplied by the Government on the amendments to the 2007 Anti-Trafficking in Persons Act and Anti-Smuggling of Migrants Act, it was a cause for some concern that the victims of trafficking were nowadays looked upon as irregular workers. More than half of the 120 court cases that had been brought for trafficking in 2012–13 had still not been settled, and no information was available on any sanctions imposed. The vulnerability of migrant workers to forced labour, notably in the textile, plantation and construction sectors, as well

as in domestic work, was also worrying. With 2.2 million registered migrant workers and 1.3 million who were not registered, migrants made up a third of the country's workforce. Some 40 per cent of undocumented migrant workers were thought to be women. Upon their arrival in the country, migrant workers' passports were confiscated. Moreover, in many cases they were deceived concerning their wages and working conditions, were underpaid or had their pay withheld. From a legal standpoint, migrant workers were dependent on the placement agencies to which, since 2013, they had had to pay a commission that ought to be paid by their employer. In cases of physical or sexual abuse, they could not appeal to the courts for fear of having their contracts cancelled, whereupon they would become undocumented migrants and were liable to expulsion. Domestic workers were not protected under Malaysia's labour legislation, were not entitled to the minimum wage and could not join trade unions. No employer had ever been charged with violating the rights of domestic workers. Although there were sometimes bilateral agreements with the country of origin, neither these agreements nor Malaysia showed any concern for the situation of migrant workers. In conclusion, while laws on this issue did exist in Malaysia, they were not applied and no sanctions had ever been imposed.

The Employer members emphasized that the Committee's duty was of a technical nature, for it had to examine the application of a Convention on the grounds of its provisions. Hence, there was no room for political considerations on what should be the content of the Convention. Turning to the case, they observed that the Committee had to examine, for the second consecutive year, the application of the Convention by Malaysia, which was surprising since the Committee of Experts had not received new concerning facts. In that sense, for the Employer members, it was a real case of follow-up. On the grounds of the indications of the Government representative, there was some progress to be noted in what was indeed a difficult regional issue. The case concerned the problem of forced labour and trafficking of persons arising from labour migration. In this regard, they emphasized that, while the Convention imposed on States direct and serious responsibilities, the problem of exaction of forced labour of migrant workers was more a regional issue than a national issue. While the Committee of Experts was limited to examining compliance at the national level when examining the application of a Convention by a specific member State, they considered that the Committee's discussion would be enriched if it was held on the basis of a collection of national responses of all countries concerned in South-East Asia. Due to the regional character of the issue, they welcomed the bilateral and multilateral agreements that had been concluded to tackle this issue. It was also encouraging to note that the Government indeed had undertaken a comprehensive process of labour inspection which showed that it assumed its responsibilities and was acting in good faith. This was even more noteworthy as the exaction of forced labour and the trafficking of migrant workers always occurred in the margins and shadows away from a standard process of labour inspection carried out to ensure the enforcement of law. In conclusion, and in spite of the fact that there was some progress, the Employer members stressed the need to reinforce the efforts to combat trafficking and the exaction of forced labour of migrant workers. To this end, the Government should avail itself of the technical assistance of the ILO.

The Worker member of Malaysia indicated that despite the serious issues raised during the Committee's session in 2013, there had been no initiatives taken for dialogue between the Government and the various stakeholders. There were 2.4 million authorized migrant workers in Malaysia as well as an additional 2.2 million undocumented workers. The Employment Act, 1955, had been amended to legalize the outsourcing of workers through third-party companies, which contributed to conditions amounting to forced labour. Migrant workers were at the mercy of the labour contractors and were deprived of security of tenure, social security benefits and occupational safety and health protection, and were unable to join unions. The amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act undermined efforts to combat human trafficking by narrowing the legal definition of human trafficking, and by increasing the likelihood that victims of trafficking would be treated as undocumented migrant workers subject to immediate deportation. However, the Government should be praised for establishing shelters for victims of trafficking. Nonetheless, the National Action Plan (2010–15) was only a general document, and contained few concrete steps. The Ministry of Human Resources did not have sufficient officers to address trafficking for labour exploitation, and these officers were not equipped to identify victims of trafficking. Migrant workers lacked access to justice, as those who filed cases against their employers had their work permits cancelled unilaterally, leaving them with irregular status. Irregular migrant workers were subject to arrest and punishment, and deportation procedures were often lengthy resulting in indefinite detention under poor conditions, which had resulted in the deaths of several workers. Moreover, domestic workers were not accorded the minimum standards contained in the national law. With reference to examples of abuse of domestic workers, it was underlined that there had been no consultations regarding the proposed regulations on domestic workers. Moreover, while the Minimum Wages Order, 2012, was welcomed, this Order did not apply to domestic workers, and further measures were necessary for its enforcement. The Government was urged to take steps to: welcome an ILO mission to Malaysia to meet the various stakeholders to jointly develop constructive proposals; accept ILO technical assistance without delay; establish national joint councils composed of tripartite partners and non-governmental organizations concerned with migrant workers' issues; establish regional joint councils; ensure that employers, recruiting agents and officers who contribute to trafficking in person were effectively punished; and ensure that the travel documents of migrant workers were not kept by unauthorized personnel including employers.

The Employer member of Malaysia strongly supported the statement of the Malaysian Government. The observations of the International Trade Union Confederation (ITUC) of August 2013 were not supported by any evidence concerning the alleged trafficking or forced labour of foreign workers. It was clear from the information provided, that the Government had taken and implemented the necessary initiatives to combat and eliminate any practice of human trafficking or forced labour, through various ministries and agencies, such as the Council for Anti-Trafficking in Persons, which was tasked with the enforcement of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, 2007. The Government had also established a comprehensive framework of laws and regulations to protect foreign workers, particularly those subject to forced labour. Furthermore, a Committee established at the Ministry of the Interior met every month to coordinate the anti-trafficking policy of the Government. In the federal state of Selangor, an anti-trafficking council had even envisaged independent anti-trafficking efforts. The Government had continued its public-awareness campaigns on anti-trafficking in the print media, on radio and television, including over 600 public-service-awareness programmes on trafficking in national and fed-

eral state radio stations. Training on anti-trafficking had continuously been provided to officers with responsibilities in this regard, including to Malaysian troops prior to their deployment in international peacekeeping missions. The information submitted by the Government had indicated that there had been 120 prosecutions under the Anti-Trafficking in Persons Act, 2007, resulting in 23 convictions with seven cases still pending. The Department of Labour had carried out 41,452 inspections in 2012 and 15,370 inspections in the first nine months of 2013 relating to forced or compulsory labour practices. It should be noted that no forced or compulsory labour practices were recorded in the first nine months of 2013. All the initiatives taken showed that the Government had taken the necessary and adequate measures within its capacity and means. They also showed the commitment of the Government and refuted any statements according to which it had failed to take any action since the last discussion of the case in the Conference Committee.

The Government member of Singapore welcomed the concrete efforts and measures taken by the Government to eliminate trafficking in persons, including: the adoption of relevant laws, such as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, 2007; a National Action Plan for 2010–15 focusing on prevention, rehabilitation, protection and prosecution; and the prosecution and conviction of a number of perpetrators by the national courts, including information on the specific penalties imposed in 2012 and 2013. The speaker also noted that additional initiatives were envisaged for the better protection of victims of trafficking, including allowing those who did not require protection and care, to work instead of being placed in shelter homes. Furthermore, he noted the pilot project for an NGO to run a shelter home providing assistance to victims, with support from the Government. The Government had been taking proactive and resolute steps to address the challenges in tackling and combating trafficking in persons. These efforts should be encouraged and further assistance provided to help the country to fulfil its obligations under the Convention.

The Worker member of Indonesia indicated that Malaysia remained the leading destination for the majority of Indonesia's migrant workers and that of the 1.2 million registered Indonesian workers in Malaysia, 70 per cent were female domestic workers. There were several reasons why trafficking originated from Indonesia. Firstly, many undocumented workers, which were at a higher risk of becoming trafficking victims, could easily pass into Malaysia through sea or land borders. Secondly, workers became victims of organized crime syndicates that recruited a significant number of young women by promising work in restaurants and hotels, or by the use of "Guest Relations Officer" visas and false documents, but were subsequently coerced into Malaysia's commercial sex trade. Reports alleged that collusion between individual police officers and trafficking offenders led to the worsening of these practices. Others became trafficking victims through accumulated debts with labour recruiters, both licensed and unlicensed companies, which used debt bondage to hold documents and threats of violence to keep migrants in forced labour. These were the reasons why the Indonesian Government stopped sending migrant workers to Malaysia between June 2009 and December 2011, and only reauthorized it after an amended Memorandum of Understanding was signed by both countries, guaranteeing that Indonesian workers would enjoy basic rights such as minimum wages and keeping their own passport, and agreeing to improve the practice of recruitment agencies regarding placement fees, dispute settlement and tightening the process of issuing visas. Great hope initially rested on this Memorandum of Understanding, but it had not been fully implemented and it was important that non-state actors, namely unions, be involved in the monitoring of its implementation. The Malaysian Trade Union Congress had been willing to support and recruit migrant workers as part of their union, but the immigration law prohibited migrant workers from joining trade union activities. Domestic workers were also being categorized as informal workers, leaving them without adequate protection when they needed help. National laws and the Memorandum of Understanding could be more effective if trade unions were able to represent the interests of migrant workers. There was no clear policy acknowledging migrant workers as having the right to enjoy the same legal protection as national workers. Malaysia and Indonesia needed to quickly ratify the Domestic Workers Convention, 2011 (No. 189), so that all domestic workers could be recognized by the law and spared from abuse. Since the Government publicly acknowledged the human trafficking problem, he called upon the Government to show a greater commitment to addressing the issue, including through increased investigations and prosecutions of offences and identification of victims, increased efforts to prosecute trafficking-related corruption by government officials, and greater collaboration with NGOs and international organizations to improve victim services in government shelters.

The Government member of Brunei Darussalam stated his Government's support for the response of the Government to the observations made by the Conference Committee regarding its compliance with the Convention. He recalled that Brunei Darussalam and Malaysia had shared special relations and cooperation for decades. His Government acknowledged and appreciated the concerns raised by the Conference Committee, but also wished to highlight the positive initiatives and efforts that had been conducted and strategically implemented, namely: the establishment of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, 2007; the efforts toward the strengthening of legal mechanisms dealing with trafficking in persons; and the improvement of the protection and rehabilitation of victims, with resources allocated to combating trafficking in labour through systematic inspections and investigations.

The Worker member of the Philippines expressed the view that the situation of migrant workers had not improved since the discussion in the Conference Committee in 2013, and required more appropriate and bold actions and initiatives. He indicated that Malaysia was a country of destination and, to a lesser extent, a source and transit country for trafficking in persons. The majority of trafficking victims voluntarily immigrated to Malaysia in search of a better life, and while many offenders were individual business people, large organized crime syndicates with connections to high government officials were also involved. Many young women were recruited for work in Malaysian restaurants or hotels, some of whom migrated through the use of "Guest Relations Officer" visas, but were subsequently coerced into Malaysia's commercial sex trade. There were about 2 million documented workers, and about the same amount of undocumented workers in the country. Many migrant workers faced restrictions on movement, deceit and fraud in wages, passport confiscation or debt bondage. While the Government had passed the 2007 Anti-Trafficking and Anti-Smuggling of Migrants Act, victims were more likely to be treated as undocumented migrants than as victims, and were therefore subject to immediate deportation. Only a few prosecutions or arrests for forced labour had been reported. On the contrary, the speaker referred to a case where an Indonesian girl identified as a victim of trafficking by the authorities had been prosecuted for theft, with her employer being left unpunished. The country should therefore intensify its efforts to identify victims of traf-

ficking and investigate and prosecute the crime. It should also increase its efforts to prosecute corruption by government officials in relation to trafficking and enhance collaboration with trade unions, NGOs and international organizations to assist victims in government shelters. Bilateral agreements with neighbouring countries should also be encouraged and closely monitored to ensure effective enforcement.

The Government member of Myanmar welcomed the various efforts and measures of the Government with regard to the elimination of trafficking in persons, not only at the national, but also at the regional and international levels. These measures had included the adoption of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, 2007, and the establishment of the National Action Plan (2010–15). It was positive to learn that the initiatives were also in accordance with regional and international instruments, such as the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. The additional initiatives to provide better protection for victims of trafficking in persons were also welcomed. Furthermore, the memoranda of understanding with at least 13 countries on the recruitment and placement of domestic workers and the current negotiations with other countries to this effect, including Myanmar, were also positive developments.

The Worker member of France noted that workers' rights in Malaysia were gradually being diminished by a Government which afforded more importance to the welfare of enterprises than the welfare of workers. The increasingly common practice of using recruitment agencies was an illustration of that. In fact, migrant workers had no direct contact with their employers as the agency served as their employer. In addition, those agencies profited from migrants' work by levying almost half of the wages earned, including for overtime and work on weekends and public holidays. Moreover, until 2013, employers using those recruitment agencies had to pay a placement fee. A government decision of 30 January 2013, however, currently authorized employers to recover the sum paid to the agencies by deducting it from workers' wages. The Government indicated that the measure was intended to reduce labour costs. The fee should simply have been scrapped since it in fact fell on the workers by drawing them into a spiral of debt and vulnerability. In order to break a contract, employers only had to inform the recruitment agency that they no longer needed the worker, and to communicate with the ministry responsible for immigration so that the migrant would be returned to the country of origin. Many employers preferred to utilize that workforce rather than a local workforce so as to avoid employment relations. The recruitment agencies thus became "labour service providers". However, under Malaysian legislation, those practices were illegal. The employment of workers through recruitment agencies was authorized, however such agencies were not supposed to take the place of employers. The Government had recalled in 2010, that outsourcing companies were responsible only for organizing the entry of workers into the country and that the employers were bound to ensure that all the rights of workers were recognized and respected, and to meet all their legal obligations. Employers therefore could not escape employment relations with their workers by claiming that the responsibility fell on the recruitment agency. Furthermore, employers had additional obligations to those workers, beyond the workplace and working time, since they should usually provide accommodation and ensure social security coverage. The law should prevent employers from disregarding existing regulations and engaging migrant workers in conditions of forced labour, as such a situation was unacceptable.

The Government member of Switzerland expressed concern about the allegations of trafficking in persons and the absence of adequate court proceedings in that area. Additionally, the Committee of Experts had reported a deterioration of the situation and treatment of migrant workers, as it appeared they were criminalized rather than protected from abuse. The Swiss Government commended the Government's efforts to address those issues, but invited it to intensify them. To that end, the Government should formulate regulations on domestic workers and legislation on migrant workers in general, as recommended to it by other United Nations bodies.

The Government member of the Russian Federation considered that the current debate was the last stage in the examination of the case. Malaysian legislation was in conformity with the Convention and provided for heavy sanctions in cases of trafficking in persons. Additionally, the Government had concluded bilateral agreements and agreements with the countries of origin of migrant workers, which were of particular importance. It was taking subsequent action in the framework of the legislation and bilateral agreements. He concluded by inviting the Government to strengthen its efforts, and in particular to protect the rights of migrant workers. The Government should provide information to the ILO, which in turn should continue to provide technical assistance to the Government.

The Government representative expressed his Government's respect and heartfelt appreciation for the many views and complimentary comments submitted by the tripartite members with regard to the pertinent issues raised in relation to the application of the Convention. Having regard to the policy of securing a well-balanced growth between social and economic development and the demand for social equity, preservation of dignity, respect, and care for the well-being of people, he reiterated that the Government had undertaken to regularize and heighten its collaborative engagement with the domestic tripartite constituents, in addition to regulating and promulgating policies to solicit and bind common cooperation with governments and the international community so as to minimize, if not eliminate, the possibility of human trafficking across boundaries. The launch by the Government of the National Action Plan against Trafficking in Persons (2010–15), on 30 March 2010, reflected its commitment and aspiration to combating the crime of trafficking in persons. The plan outlined several guiding principles, strategic goals and programmes undertaken by the Government which guided the nation in its mission to deal with this heinous crime. The Government's firm and persistent policy was to secure the continued and constructive execution of principles that had been identified as fundamental in guiding and ensuring the smooth implementation of the Government's National Action Plan. It was also pertinent to establish close cooperation and coordination, as well as implementing integrated actions, with respect to information sharing, entry point control, delimitation, prevention, investigation and prosecution, among enforcement agencies, relevant ministries and agencies, including state governments and local authorities, so as to ensure that victims were given timely protection and that perpetrators were punished. The Government strongly believed in the importance of tripartite engagement for overcoming irregular practices with regard to human trafficking. The speaker urged the employers and workers to work hand in hand with the Government in order to achieve this common goal. Such commitment would certainly take into consideration the very subject matter addressed in the Conference Committee's discussion in this regard. He reiterated that the Government,

through the Council of Anti-Trafficking in Persons and Anti-Smuggling of Migrants, had had regular engagement with several relevant government ministries and departments over the years, with a view to innovating new ways of tackling and managing issues associated with trafficking in persons and smuggling of migrants, this amidst challenges in the labour market. The Government needed collaborative networking and the unwavering support by all concerned in order to ensure the smooth implementation of its policy. The complex and challenging issues relating to trafficking in persons and the mobilization of persons across regions needed to be regulated effectively.

The Worker members recalled that in 2013, the Conference Committee had requested the Government to take immediate and effective steps, but that it had not done so and had followed none of the Committee's recommendations. According to the Malaysian trade unions, there had been no social dialogue either, with the Government merely organizing public-awareness workshops and training a special team of 43 officials. In spite of the large number of workplace inspection visits that had been carried out (more than 15,000 in the first nine months of 2013), the labour inspectorate had failed to uncover a single instance of forced labour. In the document the Government had submitted to the Office, it cited nine laws and regulations that dealt with forced labour, but the Worker members wondered what purpose such a juridical arsenal of provisions could serve if the number of migrant workers engaged in forced labour in Malaysia continued to rise. The Government should adopt effective measures that afforded migrant workers full protection and allowed them to exercise their rights, especially their right to compensation in cases of abuse. Victims of forced labour should no longer be treated as delinquents. As to domestic workers, the Government should enforce the Minimum Standards Act and ratify Convention No. 189. More than anything, the Government should ensure compliance with all legislation that prohibited the confiscation of passports, provided for compulsory insurance against occupational accidents and banned placement recruitment agencies from acting as employers. Purveyors of forced labour should be taken to court and sentenced to fines that were genuinely dissuasive. The Worker members called on the Government to: establish a national migration board composed of representatives of all the parties concerned, including the social partners and NGOs in order to monitor migration policy; set up regional boards to work with the source countries of migrant workers and with social workers and NGOs in order to monitor the compliance of bilateral agreements with Convention No. 29 and other fundamental Conventions; and to accept a direct contacts mission to assess the entire situation.

The Employer members stated that the discussion had overlapped with issues of labour migration and practices of recruitment agencies, and asserted that the Conference Committee should only supervise issues within the scope of the Convention. They indicated that while differences had emerged during the discussion, there was also a strong determination that this Convention should be robustly supervised for all countries, including Malaysia, and that forced labour needed to be eradicated. The difference was that while the Worker members considered that no substantial progress had been achieved, the Employer members saw this as a case of progress, considering that the Government had presented a series of steps which provided a solid response to the Conference Committee's June 2013 discussion. In addition, they were encouraged by the Government's acknowledgment of the issue in this case and of the fact that its journey was incomplete and that it required the support of external actors. They encouraged the Government to use the capacities of the ILO and those existing within the country, and pointed out that multiple tools were available to help it resolve its forced labour issues. They finished by stating that further progress could be made, but that strong national determination was necessary in order to achieve this.

SAUDI ARABIA (ratification: 1978)

A Government representative expressed his disappointment that his country was on the list of the Conference Committee for the second consecutive year, contrary to progress that had been made in law and practice, for which he had expected appreciation after the direct contacts mission visited the country at the beginning of 2014. The observations of the Committee of Experts were a repetition of previous observations, to which the Ministry had replied in detail. The Committee of Experts should have examined the situation in the light of the new regulations, including Order of the Council of Ministers No. 166 of 2000, which abolished the sponsorship system. There was now a contractual relationship between domestic workers and employers which specified the rights and duties of both parties. There were also bilateral agreements signed between the Kingdom of Saudi Arabia and some countries of origin, which included the formulation of a certified model labour contract. Recruitment agencies which were found to be in violation of this new regulation were penalized. The Ministry of Labour had adopted an integrated plan defining the rights of both employers and domestic workers. Furthermore, a wage protection programme had been established. A free hotline service had been set up in eight languages to inform foreign workers of their rights and obligations, and so that they could notify infringements. Dispute settlement committees between domestic workers and employers had been set up in the different labour offices across the country. The Ministry was also following up on the implementation of regulations governed the activities of private recruitment agencies. Regarding the transfer of domestic workers from one employer to another, and with respect to termination of service, the context of a highly complex developed labour market which encompassed workers with over 50 nationalities, and varying cultures, should be borne in mind. Many ministerial regulations had been adopted to address the situation. A rectification period was granted by the different ministries to resolve the situation of migrant workers and to facilitate the transfer of workers from one employer to another, and the repatriation of hundreds of thousands of workers. In all cases, legal rules and international conventions were complied with. With respect to the retention of workers' passports, the practice was prohibited by Decision No. 166 of 2000. The abuse of workers by a few individuals was the exception rather than the rule. Given the increasing numbers of domestic workers, who numbered about 2 million, representing 18 per cent of the foreign workers in the country, the horrendous crimes committed by some domestic workers against the families by whom they were employed should also be taken into account. The regulation referred to above was part of the Labour Code, which did not allow penal sanctions in the case of violations. Forced labour was explicitly prohibited by section 61(a) of the Labour Code, and in the case of violations the employer would be penalized in accordance with Ministerial Council Decision No. 244 of 2009 on the prevention of human trafficking, which was in conformity with international standards on human trafficking. Effective criminal penalties, including imprisonment, were in conformity with Article 25 of the Convention. The regulation prohibited employers from allocating work which jeopardized the health of domestic workers, demeaning work or types of work which were not specified in the labour contract. The Ministry would communicate any information on penalties imposed on employers

who subjected foreign workers, including domestic workers, to forced labour. He concluded by reiterating that due account should be taken of the Government's will to comply fully with its constitutional obligations and its commitment to ensuring decent work for all residents on its territory, in close collaboration with the social partners.

The Employer members noted that this was the seventh time this case had been discussed since 1994 and that it raised issues relating to the labour conditions of domestic workers. The Domestic Workers Convention, 2011 (No. 189), had however not been ratified by Saudi Arabia. A number of concerns had previously been raised by the Committee, in particular the exclusion of domestic workers from the provisions of the Labour Code; the information obtained by the United Nations Special Rapporteur on violence against women in 2009; and the informal sponsorship system, sometimes called *kafala*, which limited the freedom of movement of migrant workers. However, important changes had been introduced and the Government had made significant progress, as indicated by its statement concerning the increased awareness of the seriousness of the situation of domestic migrant workers. The Council of Ministers had introduced a new regulation by virtue of Order No. 310 of 7 September 2013, which aimed to regulate the relationship between employers and domestic workers in a more equitable manner. A bilateral agreement between Saudi Arabia and Indonesia also provided better protection for hundreds of thousands of Indonesian domestic workers, and was an important step forward towards resolving the many concerns expressed by the Committee of Experts over the years. Some issues however were not addressed by the new regulation, in particular the freedom of movement of migrant workers without the written consent of their employer, and recourse to a competent authority for non-financial complaints. The Government was urged to take additional measures in this respect. This also applied to measures to combat trafficking in persons, in relation to which progress had also been made, in particular through the adoption of Order No. 244 of 2009. This had resulted in better mechanisms for monitoring and enforcement of the anti-trafficking legislation and expanded the protection, rehabilitation and repatriation of victims of trafficking in a coordinated manner by the various public bodies. These efforts were commendable and the Employer members urged the Government to complete the process and to identify and eliminate all cases of forced labour in the country once and for all.

The Worker members emphasized that the Committee of Experts had already raised the issue on several occasions the vulnerability of worker migrants, and in particular of domestic workers, in Saudi Arabia. Those workers were subject to a visa sponsorship system *(kafala)* and their passports and residence permits were taken away upon arrival in the country. They could not hand in their notice, change employer or leave the country without written authorization from their employer. The system as a whole resulted in those workers being in a situation akin to situation similar to slavery. Domestic workers often found themselves in even more serious situations. The Labour Code did not apply to them. They were sometimes locked up in the house where they worked without being able to make or receive telephone calls, and they were often subject to working conditions that amounted to exploitation. The observation of the Committee of Experts mentioned the adoption of a new regulation which specified the rights and obligations of domestic workers and their employers. The new regulation specified the tasks, the hours of work and rest, the wages and the bodies which could be addressed in the case of non-payment. In return, domestic workers had to respect the teachings of Islam, the rules in place and the culture of Saudi society. They could not refuse work or leave their service without a legitimate reason. Those who violated the provisions would be subject to a fine, be prohibited from working in the country and required to pay the costs of the return journey. The Committee of Experts had identified a series of shortcomings in the regulation. First, domestic workers could still not change jobs or leave the country without the permission of their employer. In this regard, the Committee of Experts had requested information from the Government in 2013 on the application of section 48 of the Labour Code, which provided that an employer may require an apprentice to continue to work after apprenticeship for a period of twice the length of the apprenticeship and at least one year. If the Government had so far replied that no case of apprentices has been brought before the competent courts, it should instead inform the Committee of cases in which apprentices were forced to continue working after their apprenticeships. Whatever the number, the Government could have simply removed section 48 of the Labour Code. Secondly, the regulation had not ended the withholding of passports, or in other words the so-called sponsorship system had not changed. The Government indicated that these practices were informal and not recognized by law. It would be desirable for the Government to indicate the texts which prohibit these practices. Thirdly, domestic workers were not always able to appeal to an independent authority to resolve non-financial issues. Finally, the new regulation still did not establish for criminal penalties and there was still no general prohibition of forced labour in the Labour Code. The new regulation could nevertheless have been welcomed as a first step towards the total abolition of forced labour, had the detention and expedited deportation of thousands of migrant workers from Ethiopia, India, Philippines and Yemen not occurred a few months earlier. This operation contradicted all the efforts and all the measures that the Government has just listed and the Committee had the right to demand explanations from the Government on this issue.

The Employer member of Saudi Arabia expressed support for this fundamental Convention, which ensured the well-being of migrant and domestic workers. Two years ago, she had participated in the adoption of the ILO instruments on domestic work. She emphasized that women, both as employers and workers, had been able to use and help each other to move upward economically beyond the traditional function of caregivers. In this manner, 2 million migrant domestic workers had sent remittances of US$7 billion annually. That did not diminish the need to improve and speed up their protection. Although change had been achieved on paper, more time was needed to achieve progress in practice. The adoption of a new law by the Government in 2013 which criminalized domestic abuse, and other positive public measures were the direct result of action by non-governmental organizations and the media which had pressed for better laws and more effective implementation. These developments demonstrated the substantial progress Saudi Arabia had made in addressing abuses by employers and migrant workers. She called for increased advocacy and awareness of the progress achieved, which would contribute to the development of a protection system for the most vulnerable.

The Worker member of Somalia affirmed that migrant workers and migrant women domestic workers, in particular, remained vulnerable to labour exploitation and abuses by their employers in Saudi Arabia. Migrant workers faced a long list of typical labour abuses which emanated from the sponsorship system governing the employment of foreign nationals. Migrant workers comprised about one third of the population, but were not covered by labour laws and had few or no remedies against labour violations. Moreover, migrant workers who were able to bring their employers to court became em-

broiled in court cases that could last for years without a positive outcome. From November 2013 onwards, public officials had resumed a campaign which had resulted in the deportation of foreign workers considered to have violated local labour laws. By 21 January 2014, 250,000 foreign workers had been deported. Before deportation, many were held in detention facilities in Riyadh without adequate food or shelter. In March 2014, one person had died and nine workers had been injured as a result of police action in a detention centre. More than 12,000 people had been deported to Somalia since January 2014. The crackdown on undocumented foreign workers had resulted in the acceptance of lower wages by other foreign workers. He alleged that in this manner local businesses had saved 15 billion Saudi riyals (SAR), and that wages stood at one fifth compared to pre-crackdown levels. It was therefore necessary for the justice system in the country to be reformed and for national labour laws to be brought into conformity with international standards to guarantee the adequate protection of migrant workers against abuses by employers and the State.

The Government member of Switzerland said that his Government was very preoccupied about the working and living condition of migrant workers. The sponsorship system, with the restrictions that it imposed on personal freedom, was a real problem that gave rise to situations that were tantamount to slavery. Those restrictions seemed to go hand in hand with major restrictions on the right of appeal to the courts, which exposed workers to serious abuse, including physical and sexual violence. The existence of regulations governing domestic work might be beneficial, but the September 2013 Order did not guarantee acceptable working conditions for migrant domestic workers. The Government therefore needed to take steps to protect migrant domestic workers employed under abusive working conditions and excessive restrictions on the exercise of their fundamental rights and liberties.

The Worker member of Nepal expressed concern at the working conditions of the around half a million Nepalese workers in the country. While migration created employment, it should not be forgotten that Government policies should be aimed at creating a decent working environment. Due to poor working and living conditions, as well as the sponsorship system *(kafala)*, the mortality rate of migrant workers was increasing. Since 2000, around 7,500 Nepalese migrant workers between 20 and 40 years of age had died due to industrial and road accidents, suicides and "heart attack" due to long working hours and the lack of rest. The Government claimed that the majority of these deaths were due to natural causes. However, when the underlying causes of this high death rate were examined the increase was due to the forced labour practices that existed in the country. Under the sponsorship system, without the permission of the employer, workers could neither change employment nor return to their own country, even if they were not able to perform the work. When examining the sponsorship system in the light of Article 2 of the Convention, the only option for foreign workers appeared to be to work with the same employer, even if they did not wish to do so. Due to this system, workers committed suicide and could be easily exploited by employers. Workers were hired to work for more than 12 hours without drinking water at construction sites and with long exposure to heat and the sun. These were not natural deaths, but the result of slavery conditions that existed in the country, and he urged the Government to abolish the so-called *kafala* system and to respect and enforce the Convention.

The Government member of Egypt referred to the definition of the term "forced labour" contained in the Convention. Both forced labour and slavery were banned. There were about 2 million foreign workers in the country and measures were being taken to address the situation of domestic workers. Not all problems had been resolved and problems existed at the individual level, but measures were being taken, such as the introduction of penalties against employers who had confiscated the passports of domestic workers, and the establishment of a hotline. These initiatives illustrated the Government's satisfactory response.

An observer representing the International Domestic Workers Federation (IDWF) said that it was necessary to combat violence against domestic workers in Saudi Arabia. Domestic workers there were trapped under the *kafala* system, which prevented them from leaving their employment, even if they were abused. Many domestic workers in Saudi Arabia worked for 90 hours a week or more, lacked adequate food and were not entitled to overtime pay or compensation in the case of work-related injuries. Common complaints included unpaid wages, employers withholding passports to prevent them from leaving and confinement to the house. Living in employers' houses made domestic workers extremely isolated, and vulnerable to exploitation and abuse. According to a non-governmental organization (NGO), between 30 and 50 maids a day reported abuse and exploitation at the centre for housemaid affairs in Riyadh. Domestic workers who dared to submit official complaints for mistreatment ran the risk of their employers filing counter claims of witchcraft or adultery, which were severely punished in Saudi Arabia. Forty Indonesian domestic workers convicted of witchcraft, sorcery or murdering their employers currently faced potential death sentences, but an Indonesian NGO following their cases reported that most of them had acted in self-defence against physical or sexual abuse. A 2013 decree entitled domestic workers to nine hours of rest a day – but they could still be made to work for the remaining 15. The current proposed unified contract for domestic workers, while an improvement on the 2012 version, continued to lack enforcement mechanisms and was not fully in line with Convention No. 189, which needed to be implemented to free all domestic workers from slavery.

The Government member of the Russian Federation said that the Committee of Experts had rightly expressed its concern with regard to the working conditions of migrant workers in Saudi Arabia, whose rights were limited. They could not change employers, leave the country or terminate their employment contract. However, he welcomed the measures adopted recently by the Government, such as a regulation that set out the rights and obligations of employers and workers (including domestic workers) and measures to strengthen the duties of employers'. It was essential to combat the non-payment of wages and to implement the necessary conditions to ensure that migrant workers could assert their rights. The Government, which was on the right path, needed to pursue its efforts and continue to provide information on the application of the Convention.

The Worker member of Bahrain emphasized that there was no ideal State and that every country had positive and negative sides. He expressed surprise that Saudi Arabia was on the list before the Conference Committee for the second consecutive year, despite the numerous achievements made with respect to the formulation of laws in a country which provided more than 2 million job opportunities for migrant workers at a time of unemployment in many countries. He believed that the initiatives taken by Saudi Arabia for the protection of foreign workers, such as stopping the retention of workers' passports and granting rectification delays for undocumented workers, needed to be acknowledged by the Committee. He also recalled the information provided by the Government representative with respect to the establishment of a free hotline service in eight languages to inform migrant workers

of their rights and obligations and to report infringements. He also emphasized the importance of the requirement of certified employment contracts between workers and employers, which specified the rights and obligations of each party and granted the right to workers to institute legal proceedings against employers considered to be in violation of contracts.

The Government member of Lebanon acknowledged the Government of Saudi Arabia's commitment to complying with Convention No. 29, reforming the *kafala* system and giving effect to the principles of Convention No. 189. In his view, the Saudi Government was doing all it could and its efforts deserved the Committee's support. There were many Lebanese migrant workers currently working in Saudi Arabia, and the only criticism his Government was aware of related to the high summer temperatures. Change needed to be progressive, otherwise it would meet with resistance and negative reactions. Furthermore, it should not be forgotten that Islamic radicalism sometimes led to heightened concerns for governments, which resulted in the adoption of harsh security measures. The Committee should not focus on a few unrepresentative cases that did not correspond to the reality on the ground.

The Government representative thanked the previous speakers for their support and constructive criticism, and said that the Government would pursue its efforts. Its aims were to continue developing and regulating the Saudi labour market, which was stable and provided numerous employment opportunities and a working environment exempt from discrimination, and to provide all workers with decent working conditions. The Government had been working with an international consultancy firm, from which it had ordered a labour market survey. This survey had taken into consideration more than 35 institutions and identified the major problems encountered by foreign workers throughout their journey from their country of origin to their country of destination, and upon their return. A number of initiatives had already been taken, such as the e-registration of labour contracts and the signing of bilateral agreements with countries of origin, which clearly set out the rights and obligations of each party. Many cooperation projects were under way with the ILO, including a labour inspection evaluation project and a project to strengthen national capacities; and a training agreement would be signed in the near future. The Government was also cooperating with the International Labour Standards Department following the recent visit of a direct contacts mission to the country. He reiterated the Government's commitment to pursuing its cooperation with the ILO to deal with the challenges ahead, while taking into account the characteristics of the national labour market.

The Employer members, while acknowledging the serious circumstances that had ultimately brought this case before the Committee, believed that sometimes incidents needed to be put into perspective. Given the high number of domestic workers in Saudi Arabia (2 million), it was not surprising to observe that occasionally terrible incidents occurred, and there were not only cases of employers treating their employees badly, but also instances in which domestic workers committed terrible crimes against their employers or their employers' families. The Committee should not become so attached to those exceptional incidents as to lose sight of the whole picture. The concerns relating to aspects of the migrant work system in Saudi Arabia had been acknowledged by the Government. Regulations had been, and were being put in place, activities were being undertaken on the ground, and bilateral relationships had been established, for instance with Indonesia and several other countries. The Government had started to tackle a very difficult problem, and it would take years to resolve it. Changing rules was easier than changing a culture and the informal but prevalent *kafala* system was a cultural phenomenon. Although aware of the difficulties encountered by the Government, the Employer members indicated that the prosecution of wrongdoers would send the right message, and the ability of migrant workers to report infringements, as well as the requirement to pay wages and grant holidays, would eventually help. All these measures would impact on practical everyday realities, thus contributing to a more open, transparent, fair and decent domestic work culture. They acknowledged that Saudi Arabia was working towards the common goal of the non-existence of forced labour. The Government should be commended for its efforts, but strongly encouraged to continue in the right direction.

The Worker members emphasized that giving work to women from the Philippines and other distant countries was not a favour bestowed upon them. It involved showing respect to these workers because they provided benefits to their employers. For many years, the migrant workers in Saudi Arabia, and especially domestic workers, had found themselves in conditions similar to slavery because of the system of sponsorship. Their passports were confiscated, they could not change their employer or leave the country without their employer's authorization, and they had no possibility of exercising their rights or of obtaining compensation for the abuse they had suffered. Furthermore, the Labour Code did not apply to them. In 2013, following the examination by the Committee of the application of Convention No. 111 by Saudi Arabia, the Government had undertaken to speed up the adoption of legal texts, in particular those pertaining to the working conditions of domestic workers. New regulations had in fact been approved on the rights and obligations of these workers and their employers. However, they only covered working conditions (duties, wages, working hours and time of rest), and did not cover the issue of sponsorship. All provisions which allowed forced labour by migrant workers should be immediately repealed. The Worker members called upon the Government to introduce a ban on forced labour into the Labour Code and to include penalties in the new regulations. They also reiterated the request they had made in 2013 for a direct contacts mission to gather information on the situation in the field and improve the application of Convention No. 29, and called for the submission of a detailed report on the application of the Convention for examination by the Committee of Experts at its next meeting.

Labour Inspection Convention, 1974 (No. 81)

BANGLADESH (ratification: 1972)

A Government representative expressed the strong belief that labour inspection was a critical instrument in ensuring better working conditions and a strong commitment to promoting labour rights, safety and welfare through an effective inspection framework. Referring to the observation of the Committee of Experts, he was pleased to inform the Committee that the Bangladesh Labour Act had been amended by the National Parliament in 2013. In the process of amendment, a wide range of comments from relevant stakeholders, including the ILO, had been consulted by the Tripartite Labour Law Review Committee. On the basis of tripartite consensus, most of the proposals had been incorporated into the amendment. The amended Act particularly focused on: (1) workers' dignity, well-being, rights and safety; (2) transparency in trade union registration and the wage payment system; and (3) promoting trade unionism and collective bargaining. Effective implementation of the amended Act would require comprehensive rules after a wide consultation involving

all relevant stakeholders. Consultations were under way with the relevant stakeholders.

With respect to the restructuring of the labour inspection system, the Government had completed, in an accelerated process, the restructuring of the Directorate of Inspection, which had become a department in mid-January 2014. The Directorate of Inspection had previously had only 314 staff members. After restructuring, the staff of the newly formed department had increased by more than threefold to 993 members. In the first phase, 679 new posts had already been approved for the department. Significantly, among these posts, 392 were exclusively for inspectors. Since May 2013, 67 inspectors had been appointed to fill the existing vacant posts complying with the existing procedures. The recruitment of additional inspectors was in progress. After restructuring, additional resources and logistics were being provided for the department. Regarding export processing zones (EPZs) and the Workers' Welfare Association and Industrial Relations Act 2010, a high-level committee was actively working to prepare a separate and comprehensive EPZ Labour Act. A preliminary draft had been prepared and consultation on the draft with the relevant stakeholders was under way. The Bangladesh Export Processing Zones Authority (BEPZA) was responsible for ensuring the rights and privileges of the workers of enterprises operating in EPZs through constant supervision and monitoring by BEPZA officials and counsellors. All members of the elected Executive Committee of the Workers Welfare Associations (WWA) were actively performing their activities as Collective Bargaining Agents (CBAs). With respect to the measures to ensure effective inspection of the construction sector under the Bangladesh National Building Code (BNBC), responsibility for the enforcement of building codes lay with different administrative authorities all over the country. Those authorities were in the process of increasing their staff and providing modern equipment to ensure enforcement of the BNBC. Regular training was provided to building inspectors, fire inspectors and factory inspectors. Regarding labour inspection visits in Bangladesh, he stated that labour inspections were essentially carried out by labour inspectors and by special inspection teams. The labour inspectors also carried out confidential inspections. In case of non-compliance, appropriate measures were taken based on the observations from inspection under the Labour Act. Regarding occupational accidents and diseases, according to the Bangladesh Labour Act, registers were maintained by the factory owners for this purpose. Awareness-raising programmes were conducted for employers and directives were given to employers on a regular basis. In the recent restructuring process, the number of posts of inspectors had been increased to ensure occupational health and safety. He particularly wished to mention that the Government had already adopted a National Occupational Health and Safety Policy in 2013 to address issues related to the health and safety of workers.

He extended his sincere thanks to the ILO and other development partners for their technical support and assistance in improving working conditions in Bangladesh. The assessment of fire and electrical safety and the structural integrity of ready-made garment (RMG) factories was being carried out with the technical assistance of the ILO and other development partners, including brands and buyers. With the assistance of the ILO, a publicly accessible database system for labour inspection related issues had been launched recently. The development of another database system on trade union issues was under way with the Department of Labour. The ILO was also providing training and logistics for inspectors. Finally, a US$24.2 million project was being implemented to improve the working conditions in the RMG sector of Bangladesh. His Government deeply appreciated the constructive engagement of the ILO and other development partners for ensuring better working conditions in Bangladesh. In the past year, Bangladesh had done its best to mobilize its systems, resources and capacities to ensure labour rights, safety and security. Bangladesh would however need more time, understanding and support from all to achieve its objective.

The Employer members noted that this case had been double footnoted by the Committee of Experts, which had requested the Government to supply full particulars to the Committee on the Application of Standards. The context of this case was important for the Employer members. The shocking loss of life in the world's second biggest clothing exporter had quite correctly forced private sector businesses around the globe to ask important questions about their supply chains and take more social and ethical responsibility. Given the context, the Employer members noted that the Bangladeshi employers, trade unions and the Government had quickly agreed on the steps that needed to be taken, including factory health and safety standards and details on how the reforms would be financed.

This was not a case in which there was a problem with cooperation with the ILO or requesting technical assistance. On 24 March 2013, the ILO had accepted a formal request to assist in the implementation and coordination of the National Tripartite Plan of Action on Fire Safety (NTPA). From 1 to 4 May 2013, a high-level ILO mission had visited Bangladesh to identify key areas for action which had resulted in the signing of a joint statement by the tripartite partners, which built on the NTPA. The Joint Statement identified key areas for action, such as strengthening labour inspection, worker and management training and awareness of occupational safety and health (OSH) and workers' rights, rehabilitation and skills training of workers with disabilities. On 13 May 2013, two global unions (IndustriALL and UNI Global) and more than 150 international brands and retailers had signed the Accord on Fire and Building Safety in Bangladesh. This was a five-year programme under which companies committed to ensuring the implementation of health and safety measures. On 8 July 2013, the European Union (EU), the Government of Bangladesh and the ILO had issued the Global Sustainability Compact to promote improved labour standards, the structural integrity of buildings and OSH, and responsible business conduct in the RMG sector and knitwear industry in Bangladesh. The Compact built upon the NTPA and assigned an important coordination and monitoring role to the ILO. On 10 July 2013, the Alliance for Bangladesh Worker Safety had launched by 26 North American retailers and brands. It was a five-year programme under which the companies committed to ensuring the implementation of health and safety measures. On 15 July 2013, the Government had adopted amendments to the Labour Act to bolster OSH. The amendments gave special attention to the requirements of Articles 1, 4 and 23 of the Convention in order to enforce labour inspection with regard to health, safety and the protection of workers in the workplace. On 25 July 2013, the NTPA had been merged with the Joint Statement to form the National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Ready-Made Garment Sector in Bangladesh. On 22 October 2013, the ILO had launched a $24 million programme aimed at making the Bangladeshi garment industry safer. The three-and-a-half year initiative focused on minimizing the threat of fire and building collapse in RMG factories and on ensuring the rights and safety of workers. On 22 November 2013, assessments of the structural integrity and fire safety of RMG factory buildings had officially commenced. On 15 January 2014, the Government of Bangla-

desh had upgraded the Chief Inspector of Factories and Establishments Office to a department, sanctioning 679 new staff positions in the Directorate, including 392 new inspectors. On 22 January 2014, training of the first batch of the newly recruited labour inspectors had started in Dhaka, focusing on capacity building.

The Employer members understood that steps had been taken to reorganize the Department of Inspection under a project, "Modernization and strengthening of the Department of Inspection for Factories and Establishments" (DIFE). Under the project, the Department had been enlarged, more inspectors had been appointed and the system of inspection improved. As required by Articles 9 and 14 of the Convention, they understood that the Government had appointed three categories of inspectors, namely medical, engineering and general. These inspectors provided technical expert services not only for the purpose of labour inspection, but also for the enforcement of legislation. The Employer members also understood that the Government had plans to work with the ILO to find ways of bringing EPZ areas under the purview of national labour law. More information in this regard would be welcomed. In supervising this case, it was necessary to consider the self-evident coordination problems that existed on the ground. The ILO had been working to achieve coordination between the National Tripartite Committee (Bangladesh University of Engineering and Technology – BUET), Accord and Alliance in order to harmonize standards and methodologies and to avoid duplication of assessments. Indeed, when considering the request by the Committee of Experts for more information, it had been noted that, at the technical meeting of 15 May 2014 organized by the ILO, technical experts from the BUET, Accord and Alliance had agreed on a format for summary reports to be used by all three initiatives for publication of the reports to be published on the website of the Inspector General. The Employer members urged the Government to provide the requested full particulars, especially with regard to the technical assistance received from the ILO to date.

The Worker members recalled the unimaginable horror of the Rana Plaza disaster, which had claimed the lives of over 1,000 garment workers. This disaster had followed the Tazreen Fashions factory fire of 2012, in which more than 100 workers had been trapped inside the factory and had died in the fire or as they leapt from the windows in an attempt to escape. These preventable tragedies provoked soul-searching in government offices and corporate boardrooms around the world, as it became obvious that the status quo could no longer be tolerated, namely a global garment production system that placed workers, mostly young women, at a high risk of serious injury or death. The victims of those tragedies and their families were still waiting for respect and compensation. Those tragedies could easily have been prevented by an effective labour inspection system. In the aftermath of the Rana Plaza disaster, innovative initiatives such as the Bangladesh Accord on Fire and Building Safety, supported by global union federations and nearly 200 global apparel brands, had meant that garment factories were being inspected by competent and independent inspectors for the first time. Some foreign governments had also contributed resources to support a variety of new initiatives, some under the auspices of the ILO, including improving factory inspections. These were welcomed. However, efforts such as the Accord only became necessary because the Government of Bangladesh had failed and continued to fail to maintain an effective system of labour inspection as required by Convention No. 81. The Government had made some progress as it had upgraded the inspection unit to a "directorate" and had authorized new inspector posts and began to fill them. However, this progress had been frustratingly slow.

With regard to capacity, Article 10 of the Convention provided that the number of labour inspectors must be sufficient to secure the effective discharge of the duties of the inspectorate. Last year, the Government of Bangladesh committed to hire 200 additional labour inspectors by 31 December 2013, with a longer term goal of 800 inspectors in total. However, the deadline had not been met to reach this goal. There were numerous vacancies in existing posts which needed to be backfilled. The Worker members understood that there was a plan to hire the remainder of the newly authorized inspectors this year. The need for additional inspectors was extremely critical and the numerous delays called into question the Government's sense of urgency, and ultimately, its commitment to setting up a proper labour inspection service. There were several additional limitations that would threaten the functioning of even a well-staffed inspectorate: (i) transportation for inspectors was extremely limited or non-existent and workers were aware that some employers were in fact paying for transportation costs, which could jeopardize the impartiality of inspections and any element of surprise; and (ii) neither the Directorate of Labour nor the Department of Inspection for Factories and Establishments had legal staff, and factories often hired experienced lawyers to fight charges, quickly overwhelming the under-resourced inspectors and investigators and causing violations not to be pursued. With respect to coordination, Article 5 of the Convention called for effective cooperation between the inspection services and other government services engaged in similar activities. Despite plans regarding building and fire safety, there appeared to remain a serious lack of coordination and cooperation among relevant government agencies and private institutions on this issue, or indeed any issues related to the matters subject to labour inspection. Officials of the labour inspectorate were supposed to collaborate with both employers' and workers' organizations. In this regard, the Worker members did not see the same dedication to collaborating with trade unions as with employers.

With respect to EPZs, Convention No. 81 should apply to all workplaces, with limited exceptions. However, the EPZs, in which over 400,000 workers worked, remained outside the purview of the Ministry of Labour. Thus, the Ministry did not carry out any inspections in the zones. Instead, BEPZA relied on roughly 60 "counsellors" which they claimed were akin to labour inspectors. However, workers had reported that these "counsellors" had not carried out inspections and at best handled grievances. Workers also found that they were not independent and were primarily concerned with protecting investors. Though the Government had promised to bring the EPZs under the Labour Act, rather than the much criticized EPZ Workers' Welfare Association and Industrial Relations Act, it had failed to do so to date. The Government must immediately work to ensure that EPZ workers were covered by the Labour Act and that the Ministry of Labour could conduct inspections in the EPZs. This was particularly important given the ban on trade unions in EPZs and would empower workers to monitor and enforce the application of the labour law. With regard to enforcement, the inspectors did not have the power to penalize violators; they only could report the case to the courts. The fines available under the Labour Act remained negligible, for example fines for obstructing a labour inspector from carrying out his or her duties had risen from 5,000 to 25,000 taka (BDT), a mere $325. Penal sanctions were available in some cases, including for obstruction of inspectors, which was now up to six months of imprisonment. Fines for labour law violations generally still remained far too low to be dissuasive. Moreover, due to

lengthy legal processes and corruption at all levels, the penalties for violations of the Labour Act were not adequately enforced. With the exception of the Rana Plaza case, the Worker members were unaware of any criminal proceedings pending for any violation of the Labour Act. The extent to which any penalties were imposed and collected was unknown, as the data was not available. The Inspection Department did not currently have any procedure to investigate complaints by workers or unions concerning violations by employers. Mandatory procedures for the Inspection Department should therefore be included in the Labour Act or proposed rules, with specific time frames. Investigations should be open and workers or unions be allowed to participate and to present evidence in support of their complaints.

Of particular concern to the Worker members was the wave of anti-union dismissals perpetrated by employers in the RMG sector which the inspectorate had failed to address. There had been much attention given to the fact that many new trade unions had been registered in the RMG sector after the Government reversed its policy of keeping the RMG sector free of independent trade unions. However, what had received less attention was the wave of dismissals. The leaders of many of these newly registered unions had suffered retribution, sometimes violent, by management or their agents. Some union leaders had been brutally beaten and hospitalized as a result. Entire executive boards had been sacked and up to now there had been no adequate response from the labour inspectorate.

With respect to transparency, Articles 20 and 21 of the Convention provided that the Government must issue public reports, at least annually, on the results of their inspection activities. However, reporting on inspection was infrequent and incomplete. In the RMG sector, where factories were being inspected by a combination of public and private initiatives, transparency on factory inspections left much to be desired. To date, the BUET, under the supervision of the National Tripartite Committee, had failed to publicly disclose any inspection reports. DIFE had established an RMG sector database which included factory names, addresses, owner names, number of workers, and the number of inspections completed. However, the database included no more substantive content, such as violations identified, fines and sanctions administered, factories closed or relocated or violations remediated. Only the private initiatives had published factory reports, and only the Accord had published them in English and Bengali. The Worker members were appalled that some factory owners were threatening lawsuits against the Accord for doing the job that the Government should be doing. Finally, with regard to health and safety, it was noted that, while the amended Labour Act provided for the creation of occupational health and safety committees, the rules and regulations had not been adopted. There was no further time for delay. While modest steps had been made, the Government of Bangladesh must act with a much greater sense of urgency and purpose than had been seen to date. Systemic reforms were necessary. If it did not commit itself to the construction of an effective labour inspection system now and take the steps to realize that commitment, labour violations of all kinds would continue. It would be only a matter of time before the next disaster claimed the lives of more Bangladeshi workers.

The Employer member of Bangladesh recalled that the focus of the 2013 amendment to the Bangladesh Labour Act, 2006, was to ensure workers' welfare and safety, industrial safety as well as transparency in trade union registration and wage payment systems. In concrete terms, following the amendments: workers no longer needed to submit to employers the lists of workers intending to form a trade union; workers were entitled to form a participation committee through direct elections; employers and workers had the possibility of referring to external expert support in collective bargaining matters at the enterprise level; employers had the possibility to opt for the payment of wages through an electronic payment system; and mandatory safety committees were introduced in enterprises with more than 50 workers. It was also expected that the amendment would improve working conditions at the enterprise level through social dialogue. In this respect, there had been over 100 per cent growth in trade union registration in the first five months of 2014. Regarding the restructuring of the labour inspection system, the Office of the Chief Inspector of Factories and Establishments had been upgraded to a Department with offices in 23 districts and 575 inspectors. The post of the Chief Inspector had been upgraded to Inspector General. A total of 39 inspectors had since been recruited and the Public Service Commission had recommended the recruitment of 25 more inspectors. In addition, after the tragedy of Rana Plaza, and in response to technical assistance requested by the Government, the social partners, global buyers and development partners in Bangladesh, the Ready-Made Garment Programme had been developed with the objective of achieving immediate results through rapid action on building and fire capacity, as well as support to survivors. Long-term results were expected through the implementation of improved legislation on working conditions. The Programme was also designed to support interventions identified by the National Tripartite Plan of Action on Fire Safety and Structural Integrity of Buildings in the Ready-Made Garment Industry, as updated in July 2013, as well as to support the commitments of the Government formulated in the Global Compact for Continuous Improvements in Labour Rights and Factory Safety in the Ready-Made Garment and Knitwear Industry, which had been signed on 23 July 2013 with the EU and the ILO. The Programme, as well as the Better Work Programme had five components: (i) building and fire safety assessment to complete a fire and building safety assessment of all RMG factories; (ii) strengthen labour inspection and support fire and building inspection, which included the improvement of legislative and policy frameworks, the improvement of the structure and processes of both services; (iii) awareness raising on OSH through training of employers' and workers' organizations, as well as multimedia and education campaigns; (iv) rehabilitation and skills training for survivors of the Rana Plaza and the Tazreen tragedies without discrimination; and (v) implementation of the Better Work Programme. Referring to the concrete actions undertaken in the implementation of each of the above components, he provided detailed information on the assessments carried out by national technical committees and review panels, whose reports were published on the Internet, and the difficulties encountered with regard to communication. In light of the action described, statements indicating that very little had been done were incorrect. However, a lot of work still needed to be done. In particular, capacity building was a complex issue that required time, resources and good coordination.

The Worker member of Bangladesh indicated that labour inspection had been neglected. DIFE and the Bangladesh Fire Service and Civil Defence had been operating with inadequate staff and logistics. Moreover, the lack of effective coordination between the concerned departments prevented efforts to ensure industrial safety and the recent disasters could have been avoided if an effective labour inspection system had been in place. However, the Government's immediate response and rehabilitation programme following these incidents was appreciated. While the Government had upgraded the Department of Inspection with additional staff, it needed to take measures

without delay to complete the process of recruiting new inspectors. Without sufficient resources, logistics and proper training, the new inspectors would not be able to perform their duties effectively. The Global Compact for Continuous Improvements in Labour Rights should also provide inspectors with logistical support. The initiatives by the ILO as well as international buyers were welcome, and the Government would be taking immediate action based on the safety risks identified. It was necessary for the Government to ensure the establishment of factory-level safety committees, with the participation of workers and factory management. The new minimum wage in the RMG sector needed effective monitoring. While the revised Labour Act no longer required workers intending to form a trade union to inform the factory owner, this required further implementation. In addition, there remained provisions in the revised Labour Act that were not in line with ILO Conventions, and the Government needed to initiate consultations for further amendments. Effective measures should also be taken to bring work performed in the informal economy under the purview of the Labour Act, in consultation with the tripartite constituents. She expressed concern regarding labour rights in EPZs. While the Government had allowed the Labour Courts and Labour Appellate Tribunal to resolve grievances in EPZs, the Labour Act was not applicable in these zones. The Government should finalize the draft EPZs labour act without delay. Moreover, the online trade union registration process, the workers' complaint hotline and the publicly accessible database should be made functional as soon as possible. In addition, the proper implementation of the Better Work Programme would assist in establishing a unique inspection modality in the RMG sector, and its implementation should be expedited. Lastly, it was essential for the Government to identify any violations of the national legislation and ensure that adequate sanctions were applied.

The Government member of Greece, speaking on behalf of the European Union (EU) and its Member States, as well as Albania, Iceland, Montenegro, Norway, Serbia, The former Yugoslav Republic of Macedonia, Turkey and Ukraine, said that the Global Compact launched by the EU, the Government of Bangladesh and the ILO in July 2013 outlined commitments mainly related to the issues discussed by the Committee, including with regard to the Convention. The progress of Bangladesh in implementing several commitments under the Compact was to be welcomed, while sustained efforts were needed to ensure its full implementation. Amendments to the Labour Act were also to be welcomed and it was now important to implement legislation to follow suit. The Government needed to continue the modernization and strengthening of DIFE by restructuring and expanding it, increasing its staff and the training for labour inspectors. The Government should be encouraged to keep the ILO informed of any further progress in relation to those issues, as well as with respect to the proposed Labour Act 2014 for EPZs. The Government needed to address the remaining shortcomings identified by the Committee of Experts regarding the labour law reform, and to continue implementing the remaining outstanding commitments under the Compact. Commitments made to support and protect trade unions were also important as they had a positive impact on the work of the labour inspectorate. It was necessary to continue to support the Government in improving labour rights and factory safety, and to meet international labour standards, in collaboration with all stakeholders involved in the supply chain, including initiatives of global buyers. The decisive efforts of the Office to bring together the various relevant stakeholders to promote labour rights and safe workplaces should be welcomed and the Government was encouraged to avail itself of ILO technical assistance.

The Worker member of Canada referred to the campaign of the Canadian Labour Congress to push Canadian companies to join the Bangladesh Accord on Fire and Building Safety. He considered that a robust national inspection system was essential to prevent events like Rana Plaza. However, according to the statement from a trade unionist from the Bangladesh Free Trade Union Congress (BFTUC), limited progress had been achieved in labour legislation since the Rana Plaza tragedy. There was a wide gap between the promises made by the Government and the reality on the ground, in particular with respect to labour inspections. Although promises had been made concerning the appointment of 200 new inspectors, only 50 posts had already been filled. Besides, even if promises were fulfilled, the additional 200 inspectors would not be enough to cover adequately the high number of existing factories and the wide range of safety and health issues. It was urgent to increase the labour inspectorate's human, material and financial capacity and to improve labour inspection reporting. Moreover, labour inspectors should be able to perform their work free from any pressure from employers. The labour inspectorate should also take adequate measures to compile independent data, evaluate its activities, address violations and prevent further deaths and injuries. He emphasized that in order to fully address the existing problems, it was essential for the workforce to be adequately informed, for trade unions to participate in capacity building and for labour inspectors to guide workers and employers in the implementation of the Convention. Furthermore, the recent establishment of the Tripartite National Health and Safety Council, as well as health and safety committees in factories, should help to inform workers and allow them to participate actively in the construction of a strong labour inspectorate. Workers and inspectors who reported violations should also be ensured adequate protection. The Government should give the highest priority to workers' safety and health, which would enable the ILO to provide adequate technical assistance.

The Government member of Switzerland stated that his country endorsed the statement made by the EU, with the exception of the specific reference to the Compact between the EU, the ILO and Bangladesh. Switzerland supported the ILO's action in Bangladesh, in particular its work under the Better Work Programme, and encouraged the Government to continue working towards strengthening labour inspection, OSH and the effective implementation of legislation with the support of all the partners to improve working conditions, particularly in the garment sector.

The Government member of the United States observed that the Rana Plaza disaster, which had occurred in April 2013, had highlighted the human costs of poor safety and unacceptable working conditions in Bangladesh's RMG sector. In this respect, the Committee had stressed in 2013 that a climate of full respect for freedom of association could make a significant contribution towards the effective protection of workers' safety. Indeed, at the Committee's request, the Director-General of the ILO had submitted a detailed report to the Governing Body on the situation of trade union rights in Bangladesh which the Governing Body had discussed at its March 2014 session. The Committee was now considering the critical role of high-quality labour inspection in ensuring the effective implementation and enforcement of labour laws in making all workplaces safer in Bangladesh. To that end, a core element of the engagement of her Government and of the ILO with the Government of Bangladesh had been on the specific steps needed to strengthen the labour inspection system. She added that her Government had also provided funds to support workers' ability to advocate for their rights and safety. She underlined the long-standing and

serious concerns of the United States with respect to workers' rights and working conditions in Bangladesh. To this effect and within the framework of the June 2013 Action Plan for the reinstatement of the Generalized System of Preferences (GSP) benefits and the July 2013 Global Compact for Continuous Improvements in Labour Rights between the EU, the ILO and the Government of Bangladesh, with which the United States was associated, her Government was engaged in ongoing dialogue with the Government of Bangladesh. In the discussions, which were focused on the RMG sector and EPZs, emphasis was put on the need to increase the number of labour inspectors, the improvement of the training of the inspectors, the establishment of clear procedures for independent and credible inspections, the increase of the resources at the disposal of inspectors to conduct effective inspections and the transparent publication online of inspection results. Furthermore, her Government had provided resources to the ILO technical assistance activities aiming to strengthen the labour inspection system in Bangladesh and supported programmes on workers' awareness raising and training to improve their ability to organize and hence to provide input into safety and inspection processes. While acknowledging the Government's commitment to improving compliance with international labour standards and welcoming the significant increase in the Government's budget for labour law enforcement and its continued recruitment of additional inspectors, she considered that more action needed to be taken to ensure that the newly recruited inspectors received training, resources and full support from senior government officials. To this effect, it was also important that the private sector fulfilled its critical responsibility. In conclusion, the Government needed to continue to work with the ILO in the implementation of its commitments to comply with its obligations under the Convention, as well as to implement the reforms to the Labour Act. Moreover, it was also important to extend the authority of the Ministry of Labour and Employment to EPZs in order to secure improvements with regard to workers' safety and the respect for their labour rights, particularly in the RMG sector.

The Worker member of Germany emphasized the importance of the implementation of the Convention by the Government. Despite initial progress, there was still an urgent need for action, and international enterprises, consumers and governments had to assume their responsibility. Many German enterprises produced in Bangladesh and had benefited from an underpaid labour force and poor working conditions. German enterprises producing in Bangladesh should be reminded of their corporate responsibility. Referring to the transparency requirement for carrying out labour inspections, he emphasized that labour inspections were not to be carried out for their own sake and that it was important that the results of the inspections were published and followed by appropriate steps, which was currently not the case in Bangladesh. Information and statistics had to be published with regard to the inspectors, the number of workers and enterprises, the inspections carried out, the violations reported and the sanctions imposed, and the number of accidents and occupational diseases. Finally, the transparency requirement was also important in the context of corruption as inspectors were accused of being open to bribery. Turning to the responsibility for labour inspections, he stated that the Convention clearly put the responsibility on the Government. While welcoming complementary inspections carried out in the framework of the Bangladesh Accord on Fire and Building Safety by actors other than the Government, it was important for the Government to fulfil its obligation to carry out inspections and not to shift its responsibility for carrying out inspections on a permanent basis. Finally, he considered that the Government should involve trade unions in its actions, as strong trade unions could make a significant contribution to effective and successful labour inspections and to preventing accidents in the workplace.

The Government member of Cuba expressed her appreciation for the information provided by the Government regarding the adoption of additional legislative provisions to enhance the protection of workers in the workplace and the improved efficiency of the labour inspection system, including by increasing the number of labour inspectors and inspections. The acceptance of ILO technical assistance and the express wish to work with the ILO, other international organizations and other countries to improve OSH demonstrated the Government's will to prevent a repetition of serious accidents like those which had occurred in the past. She called for technical assistance to be continued, in particular to improve data management systems and training of labour inspectors.

The Government member of Sri Lanka stressed the importance of labour inspection to improve working conditions. With a view to strengthening labour inspection, the Government had to amend the labour legislation, restructure the labour inspection system and reinforce its human resources, enact separate legislation on EPZs, effectively implement the National Building Code and raise employers' awareness on OSH issues. The Government had already taken certain measures in those respects with ILO technical assistance and needed to pursue its efforts in the future.

The Worker member of Japan, reiterating the important relationship between safe workplaces and respect for workers' rights, recalled that the disasters of Rana Plaza and Tazreen demonstrated the vulnerability of those workers without the protection of strong unions. Some progress had been made in the country, including factory inspections under the Bangladesh Accord on Fire and Building Safety, but more needed to be done. Many new unions had been registered in the garment industry, but the Government was failing in its duty to protect the right of freedom of association and collective bargaining through efficient labour inspection. Therefore, many employers were refusing to sit at the bargaining table to negotiate with registered trade unions. Moreover, the minor improvements to the labour legislation had fallen well short of international standards. Hundreds of thousands of workers, the majority of whom were women, were still prohibited from establishing trade unions. For example, workers in a factory seeking to register their union in February 2014, had faced a strong anti-union campaign by the management. These workers, including trade union leaders, had been subject to intimidation and physical assault. He concluded by emphasizing that, without the protection of workers' rights, there would be no guarantee of a safer workplace.

The Government member of Canada indicated that as a result of the tragedies which had occurred in late 2012 and early 2013, many efforts had been made in the area of labour inspection. Canada remained concerned at the dangerous working conditions in the garment sector, and expected that trading partners would ensure safe working conditions consistent with international standards. He noted the adoption of additional legislative provisions related to OSH, as well as the different initiatives undertaken, many of which were coordinated by the ILO. The Government was encouraged to continue to implement its National Tripartite Action Plan in a timely manner. While welcoming the recruitment and appropriate training of additional labour inspectors, he encouraged the Government to increase its efforts in this regard. Canada was committed to working with all stakeholders and was pleased to be one of the three principal supporters of "improving working conditions in the Bangladesh RMG sector", an ILO project which stood ready to provide tech-

nical assistance and comprehensive training for labour inspectors. A skilled, competent and productive cadre of labour inspectors was essential for the Government to fulfil its regulatory role in an efficient and credible manner. The Government should collaborate with the social partners and the ILO for the effective implementation of the Convention by providing adequate protection for workers through safer workplaces as well as relevant statistical data on labour inspection activities.

The Government member of China noted that the Government of Bangladesh had revised the Labour Act and was developing a labour law to cover EPZs, in consultation with the relevant parties. The Government had adopted a national OSH policy, and was working to improve labour inspection in the construction sector. The labour inspectorate had been restructured and the number of labour inspectors had been increased. The Government was collaborating with the ILO to improve working conditions and labour inspection. This cooperation should be recognized, and it could be further improved in the future.

The Worker member of the United States, also speaking on behalf of the Worker members of France and Italy, said that Bangladesh suffered from a governance gap with regard to labour inspections, as the Government had failed to exercise political will, develop technical capacity and dedicate the necessary resources. Article 6 of the Convention provided that labour inspection was a state obligation, and nascent efforts to create such a labour inspectorate should be supported. This would take time to build, especially if labour inspections were not prioritized. While a force of 3,000 "industrial police" had been established in 2010 to investigate security and maintain law and order in industrial zones, there had not been a similar investment in labour inspection. Multinational brands and retailers had knowingly chosen to extend their supply chains into places where inexpensive labour, weak regulation and few workplace-based unions were central to the business model. In this regard, the United Nations Guiding Principles on Business and Human Rights provided that corporate responsibility to respect human rights existed independently of a State's ability or willingness to fulfil its own human rights obligations. Labour inspection was the duty of the State, but where it did not fulfil that role, corporations and others might temporarily fill that governance gap. In Bangladesh, such monitoring was primarily carried out by private, voluntary, confidential and non-binding systems with little state presence, and the country had experienced workplace disasters resulting in the deaths of hundreds of workers. The multi-stakeholder initiatives being implemented would help in a transition towards a governmental labour inspection system that was tripartite, mandatory and binding, instead of unilateral, voluntary and unenforceable. Such private and voluntary inspection schemes weakened efforts to build a culture of mandatory government inspection and compliance. However, the Bangladesh Accord on Fire and Building Safety was an initiative that was moving in the right direction. It included workers, unions and employers and it held both brands and local suppliers throughout the supply chain financially responsible for conditions and remedies. Moreover, the arbitration process of the initiative meant that corporations at the top of the supply chain could be held accountable. Until the country enforced its national legislation, the Accord represented a rigorous, transparent inspection and enforcement mechanism to remedy violations. Corporate due diligence had a place in facilitating labour inspection, and broader representation by unions at the local, national and global levels should also guarantee that inspections included workers at all stages to address the root causes of workplace violations. Nonetheless, the Government needed to claim leadership of the regulatory system. It could not outsource regulatory functions to corporations and others indefinitely.

The Government member of India noted with satisfaction the 2013 amendments to the Labour Act of 2006, which focused on workers' dignity, well-being, rights and safety, as well as the wage payment system, and on transparency in trade union registration, thereby promoting trade unionism and collective bargaining. Her Government also welcomed the upgrading of the Bangladesh Labour Inspectorate, which constituted a milestone in addressing working conditions and workers' rights and safety. She valued the role of the ILO in providing extensive assistance to the Government of Bangladesh, and to employers' and workers' organizations in addressing issues related to workers' rights and safety. She underlined the obligation of all member States to respect workers' rights and to create a climate of trust for carrying out constructive consultations on these matters. She recalled that it was a privilege of member States to formulate and promulgate policies on these subjects which were implemented with technical assistance provided by the ILO. In conclusion, her Government supported the actions taken by the Government of Bangladesh to ensure better rights for workers and welcomed any tripartite agreement in this regard.

The Worker member of Pakistan indicated that although it had been revised in 2006, the national labour legislation remained largely based on outdated legislation dating from the period of British India. The implementation of the current legislation therefore needed to be assessed with respect to the health centres, the safety committees and the inspections undertaken and sanctions imposed by the labour inspectorate. It also contained numerous gaps, especially regarding the impossibility of forming unions in EPZs, as these had been replaced by ineffective Workers' Welfare Associations, which was unacceptable. The Government should therefore not be exclusively concerned about foreign investment in the country, but should undertake comprehensive reforms so as to ensure the compliance of its legislation with international labour standards, so that EPZs were not beyond the scope of labour legislation, but effectively contributed to the economic development of the country in compliance with workers' fundamental rights, and not to the enrichment of a minority who took the opportunity to pay reduced wages to EPZ workers.

The Government member of the Islamic Republic of Iran welcomed the progress achieved with regard to the restructuring of the labour inspection system, as well as the recruitment of new labour inspectors to increase the quantity and the quality of labour inspections. He also welcomed the adoption of a policy on OSH. He finally supported the measures to be taken to further improve the labour inspection system. In this regard, the continued technical assistance of the ILO was important.

The Government representative indicated that due note had been taken of the discussion, and reiterated a commitment to extending the inspection architecture of the country. Following the tragic Rana Plaza incident, various steps had been taken to address the remaining challenges, and steps would continue to be taken to meet the commitments made to the international community. This included the implementation of the Global Compact for continuous improvements in labour rights. The components of this programme consisted of: undertaking building and fire safety assessments; strengthening labour inspection and supporting fire and building inspection; building OSH awareness, capacity and systems; providing rehabilitation and skills training for victims of accidents; and implementing the Better Work Programme in Bangladesh. The Office of the Chief Inspector of Factories and Establishments had been upgraded to a Department, and

the post of labour inspector had been classified as a Class 1 gazetted post. The recruitment for these positions was the responsibility of a public service commission, which was working very seriously on filling the vacant posts for inspectors. With the technical assistance of the ILO, basic training had been provided to the newly recruited inspectors. Moreover, the Government was organizing on a regular basis a four-week training course under the Department of Labour, and 143 tripartite training courses had been conducted. Labour inspectors had also received training on joint problem-solving techniques, compliance with fire safety and OSH standards, and the prevention of occupational diseases. Twenty-three special inspection teams had been formed to ensure safe working conditions in factories, and a publicly accessible database had been established. Through effective social dialogue, at both the national and international levels, efforts to improve working conditions for workers in Bangladesh would continue. In conclusion, he expressed appreciation of the constructive engagement of the ILO and development partners with regard to awareness raising, capacity building and the improvement of working conditions.

The Worker members indicated that there remained serious concerns with regard to labour inspection and the enforcement of labour law in Bangladesh. Workers still had little confidence that their rights at work would be fully respected and that an effective, independent labour inspectorate would work to effectively remedy violations of these rights. Bangladesh now received substantial donor funds and benefited from technical assistance programmes, and it appeared that one of the biggest obstacles to progress remained the lack of political will to address fundamental issues, as evidenced by the failure of the Government to address most of the points of the EU Sustainability Compact or the United States roadmap. In light of the numerous problems still remaining with regard to labour inspection and of the overall environment in which workers' rights were violated with impunity, the Worker members called on the ILO to urge the Government to meet its short-term target immediately of 200 additional inspectors and to hire and train a labour inspection force of sufficient size in relation to the workforce. The ILO should also urge the Government to: amend immediately the law governing EPZs and provide any additional technical assistance if necessary; to amend immediately the Bangladesh Labour Act in conformity with the Convention, including enhancing the enforcement powers of inspectors and increasing fines for violations; issue the regulations giving effect to the 2013 amendments to the Labour Act; and ensure that inspectors had the resources necessary to carry out their work effectively. The Worker members also asked the ILO to provide technical assistance to improve the functioning of the judiciary, so that alleged labour law violations could be addressed fairly and quickly, and to send a direct contacts mission, undertaken in time to report to the Committee of Experts in 2014, to verify that the issues raised by the Worker members and the Committee of Experts were fully addressed.

The Employer members observed that the rich discussion showed that this was an important and serious case. The discussion had emphasized the importance of labour inspection, and particularly the need to improve the capacity of labour inspection services, as well as the importance of reporting. The case was of great significance for private sector supply chains in the RMG sector. It was important to note that much progress had been made, although much remained to be done. The Employer members emphasized that the establishment of a high-level committee to develop legislation for EPZs should be a priority and that the Government should avail itself of ILO technical assistance for this purpose. They noted that the staff of the labour inspection services had been increased with the appointment of additional inspectors. However, in view of the measures that were still needed, they urged the Government to continue availing itself of ILO technical assistance, and called on the Office to provide such assistance. It was also important to acknowledge that the Government had had to ask for more time, which was perfectly understandable in the context. The Employer members acknowledge that the Government was moving in the right direction with outside help. They urged the Government to continue to request technical and financial assistance to address the many capacity and political issues to improve the application of the Convention.

Conclusions

The Committee noted the oral information provided by the Government representative and the discussion that followed concerning the need to strengthen the labour inspection system, particularly taking into account recent serious events, such as the Rana Plaza building collapse.

The Committee observed that the outstanding issues in this case concerned: the strengthening of the human capital and resources available to the labour inspectorate, including transport facilities; sufficiently dissuasive sanctions and effective enforcement mechanisms; the adoption of regulations implementing the revised Labour Act; the protection of workers in export processing zones (EPZs); the promulgation of additional amendments to the Labour Act; and the publication and communication to the ILO of an annual labour inspection report.

The Committee noted the information provided by the Government on the progress made with respect to the strengthening and restructuring of the labour inspection system, including the approval of 392 additional labour inspection posts, the recruitment of 67 additional labour inspectors, and the conduct of a number of training activities. It also noted the Government's reference to amendments to the Labour Act in 2013, following ILO technical assistance and tripartite consultation. The Government indicated that the regulations for implementing these amendments were currently being discussed and would soon be issued. The Committee further noted the Government's indications that a separate and comprehensive Labour Act for EPZs was currently under preparation. Furthermore, a publicly accessible database for labour inspection had recently been launched with ILO assistance.

The Committee noted the reference to the various activities and programmes being undertaken by the Government and the social partners with ILO support, as well as those being implemented with other actors, such as: a major ILO initiative (including a Better Work Programme) aimed at improving working conditions in the ready-made garment (RMG) sector; the European Union Global Sustainability Compact for Continuous Improvements in Labour Rights; the National Tripartite Plan of Action on Fire Safety and Structural Integrity; the National Technical Committee; the Accord on Fire and Building Safety; and the Alliance for Bangladesh Worker Safety.

The Committee observed that while progress had been made, much remained to be done to strengthen the implementation mechanisms for ensuring the protection of workers. It urged the Government to recruit and train, without delay, a sufficient number of labour inspectors in relation to the workforce in the country, and to proceed without further delay to the recruitment of the 200 labour inspectors as the Government had undertaken to do in 2013. It also requested the Government to: provide for necessary resources for labour inspection; bring national legislation into compliance with the requirements of the Convention, in particular with regard to labour inspection powers and dissuasive sanctions for labour law violations; and improve the relevant enforcement mechanisms.

It expressed the firm hope that the regulations implementing the Labour Act would soon be issued so as to give effect to the amendments to the Act. The Government should prioritize the amendments to the legislation governing EPZs, so as to bring the EPZs within the purview of the labour inspectorate. The Committee also emphasized the need to coordinate with ILO support the various activities and programmes undertaken by the Government, the social partners, and those being implemented with other actors.

Highlighting the need for the availability of comprehensive inspection data, the Committee requested the Government to continue its efforts to collect such data, and to ensure that annual reports on the work of labour inspection services were published and regularly communicated to the ILO. These reports should include information on all the items listed in Article 21 of the Convention, in particular on workplaces liable to inspection, the number of workers employed therein, statistics on inspection visits, industrial accidents and diseases, violations recorded and penalties imposed.

The Committee urged the Government to continue to avail itself of ILO technical assistance for the purpose of implementing the above measures and expressed the hope that this assistance would strengthen the labour inspection system and enable the Government to give full effect to the Convention in the near future. In addition, it called on the Government to take urgent measures to ensure the effective implementation, in law and in practice, of labour inspection, with emphasis on EPZs. In this regard, the Committee invited the Government to accept a direct contacts mission that should report in time for the next meeting of the Committee of Experts. The Committee further requested the Government to report to the Committee of Experts at its next meeting on the measures taken to comply with the Convention.

COLOMBIA (ratification: 1967)

The Government provided the following written information.

The Government notes the Committee's request to guarantee the protection of workers against possible reprisals by employers. It issued Resolution No. 1867 on 13 May 2014 guaranteeing the confidentiality of all complaints. The public service would need to take steps to guarantee that confidentiality. The Committee also questioned a section of Act No. 1610 of 2013 to the effect that certain isolated areas, for example in the mining and petroleum sector, can only be reached by using transport made available by the company or trade union. Although the Act is designed for the labour inspectors' safety, it was only invoked on rare occasions and commonly agreed between the employers and workers. The Government believes that appropriate regulations under the Act can respond to this concern. An appropriate decree has therefore been drafted that is still under discussion; it can be found on the Ministry of Labour's website. The new decree would allow state enterprises to enter into inter institutional agreements to facilitate the transport of labour inspectors and ensure that they did not have to rely on either employers or workers. If such regulations prove inadequate, the Government is prepared to take additional steps, such as appealing against the Act before the Constitutional Court or submitting a Bill to repeal it. With regard to the preventive approach to labour inspection, and the powers of inspectors in relation to occupational safety and health, Resolution No. 2143 of 2014 was issued under Act No. 1610 of 2013 setting out the kind of guidance, advice and assistance that labour inspectors can give; specific groups of inspectors were assigned to each function. The Committee requested the Government to adopt measures to empower inspectors to deal with occupational safety and health issues, particularly in the event of imminent danger, and to ensure that they were notified of industrial accidents and cases of occupational disease. Although such powers are expressly set out in Act No. 1562 of 2012 and Act No. 1610 of 2013, they have now been specifically included among the general functions of the territorial directorates and in the mandate of labour inspectors in the abovementioned resolution.

With reference to the impact of the ILO's technical cooperation project on international labour standards in Colombia, labour inspectors have been trained and technical manuals and instruments have been developed for them. An April 2014 ILO report on the project noted that, in just six months, between 89 and 91 per cent of labour inspectors had learned to use the tools and knowledge acquired thanks to this technical cooperation. The training of inspectors and affiliated professionals has had a qualitative impact in several areas: it has improved the way inspectors examine the cases, and this has gradually given them more confidence and increased their credibility based on the quality of their work and their decisions; the criteria used in investigating cases and imposing penalties have been harmonized; social dialogue forums have been established for producers' and workers' organizations together with the Ministry; there have been marked improvements for beneficiaries in the design and implementation of activities, such as the conduct of preventive visits and the signing of compliance and improvement agreements; inspectors have been provided with tools for identifying forms of labour intermediation prohibited by law, so as to promote formalization agreements; instruments have been adopted for identifying anti-freedom of association practices. This has allowed inspectors to conduct their administrative investigations much more forcefully and, where appropriate, to initiate penal proceedings. Regarding the project's impact on the prosecution of infringements and the effective application of penalties, the following points should be noted: improved knowledge of investigating illegal practices and imposing the respective penalties, including the appropriate level of penalties; labour formalization is encouraged by the deterrent effect of the penalties on enterprises; inspections are carried out in high-risk enterprises; decisions are based on the correct application of legal provisions and labour inspection is more efficient, and this has a corresponding positive social impact.

In terms of improving labour inspection, the following rules and regulations have been introduced: Resolution No. 1021 of 2014 updating the instruction manual for labour inspectors; Resolution No. 2143 of 2014 setting out the mandate of territorial directorates, special offices and labour inspectorates; Resolution No. 2123 of 2013 on penalties adopted by the National Apprenticeship Service (SENA). The resolution provides for the payment of fines irrespective of any appeal that may be lodged with the administrative disputes body and establishes a committee to strengthen the procedure for the collection of fines; Act No. 1610 of 2013 setting out labour inspection rules and regulations and promoting formalization agreements; Act No. 1562 of 2012 on occupational hazards and on occupational safety and health; Act No. 1437 of 2011 (in force since July 2013) containing a new Administrative Disputes and Procedure Code. The Code redefines the various stages of the procedure and reduces the deadline for handing down decisions from three or four years to under nine months; the Ministry of Labour has submitted a Bill to Congress aimed at reducing the workload of the Labour Appeals Chamber of the Supreme Court of Justice; the Standing Committee on the Negotiation of Wages and Labour Policies has set up a tripartite subcommittee to examine the rules and regulations set out in Act No. 1610 with a view to the effective implementation of the three aspects of labour inspection; prevention, penalties and services to citizens. At the institutional level a Special

Investigations Unit has been established in the Territorial Inspection, Monitoring and Management Directorate to speed up inspection and monitoring. So far the Unit has dealt with 98 cases (conciliation, administrative investigation, submission of evidence), 47 of which have been resolved. There is a clearly defined formalization programme that has so far brought 18,000 workers into the formal sector; progress is continuing on the design of standard formalization programmes, by sector, in which representatives of the ILO are systematically involved.

In 2013 and up to April 2014 some 1,759 labour administration inspections were carried out in enterprises, cooperatives and pre-cooperatives, temporary service enterprises, simplified economy companies, high-risk enterprises and occupational hazard and occupational invalidity assessment boards. Over the same period 1,782 penalties were imposed and fines collected to a total value of 58,139,772,821 pesos (approximately US$30.6 million). Prevention activities included 4,130 instances of preventive assistance and 1,275 upgrading agreements in commerce, mining, transport, hotels and restaurants and manufacturing. Some 568 public awareness campaigns were organized, along with 609 training courses and 1,693 preventive inspection visits. The Ministry of Labour's integrated information system (iMTegra) is currently being developed. It comprises seven subsystems, in which labour inspection has priority. A total of 900 tablets have been purchased for labour inspectors with applications to assist them in their fieldwork. The system will function online by means of an information web page on the Ministry's website. The system should be up and running by October 2014 after which the Government will be able to provide the ILO with an annual report containing the statistics and information called for under subparagraphs (a)–(g) of Article 21 of the Convention. Some 29,000,000,000 pesos (approximately $15 million) have been invested in upgrading, financing and modernizing the labour inspectorate's physical infrastructure. Regarding the use of penalties Act No. 1453 of 2011 increased the fines for infringing the right to freedom of association and introduced fines for concluding collective agreements which, overall, offer non-unionized workers better conditions. Decree No. 2025 of 2011 contains rules and regulations aimed at promoting formalization and combating associated labour cooperatives and increased fines to enforce compliance. Act No. 1610 of 2013 raised the level of fines from the previous 1 to 100 minimum wage equivalents to 1 to 5,000 minimum wage equivalents, irrespective of any other penalties that may be imposed and, if appropriate, in addition to further penalties for repeat offences and refusal to comply.

The number of labour inspectors was increased from 424 in 2012 to 904 in 2014 and constitutes a global workforce that can be assigned to units as required. Some 684 new labour inspectors have been recruited in the country as a whole. All in all, 633 labour inspectors specialize in legal matters and 271 in medicine, engineering, company administration and economics, and the Government expects all of them to be operational by the end of 2014, thus meeting the goal that was set for 2010–14. Colombia's labour inspectorate covers 8,475,437 workers; since the number of inspectors was raised to 904, the ratio of inspectors to the working population has risen from 5 to 10.66. Until they become permanent civil servants, labour inspectors have a temporary status, though this does not modify their situation in terms of job stability. The Constitutional Court has determined that such temporary officials are entitled to a degree of protection; i.e., they cannot be dismissed other than for disciplinary reasons, for failure to carry out their functions properly, for reasons directly related to the service or when another person has been awarded the post following a competition (Ruling T-007 of 2008). Regarding the establishments that are subject to labour inspection and the number of workers employed, 613,614 employers are registered under the occupational hazards system, which covers 8,475,437 workers from all economic sectors (including 600,000 independent workers).

In addition, before the Committee, **a Government representative** explained the replies to the comments of the Committee of Experts were intended to indicate the progress that had been made in the area of labour inspection, rather than to justify non-compliance. The results of the ILO project entitled "Promoting compliance with international labour standards in Colombia", which sought to strengthen institutional capacities in labour inspection and stimulate social dialogue, and which was due to end in 2016, were satisfactory. The observations of the Committee of Experts did not refer to non-compliance, but contained requests for information. With the support of the ILO, the Government was making progress in the area of inspection and consequently there was no reason why the country should be included in the list of countries invited to supply information on specific Conventions, usually in connection with non-compliance.

The Worker members recalled that the Committee had already examined the case of Colombia on several occasions, most recently in 2009, and since then any hope of an improvement in trade union rights had been disappointed. The weakness of the labour inspectorate aggravated this situation. In its observation, the Committee of Experts requested information on the results of a technical cooperation project and the practice of "preventive" visits, which the trade unions criticized as being inefficient. The observation dealt mainly with the underlying challenges facing the inspectorate, starting with the shortage of staff. Disregarding the confusion in the figures given, even an assumed workforce of 900 inspectors would still fall short of the country's needs. The information on the inspectors' status and functions was also contradictory. It was reported that 85 per cent of them were temporary staff, and not officials who could not just receive complaints but also take the initiative to investigate or impose sanctions. Another weakness related to the means of operation. Inspectors did not seem to have access to official vehicles for access to all workplaces. Finally, the legal framework of labour inspection was inadequate, especially from the perspective of confidentiality regarding the source of complaints, as required by the Convention. Additional problems included voluntary transactions without consulting the workers, and the failure to collect the fines provided for by law. By and large, the way the labour inspectorate operated seemed designed to maximize quantity rather than quality, which would explain why the results were so poor. There was no public report on the activities of the inspectorate, and the social partners were not associated with the design and implementation of labour inspection strategies.

The Employer members thanked the Government for its submissions in the present case. At the outset, the Government had indicated its willingness to cooperate with the Office, to organize special training workshops on issues related to labour inspection and to ensure compliance with the Convention. The Committee of Experts had noted in its observation a number of positive developments, such as reports from the Government concerning new handbooks and teaching materials regarding the graduation of penalties, the administrative sanction procedure, administrative sanctions concerning the improper use of labour mediation and other infringements of the rights of workers. The observation noted that special training programmes had been implemented for labour inspection and that standards had been updated and an analysis of labour risks conducted. The most recent observation noted with

interest that the Minister of Labour, in cooperation with the Office, had organized special training workshops on a number of international labour standards. The Employer members welcomed the information provided by the Government, both before the Committee and in its written submissions, which addressed a number of issues that the Worker members had raised including issues concerning the confidentiality of complaints, transport facilities for labour inspectors and technical manuals. It had also provided updates on the impact of the Office's technical cooperation programme on international labour standards, including: its impact on infringements and effective application of penalties; the steps taken over the previous year to improve labour inspection; and new rules and regulations. The Government had also provided information on the number of labour inspectors, the number of labour inspections undertaken, as well as on the Minister of Labour's integrated information system, which was currently being developed. The Government had made progress and should be urged to continue its efforts to ensure compliance with the Convention in law and in practice. The Employer members encouraged the Government to continue accepting the Office's assistance in that regard and to continue providing reports to the Committee of Experts so that it could assess the positive progress in the case.

A Worker member of Colombia said that even though progress had been made, the country was still some way from having a labour inspection system that guaranteed due respect for workers' rights. Labour inspection was a key instrument for decent work. It was essential to ensure the suitability, independence and transparency of labour inspectors, while providing them with proper remuneration and the necessary facilities for the performance of their duties. Preventive inspections should target workplaces where the most violations were presumed to exist, whether those concerned freedom of association or other workers' rights. In addition, the number of inspectors should be increased to ensure better coverage of the country, taking into account gender equality, variations in occupational profile and experience in specific matters, such as occupational safety and health or labour issues. Taking account of precarious employment, job placement, anti-union action and violations of the ILO's recommendations, the Government should establish a better labour inspection system in full consultation with the social partners. Labour inspection should contribute towards preventing disputes. The recommendations of the 2012 high-level mission in the country should be taken into consideration.

Another Worker member of Colombia said that there were 685 labour inspectors in the country, 85 per cent of whom were on temporary appointments, with no job stability or performance rewards. The number of labour inspectors was low and their pay was very low. They received half the salary of labour judges and had no facilities for performing their duties. Moreover, such facilities were provided by enterprises, which affected inspectors' independence. Furthermore, penalties had no deterrent effect since fines were derisory and were often not paid. The labour inspectorate did not examine the most serious violations of labour legislation, as some 6 million people were in illegal employment and 8 million were self-employed. Workers' rights were being undermined as a result of subcontracting, cooperatives, foundations, temporary work agencies and trade union contracts, but the labour inspectorate took no action on such matters. Nor did the labour inspectorate investigate the situation of those employed in dock work, horticulture, palm oil production and mining. It did not ensure the protection of freedom of association or penalize the refusal of companies to engage in collective bargaining or their intentions to sign collective accords that affected workers' organizations. Nor was action taken to penalize acts of anti-union discrimination. Moreover, the labour inspectorate had been used to undermine the exercise of the right to strike. In conclusion, he deplored the fact that complaints were not confidential, and that the Government had not ratified Part II of the Convention on labour inspection in commerce, which left more than 5 million workers without protection.

Another Worker member of Colombia indicated that in 2003 the Ministry of Labour had been closed by the previous Government, which transferred its functions to another Ministry, which had seriously undermined the labour inspectorate and rendered it practically inoperative. Henceforth, the Confederation of Workers of Colombia (CTC) and other trade unions had protested and a campaign had been started to re-establish that important public institution. That goal had been achieved with the change in Government. In February 2011, the Ministry of Labour had been re-established and plans had been developed to restore the labour inspectorate. Although it had been announced that there would be a significant increase in the number of labour inspectors and that other measures would be taken to provide inspection staff with the necessary means to carry out their functions, labour inspectors were recruited in an irregular manner, were not sufficiently remunerated and were not adequately equipped to perform their work independently and effectively. In addition, different tasks were assigned to them, which detracted from their essential functions. The Government should therefore adopt measures to overcome the obstacles which limited inspection, particularly with regard to: ensuring payment of the minimum wage; mechanisms to ensure respect of the right of association; monitoring observance of the right to collective bargaining in the private and public sectors; preventive monitoring of occupational safety and health conditions, with priority on mining, agricultural, transport, trade and services sectors; effective supervision of labour subcontracting in the private and public sectors; and the effectiveness of sanctions imposed on employers who contravened regulations. Labour inspection was a key function of the Ministry of Labour and its development should therefore correspond with the essential needs in employment relations, thereby giving effect to the recommendations of the Committee of Experts and the present Committee.

The Employer member of Colombia referred to the 2006 Tripartite Agreement on Freedom of Association and Democracy, which the ILO high-level mission had endorsed in 2011, and the 2011 United States-Colombia Labour Action Plan, with particular emphasis on the strengthening of the Ministry of Labour and the labour inspectorate. Administrative and budget arrangements had been made in 2014 to create an additional 480 posts for labour inspectors, who had already been recruited. A total of 683 inspectors throughout the country were receiving training in the 35 territorial directorates. A hundred inspectors were assigned exclusively to inspecting and monitoring priority sectors (palm oil, sugar, mining, ports and flower production). According to official figures, 394 administrative investigations had been conducted in 2013 and 233 cases had been referred to the Office of the Public Prosecutor. As a result of a successful campaign against illegal associated labour cooperatives, their number had decreased from 4,307 in 2010 to 2,895 in 2012, with the elimination of 84 in the sugar sector alone. The Ministry of Labour had successfully launched a campaign to promote labour rights and increase public awareness of freedom of association, gender equality, child labour, etc. The Occupational Guidance and Assistance Centre (COLABORA) had acquired new technological tools, such as virtual inspectors, the "línea 120" helpline, a service to guide people through the country's main social

networks. There were also a number of training programmes for labour inspectors undertaken with ILO support. With regard to preventive inspections, the concept had been submitted to the Standing Committee for Dialogue on Wage and Labour Policies, which was a tripartite body. The objective of such inspections was prevention and the improvement of working conditions, and they focused on the formal sector and did not need any prior authorization from employers. Preventive inspections had been stepped up, in particular in relation to associated labour cooperatives, temporary placement agencies, employment agencies, priority sectors and enterprises that employed workers covered by trade union contracts and accords. He concluded by calling on the Committee to take note of the progress made in Colombia with ILO technical cooperation and urged Colombian employers to contribute to the training of labour inspectors by explaining how their enterprises were organized and how they met their commitments to their workers.

The Government member of Costa Rica, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), highlighted the information supplied on the legislative measures adopted to respond to the requests made by the Committee of Experts. It included: the confidential handling of complaints made to the labour inspectorate; the establishment of a special group for preventive inspections; and the provision of the necessary logistical resources to enable inspectors to perform their duties properly. He also referred to the implementation of the ILO project entitled "Promoting compliance with international labour standards in Colombia", in conjunction with the Ministry of Labour, whose objectives included strengthening labour inspection. He observed that in only six months various tools had been adopted or updated and labour inspectors had received training, thereby enabling harmonization of the criteria for the performance of their duties. He emphasized the adoption and application of various laws and administrative provisions which had contributed to the definition and delimitation of inspection tasks, and also the significant increase in the number of labour inspectors (from 404 posts in 2012 to 904 posts in 2014). GRULAC welcomed the information indicating that inspection activities had resulted in 5,724 administrative inspections and 1,782 penalties for non-compliance, which corresponded to fines totalling US$31 million. In conclusion, he considered that the information supplied by the Government was satisfactory and he encouraged the Government to continue working with the social partners to strengthen labour inspection.

The Worker member of Brazil said that one of the issues that was of greatest concern to the Worker members of the Committee was the lack of any real protection from infringements of freedom of association and collective bargaining, which should be provided by the labour inspectorate. Referring to the conclusions of the high-level mission that went to Colombia in February 2011, relating in particular to the priority to be given to freedom of association and collective bargaining, he observed that little or nothing had changed in the three years since then, despite all the Government's promises to strengthen labour inspection so as to prevent the violation of labour rights. As to the anti-union use of labour accords, not a single enterprise had been sanctioned during those three years, despite the announcement of a special labour inspection programme. Recently, Colombian trade unions had simultaneously lodged 56 complaints, which he hoped that the Ministry of Labour would take up without delay. He regretted that the inefficiency of the labour inspectorate in such cases was such that the trade unions were obliged to request legal protection, which in some cases had been granted by the Constitutional Court.

The Government member of Switzerland expressed his Government's support for the Colombian Government and its social partners in their efforts to improve labour inspection, particularly with a view to improving occupational safety and health at the enterprise level. Switzerland would continue to support the ILO's Sustaining Competitive and Responsible Enterprises (SCORE) programme in the textile and flower sectors and planned to expand its cooperation project to other sectors. The main beneficiaries of the programme were the workers and employers, but labour inspectors could also benefit from capacity building. He hoped that the Colombian Government would pursue its efforts to increase resources and strengthen the capacities of the labour inspectorate and to afford workers better protection against possible reprisals.

The Worker member of the United States recalled that the Governments of Colombia and the United States had signed a labour action plan to improve the protection of workers' rights in Colombia and to facilitate the ratification by the United States Congress of the trade agreement that had been negotiated five years earlier. In light of the variety of challenges faced by Colombia, both Governments had made the strengthening of labour inspection a central commitment in the Action Plan. The United States Congress had ratified the United States-Colombia Trade Agreement, which entered into force in 2012. Despite considerable support from the Government of the United States and the ILO, key commitments of the Action Plan relating to labour inspection remained unfulfilled, indicating some of the ways in which Colombia had failed to comply with the Convention. Under Article 10, the number of labour inspectors deemed sufficient was determined in relation to the scale, complexity and practical challenges of inspection. Colombia had an insufficient number of inspectors. As of February 2014, there were only 685 working inspectors in a country of more than 20 million economically active persons. The selection and hiring process of inspectors, and doubt as to the independence of inspectors were sources of concern. The provisional nature of their recruitment reduced the value of the training provided by the ILO. As of April 2014, none of the new inspectors had been recruited through a civil service posting or a competitive and transparent process. In order to hire a civil servant, a line item had to be included in the national budget, which had not been the case. Moreover, there were ongoing problems with the collection of fines and their level was inadequate. There was insufficient monitoring of voluntary resolutions that released employers from penalties, especially the use of agreements to seek remedies and remove fines. All such agreements had been negotiated between employers and the Government, with no input from workers. Waivers and the nearly complete failure to collect fines continued the cycle of impunity. In the evaluation of the Labour Action Plan, compliance with Convention No. 81, set standards that had not been met by Colombia. As Colombia and the United States moved towards ratification of their trade agreement, they needed to continue to evaluate the efforts made to comply with Convention No. 81 and the stated goals of the Labour Action Plan.

The Worker member of Spain described illegal labour relations as situations where, although an employment relationship existed, employers were often able to circumvent the law. He felt that the absence of any real inspection of illegal labour relations and the increase in the number of workers engaged through temporary service agencies meant that in practice the labour inspectorate was completely non-functional. Of Colombia's 21 million workers, only 7 million had proper employment contracts and were entitled to social protection. Associated labour cooperatives, simplified limited companies, foundations and "fake" trade unions were just some of the methods

used to deny workers their labour rights. He regretted that employers did not to pay the fines imposed as a result of labour inspection visits. He concluded by recalling that the observations of the Committee of Experts dealt with extremely important issues.

The Government member of the United States referred to the Colombian Labour Action Plan, which had been agreed in the context of the United States. The Colombia Trade Promotion Agreement, under which the Government of Colombia had committed, inter alia, to increased and enhanced labour inspections and doubling the size of the labour inspectorate. In support of these measures, her Government was financing the ILO technical cooperation project "Promoting compliance with international labour standards in Colombia", the largest component of which involved training of key labour inspectorate staff, including on new inspection tools and procedures, and following up to ensure the training was applied, in practice. The Government of the United States appreciated Colombia's efforts and its ongoing cooperation with the ILO, in particular to improve labour inspection. However, enforcement of labour law remained a challenge. For example, there had been little progress on fine collection, particularly in cases of large fines applied for illegal contracting. Targeted inspections, especially in priority sectors, had also been insufficient to effectively uncover and punish illegal conduct. She trusted that, with the continued assistance of the ILO and through open and active dialogue with its social partners, the Government of Colombia would succeed in taking the necessary measures to implement fully its commitments related to labour law enforcement under the action plan related to labour rights and its obligations under Convention No. 81.

An observer representing Public Services International (PSI) noted that, following the creation, or rather the reconstitution, of the Ministry of Labour in 2011, the Government had undertaken to increase the staff of the labour inspectorate sufficiently to be able carry out its inspection, monitoring and supervision functions properly. It was essential for the Ministry to adopt a coherent institutional policy to overcome the weakness of the labour inspectorate and especially to reinforce the labour policing function of the Ministry with respect to collective bargaining in the public service. Following the 2014 amendment of Decree No. 1092 of 2012, collective bargaining in the public administration was becoming increasingly common, and that meant that disputes were liable to arise in an environment that by and large was anti-union. Unless the Ministry took immediate steps, its labour inspection problems were likely to increase.

The Government representative indicated that the information provided by the employers and workers was important and would be taken into account. He reminded those present that the Ministry of Labour had been established in November 2011, 30 months ago. He recalled that efforts had been made to institutionalize the Ministry of Labour, and develop the legal framework and mechanisms for its effective operation. With regard to the increase in staff, he noted that resources were available to guarantee that those positions were permanent. In respect of existing vacancies, he explained that the regulations provided that staff could not be appointed or removed while the electoral process was under way. He guaranteed that by December 2014 all the vacancies would be filled. He disagreed with the statement regarding the importance given to the recruitment process, explaining that the best candidates were selected and appointed, maintaining a fairly stable workforce. Since November 2011, no employee had been dismissed without just cause. There were no competitions owing to the fact that the procedure was slow, since meeting administrative requirements could take up to a year and places needed to be filled quickly. Competitions were planned for the future. He indicated that the requests of the Committee of Experts, regarding confidentiality and the transport of labour inspectors had been addressed and resolved. An order establishing that logistical support for inspectors could only be received by means of inter-institutional agreements by public enterprises was pending the President's signature. It could not be said that since 2011 there had been no change, as there was now a Ministry of Labour, an institutional organization and a body of inspectors organized into three main areas: monitoring, preventive management and assistance to citizens.

The Worker members indicated that following the discussions, and while acknowledging the progress made over the last few years, they wanted to support the following claims made by their Colombian colleagues. Firstly, the Colombian Government should be encouraged to ratify Part II of Convention No. 81, as well as the Safety and Health in Mines Convention, 1995 (No. 176). The Colombian Government should also repeal the current decree on labour intermediation. The Worker members believed that the new decree should be preceded by a consultation process in the Standing Committee for Dialogue on Wage and Labour Policies, and that it should contain efficient mechanisms with regard to the inspection and prevention of all forms of illegal labour intermediation. The Colombian Government, in cooperation with the social partners, should also draft a bill to reform legislation on labour inspection, in line with the observations of the Committee of Experts contained in its 2011 and 2014 reports. This bill should set out the principles of complete confidentiality regarding the source of complaints; dissuasive penalties in the event of freedom of association being violated; the collection of fines by the Directorate of Customs and Taxes; the participation of trade unions in inspection operations; and the allocation of resources to strengthen the capacity of the labour inspectorate. Following consultations and dialogue with the social partners, a public policy on labour inspection should be implemented with sufficient resources, clear results and strong commitment to increase the number of inspectors to at least 2,000; a statutory commitment of all inspectors; and a wage increase for inspectors to bring them up to the level of labour judges. In order to carry out those proposals, it was hoped that the Government would discuss and agree upon those measures within the Standing Committee for Dialogue on Wage and Labour Policies. They also hoped that a six months follow-up would be carried out on the basis of information provided by the Ministry of Labour in each departmental subcommittee and the National Social Dialogue Committee. In conclusion, they requested the Government to accept a direct contacts mission to ensure that these principles were given effect.

The Employer members welcomed the submissions made by the Government and the information provided. Additional information would help to better understand the measures taken to give effect to the Convention in law and in practice. They expressed appreciation of the Government's responses to the interventions that had been made. They noted the progress made regarding compliance with Convention No. 81. The concrete measures should be taken. They encouraged the Government to work with the ILO to strengthen its labour inspection system. The action that was taken should be the subject of full consultation with the social partners. They emphasized the positive measures taken to date and encouraged the Government to continue its work. They noted the existence at the national level of a tripartite body in which the issues raised in this case could be addressed and considered that the case did not appear to require a direct contacts mission.

PAKISTAN (ratification: 1953)

The Government communicated the following written information:

Following the 18th amendment to the Constitution of Pakistan, the subject of labour had been devolved to the provincial governments, who had now assumed full responsibility for labour legislation and administration. There was ongoing litigation regarding the future legal structure of labour administration in Pakistan. In a recent judgment, the Honourable Supreme Court of Pakistan had concluded that through a combined reading of the new labour laws, one federal and four provincial, two parallel forums had been created: one on a provincial level and the other on the federal level, having jurisdiction to deal with industrial disputes and unfair labour practices. This judgment had provided a clear demarcation line of jurisdiction between the labour courts in the provinces and the National Industrial Relations Commission at the federal level. The issue, which had been preventing a faster pace for new structural legal adjustments in the legal system, had now been resolved.

Article 270 AAA of the Constitution of Pakistan protected the existing legislation on labour matters until the development of either a new legal framework by the provinces or the formal adoption of the earlier laws. The Government of the province of Khyber Pakhtunkhwa had promulgated the Khyber Pakhtunkhwa Factories Act, 2013, repealing the Factories Act, 1934. The Government of Punjab had amended laws to be adopted by the provincial government. The Governments of Sindh and Balochistan had sent draft laws for vetting to their law departments.

The provinces were now solely responsible for the implementation of labour laws in industrial and commercial establishments in their respective areas of jurisdiction. The Provincial Directorate of Labour Welfare through their field formations carried out inspections in establishments under various labour laws. The field formations were comprised of labour inspectors, labour officers, assistant directors, deputy directors, joint directors and directors. In Punjab Province there was also the position of Director-General. There was no legal or administrative bar on the undertaking of any inspection. Inspectors carried out inspections in shops and establishments, while labour officers were responsible for conducting inspections in industrial units under the various labour laws applicable therein. In case of violations of labour laws, those responsible were prosecuted in the relevant courts by the concerned inspectors. Official transport had been provided to the supervisory officers throughout the country. There were regular and sufficient budgetary provisions in the provincial budgets to pay the travelling allowance of labour inspectors and labour officers for funding their field visits. By empowering the provincial governments on the legislative and technical fronts, the inspection system would be strengthened. However, some teething problems were still being faced with regard to the effective implementation as a result of the devolution of powers to the provincial governments. A constructive dialogue had been sought for the strengthening of the tripartite dialogue in the backdrop of local empowerment with a view to protect and promote the rights of workers and employers with a major focus on respect of international labour standards in the workplace.

The new mechanism for coordination between the federal Government and the provinces was now in place. The mechanism was resolving institutional problems, as the provincial governments were now addressing the issue of the capacity of inspectors by following a preventive approach rather than focusing on awarding fines and penalties. This had led to a gradual reaching out to the informal economy, and the provision of data for scrutiny by civil society and the social partners. The Government was initiating a project for the integration of the federal and provincial databases relating to welfare measures for workers and labour inspection systems for compliance with international labour standards. A request for a proposal had already been issued in this regard.

Following the tragic accident in Baldia Town, Karachi, Sindh, in September 2012, a statement of commitment was signed between the Sindh Labour Department, the Employers Federation of Pakistan and the Pakistan Workers Federation to jointly advocate for and promote international labour standards compliance with regard to health and safety at work. Moreover, beginning in December 2012, a joint action plan in Sindh was developed, following tripartite consultation and with ILO support. The main features of this joint action plan were: to develop an occupational safety and health (OSH) policy to clearly define parameters of safe and healthy workplaces; to amend OSH legislation that covers all workplaces and meets modern day requirements and technologies, and will be developed in line with the international labour standards; to establish a tripartite OSH Council in Sindh; to develop information and training material for stakeholders on OSH; to develop a comprehensive centralized electronic database of factories, workplaces and workers in the private sector; to establish a rapid response mechanism to promote a sense of safety among citizens in general and among workers in particular; to upgrade the Sindh OSH Centre; to upgrade faculty and equipment at the National Institute of Labour Administration and Training to become more effective in developing the capacities of all stakeholders including government, employers, workers and civil society; to develop an OSH profile in Pakistan with a focus on the Province of Sindh to ascertain the current situation on legislation, systems in place and inspection and monitoring mechanisms in the country; to adopt, and periodically review, a labour inspection policy, which highlights the priorities of the Government to strengthen labour inspection in the province; to organize, in collaboration with the other concerned institutions and organizations, thematic training courses for all labour inspectors which will help them to properly understand their role in effective labour administration and will enable them to carry out labour inspection in an effective and efficient manner; and to develop and adopt a recruitment system in the Labour Department of Sindh that ensures staff attraction, staff retention and career growth of OSH staff. This model framework of OSH was being replicated by the other provinces to ensure the implementation of international standards in OSH.

Due to the devolution process, for a few years, there was no focal ministry in the federal Government responsible for reporting on international labour standards. Following 2010, due to an absence of vertical linkages between the federal and provincial governments for reporting on Conventions, representative reports were not made. At the request of the federal Government, the ILO Country Office in Pakistan had planned to provide technical assistance to all four provinces to make provincial policies and legislation which were compliant with international labour standards, and to build institutional and human resource capacities to empower implementation and enforcement of the targeted parameters. In May 2014, interdepartmental meetings had been held at the four provincial governments, for capacity building of the relevant provincial departments with respect to reporting on ILO Conventions, including Convention No. 81. Teams from the Ministry of Overseas Pakistanis and Human Resource Development participated in these meetings and deliberated on each of the Conventions. Special questionnaires were developed for multi-stakeholders on each Conven-

tion to facilitate their understanding of each Convention and to formulate the reports. A questionnaire was developed relating to the preparation of an out-of-cycle report on Convention No. 81. The respective provincial departments will finalize these reports in August 2014, which will be compiled and finalized by the Ministry of Overseas Pakistanis and Human Resource Development. Regarding the establishment of vertical linkages and federal level coordination, the Prime Minister of Pakistan had ordered the creation of a special treaty cell to coordinate timely reporting by various Ministries on the ratified Conventions. In addition, provincial focal persons had been nominated for similar action within the provincial departments. Regarding the observations of the Committee of Experts over the past three years, a detailed reply thereto would be submitted on the application of Convention No. 81. Similarly, the micro-level details and statistical data required therein were being compiled at the provincial level, and would be incorporated into this report. The Government of Pakistan was committed to an improved system of ILO standards oversight in the country and was willing to work with the ILO to achieve reforms of the system to allow an adaptation to the changes occurring in the system. The Government wanted to capitalize and incorporate best practices into their legislation and interpret more accurately the local realities to fully understand the complexities involved and to improve performance. The Government of Pakistan provided assurances that despite the challenges arising from the redistribution of legislative powers to provinces, the federal Government would remain seized of its responsibilities in terms of reporting on the relevant ILO Conventions and their implementation. However, the Government again requested ILO technical assistance to help improve the labour inspection system in Pakistan, to cope with the challenges being faced after the devolution of powers to the provincial governments.

In addition, before the Committee, **a Government representative** referred to the 18th Constitutional Amendment and the process of devolution of powers to the provinces, which had resulted in the dissolution of the Ministry of Labour and Manpower and the erosion of the institutional capacity developed for monitoring and reporting on international labour standards. He mentioned, however, that considerable and encouraging progress had recently been made with regard to the protection and promotion of rights of workers and employers, including respect of international labour standards. The Government, in collaboration with the provincial labour departments and social partners, was taking all the necessary measures for the enforcement of international labour standards. A two-pronged strategy had been adopted in which prevention and prosecution measures were implemented side by side. Moreover, a project had been initiated for the integration of the federal and provincial databases relating to the welfare measures for workers and the labour inspection system for compliance with international labour standards. This would lead to a gradual reaching out to those in the informal economy and provide data for scrutiny by civil society and the social partners for better engagement in social dialogue. Each province had an established labour inspection hierarchy which conducted inspections of the work carried out by labour inspectors and labour officials. In the case of violations of labour laws, those responsible were prosecuted in the relevant courts. There was no legal or administrative impediment to any inspection. There were regular and sufficient budgetary provisions in provincial budgets to pay the travel allowances of labour inspectors and labour officials for field visits. A detailed reply would be provided to the requests for information made by the Committee of Experts by the end of August. The provinces of Punjab and Khyber Pakhtumkhwa had promulgated new laws while draft legislation was being prepared in Sindh and Balochistan provinces. He added that the Government attached great importance to the work of the Committee. The technical support being provided by the ILO was of great help to the Government in order to apply ILO Conventions in a more effective manner. The Government representative requested further ILO assistance on strengthening reporting on international labour standards in Pakistan.

The Employer members stated that this was the 15th observation made on the application of the Convention in Pakistan. The observation being discussed focused on the effectiveness of labour inspection and enforcement of legal provisions following the devolution of legislative powers in this area to the provinces; labour inspection and occupational safety and health; human and material resources of the labour inspectorate; actual or perceived restrictive policies for labour inspection; and regular publication and communication to the ILO of annual inspection reports. Through the delegation of powers to the provincial governments, the labour inspection regime would be strengthened. However, the process had been slow. The lack of coordination between the provinces in this process had led to a patchwork of labour laws and regulations that did not meet international labour standards. The Supreme Court had resolved a number of jurisdictional issues which had guided the coordination efforts between the federal Government and provincial governments. An effective system of labour inspection in all provinces was important and agreement as to the priorities of labour inspection was required. In addition, a strategic and flexible approach, in consultation with the social partners, needed to be adopted. Difficulties, in particular a lack of coordination between provinces, had arisen as a result of differences in each jurisdiction. The Ministry of Overseas Pakistanis and Human Resources Development was responsible for the coordination and supervision of labour legislation in the provinces. The coordination mechanism at the federal level included a coordination committee and a technical committee. The Government had indicated that the federal labour inspection policy of 2006 and 2010 provided a framework for the provinces. Work on implementing the policies had started but completion was required, as a lack of completion was the main reason for the continued problems. The Government was urged to provide information on the details of the measures and strategies adopted. The inspection regime would be strengthened as a result of the delegation of powers to the provincial governments, enabling inspectors to work more efficiently by adopting a preventive approach. Due to the difficulties in resolving jurisdictional issues between the provincial and federal governments, there were still no adequate penalties for violations of labour laws and the obstruction of labour inspectors in their duties. Fines for the violation of labour legislation were extremely low and did not act as a deterrent. The Government was urged to indicate the number of instances in which inspectors were refused access to company records by employers and the number of cases initiated concerning such obstruction. It was also urged to provide information on the measures taken and the relevant legal texts on planned legislative reform once they had been adopted. With regard to the factory fire in Karachi in 2012, the Government had announced that it would take measures and take steps to avoid such disasters in the future. The measures that had been taken should be commended, but they had not gone far enough. The carrying out of third-party inspections was concerning; the Karachi factory served as an example as, it had received a flawed certificate by a private auditing firm attesting compliance with international standards. Labour inspection services should not only be well directed and resourced, but also well respected. Accredita-

tion systems for permitting third parties to undertake inspections must include means of monitoring the integrity of inspections. In addition, there was a high number of deaths and injuries in coal mines operating in the province of Baluchistan, where workers were reported to work with almost no protective equipment and where few safety precautions were taken. The Government was urged to take measures to make the industry safer. Moreover, there was a lack of coordination and human and material resources for labour inspection. Inspectors were under-equipped and received only rudimentary training. The ability of inspectors to travel was constrained by costs, inhibiting them from carrying out their work. The Government was called to speed up its efforts to remedy the situation. Although there were no legislative obstacles for labour inspectors to enter work premises, the reality on the ground was reported as being quite the opposite. The Government was urged to ensure that labour inspectors could perform their duties. Progress was hampered by a lack of a central agency and the Government was urged to set up a body to compile and analyse information which could then be submitted to the ILO.

The Worker members thanked the Government for the information provided, but noted that the written information focused only on the process of delegation of legislative powers and jurisdiction in the area of labour law to the four provinces. The reporting requirements under Article 21 of the Convention, however, covered a much wider range of issues. The Government had provided data, although incomplete, on the number of inspections made between 2008 and 2010 in the provinces. However, without the other information requested under Article 21, it was impossible to assess if the number of inspections was adequate. The criteria set out in Article 10 of the Convention had to be taken into account when determining whether there was a sufficient number of inspectors. This did not seem to be the case as there were 138 inspectors in the Sindh province, and in Karachi alone, there were 10,000 industrial units and hundreds of thousands of workers. Pakistan's labour force was estimated at around 51 million, of which 70 per cent was employed in the informal economy, where health and safety measures were usually weak. An increase in the labour inspectorate's capacity was required in order to have an impact on the informal economy and small enterprises. Labour inspection covered not only labour legislation pertaining to occupational health and safety but also, child labour, discrimination, working times, the minimum wage and social security benefits. Labour inspectors were facing a considerable task and their numbers were insufficient. Facilities and training of inspectors were inadequate. The Government was urged to provide more detailed information on those areas which could be used as the basis for an improvement plan. The fact that very few unexpected inspection visits could be carried out due to the limited number of inspectors was a concern. Cases of violation needed to be brought before the courts to be dealt with. Fines were extremely low and did not act as a deterrent. Information on the obstacles faced by the inspectors in the course of duty was requested, as was information on the number of times inspectors were denied access to the workplace. Article 17(2) of the Convention afforded inspectors discretion with regard to the issuing of warnings and advice. There was no objection to this approach in principle. However, the issue of assessing the effectiveness of such an approach was raised, especially as there was no enforcement in this regard. Government policies for the prevention of occupational accidents and diseases were welcomed. However, developing policies without statistics on occupational accidents and diseases was potentially problematic. No labour inspection could be effective without the proper engagement of workers in occupational health and safety committees. In addition, the establishment of an independent and effective complaint mechanism was necessary to preserve the effectiveness and integrity of the system. After the factory fire in Karachi in 2012, the Sindh Labour Department, the Employers' Federation of Pakistan and the Pakistan Workers' Federation had made a statement of commitment to promote ILO standards on occupational safety and health (OSH). It set out a model framework but it did not include information on its implementation or the resources for such implementation. The issue of the source of funding – provincial or federal – was raised. Compliance with the Convention remained the Government's responsibility and the Government was urged to cooperate with the provinces to establish an effective labour inspectorate. The serious nature and extent of the problems required action to be undertaken with a sense of urgency. Many work accidents were preventable. The labour inspectorate must make a strategic, systematic and concerted effort in order to improve OSH and working conditions in Pakistan. It would require speedy adoption and implementation of legislation on labour inspection, systematic inspections of factories, improved health and safety conditions, the establishment of OSH committees and cooperation with employers' and workers' organizations.

The Worker member of Pakistan referred to major workplace accidents which had occurred in Bangladesh, Pakistan and Turkey. Violations of safety standards were due to the negligence and inefficiency of inspection services. Employers had a legal obligation to ensure that workplace hazards were minimized, controlled and eliminated, but unfortunately commercial interests often gained at the cost of labour rights and safety. Performance data by the provinces on inspections, compliance, actions taken and sanctions imposed was not published or shared with the interested parties. Provincial governments in Pakistan should ensure labour inspection staff was properly trained to carry out inspections; provincial OSH laws should be promulgated in the remaining provinces covering all industrial, commercial and other establishments; strict inspections should be carried out without prior notice to the management of the factories and industrial establishments; and the operation should immediately be stopped in those establishments where unsafe working conditions were found. The Government was encouraged to ratify the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). Training facilities were needed to assist the representatives of employers in undertaking safety measures in the context of developing safety plans in their establishment. A mechanism should be established for the undertaking of labour inspections closely supervised through a tripartite committee. He added that workers' organizations should be able to establish a "shadow" inspection mechanism where trade unions in each district established their own inspection system and released a quarterly report on the status of compliance to standards in different industries. He added that there should be no hurdles in the establishment of independent trade unions in order to ensure a transparent mechanism of responsible work practices. Trade unions were helpful in creating a better understanding among workers and employers on critical issues, such as workplace safety. Employers must ensure that proper safety measures were in place such as equipment, exit plans, fire alarms, fire extinguishers and staff trained to deal with fires or hazards. He also called on employers to ensure that all business owners were fully aware of their responsibilities for ensuring safety in the workplace. The ILO was invited to launch a long-term programme on safe and better working conditions in Pakistan and a programme for capacity building of workers' organizations

on OSH, including on a "shadow" inspection system. The ILO was also encouraged to strengthen the OSH-related aspects of the recently launched Decent Work Country Programme.

The Employer member of Pakistan stated that, since the powers regarding labour issues had been devolved to the provinces, the provinces were now solely responsible for the development, promulgation and implementation of labour laws. Two out of the four provinces had almost completed the task, but progress in the remaining two was slow. The Employers' Federation of Pakistan was involved in the review process of draft labour legislation in Sindh. However, it was essential that the Ministry of Overseas Pakistanis and Human Resource Development be given a central role in overseeing the development of labour legislation in the provinces. The ILO Country Office for Pakistan needed to coordinate with the provincial labour departments through the federal Ministry. Labour inspection should be carried out with the objective of providing guidance to employers. Enterprises that did not meet the criteria should be given the opportunity to improve weak areas; if there was no improvement, penal sanctions should be imposed. Capacity building of staff was urgently required and provincial labour departments should take steps in this regard and seek ILO technical assistance if necessary. The tragic Karachi factory fire in 2012 had highlighted the importance of OSH requirements. Although large and medium-sized industrial enterprises often had their own in-house OSH arrangements, smaller enterprises, such as the factory where the fire broke out in 2012, did not. A Memorandum of Understanding had been signed with the province of Sindh which had led to the development of the OSH plan of action, which was at the implementation stage. Similar memoranda were required in the other three provinces. The plan of action did not, however, provide for capacity building in the area of OSH. The number of inspection staff was insufficient. The provincial governments needed to provide inspectors with material resources necessary to carry out their tasks. The speaker indicated the need for prior notice of inspections in order to ensure that the employers concerned were present. Support was expressed concerning the regular publication and communication of annual labour inspection reports.

The Government member of China indicated that he had carefully read the written information submitted by the Government. Pakistan, he noted, had modified its Constitution, and the legislative authority to conduct labour inspection visits had been delegated to the provincial governments. This had improved the labour inspection system as a whole and enabled it to broaden its objectives. The inspectorates themselves had been strengthened as well, and as a result the number of inspectors had likewise been increased. With ILO technical assistance and following a series of tripartite meetings, the Government had launched a joint plan of action on occupational safety and health that would eventually lead to the adoption of a new law. The Government had thus made a real effort to implement the Convention. The speaker indicated that Pakistan had encountered certain difficulties in the implementation of the Convention as it was a developing country. The ILO, along with the international community, should continue to help Pakistan and to provide the necessary technical assistance to meet its obligations and comply with the provisions of the Convention.

The Worker member of the Philippines stated that, despite the discussion that had taken place in the Committee in 2013, the situation of the workers in the country continued to be serious. Improvement was needed and the Government was called to develop a plan to avoid tragedies such as the fire that broke out in a garment factory in Karachi in 2012. The causes behind the deaths of hundreds of workers were the inadequate fire safety measures, the absence of emergency exits, the lack of fire drills, and the insufficient number of fire extinguishers. Effective labour inspection services were essential to ensure the protection of workers' rights. Although employers had the legal obligation to reduce hazards in the workplace, they had no incentive to take the necessary measures as the Government would never hold them accountable. Moreover, different administrations in some provinces had actually barred labour inspectors from entering the factory premises without prior notice. Concerning the importance of reporting on labour inspections, there was no authority that collected the information and provided a national report on the matter. The number of workers killed and injured every year because the State had failed to enforce the law was intolerable. Labour inspection laws and procedures had to be adopted as a matter of urgency, in consultation with workers' and employers' organizations. Furthermore, the provincial governments had to provide training to the labour inspectors to carry out visits without prior notice. They had to be empowered to act immediately. The Government had to use its political and persuasive power to ensure that provincial governments adopt the necessary laws on occupational safety and health. Laws had to be effectively applied and provide for dissuasive sanctions. The speaker reiterated his request for the adoption of a mechanism whereby labour inspections would be closely supervised by a tripartite committee.

The Government member of the Islamic Republic of Iran took note of the constitutional amendment adopted in 2010 which aimed at devolving labour matters to the provinces. The Industrial Relations Act, which was enacted in 2012, set out a framework for coordination and interaction between the federal Government and provincial labour departments, enabling better monitoring and reporting on international labour standards. In addition, a number of measures, including the establishment of the Ministry of Overseas Pakistanis and Human Resources Development, had been undertaken by the Government to enhance coordination in respect of the Industrial Relations Act. The Government had also elaborated a tripartite plan of action on OSH to ensure that the legal framework and OSH policy were in line with the relevant international standards. The speaker welcomed the progress made by Pakistan on the restructuring of the labour inspection system and stated that these measures should be duly recognized. In conclusion, he expressed appreciation to the ILO for its engagement in the country aimed at promoting the labour inspection system and encouraged the ILO to pursue its technical assistance activities in Pakistan.

The Worker member of Singapore noted that under the Convention, the Government was bound to ensure the effectiveness of labour inspection through a sufficient number of well-trained inspectors who were provided with the necessary tools to carry out this task. The factory fire in Karachi in 2012 raised questions about safety standards and the authorities' role. The lack of effective implementation of safety standards had led to flagrant violations of the Factories Act, 1934, and this tragedy demonstrated the ineffectiveness of labour inspection. Most inspectors were provided with rudimentary training and very few had specialised training for specific industries. This situation led to a high number of workers being killed or injured in coal mines in Balochistan, where workers had reported working without protective equipment and where very few safety measures had been put in place. The speaker also pointed out that there was a critical shortage of inspectors in the country, with only 59 inspectors in Balochistan. With regard to the application of dissuasive sanctions as provided for in Article 18 of the Convention, this provision was not applied in Paki-

stan. While labour inspectors had a legal right to access company records, this rarely happened in practice. An inspector had the possibility to go to court to access those records, but the process was long and lead to non-consequential fines, as low as approximately US$50, which would not dissuade businesses of any size from violating the law. In conclusion, the level of social dialogue on the issue of labour inspection was very limited and should be encouraged in order to provide advice on the way forward to enhance the effectiveness and capacity of labour inspection services in Pakistan. The Government needed to comply with the Convention and ensure that the provincial governments adopted legislation on occupational safety and health.

The Government member of Egypt considered that despite the comments which had been formulated regarding the application of the Convention, the proposals made by the Government were aimed at carrying out the actions required under the Convention. He welcomed the progress made in that regard and expressed support for Pakistan's request for technical assistance, which he deemed necessary in order to continue the projects already undertaken by the Government to align national legislation with the requirements of the Convention.

The Government member of Bangladesh noted with satisfaction that Pakistan had taken a number of positive measures to strengthen its inspection mechanism in line with the Convention, which included the amendment of the Constitution and decentralization of labour issues to the provincial governments as well as the enactment of the Industrial Relations Act in 2012 to carry out monitoring and reporting on international labour standards. The speaker pointed out that the provincial and federal governments had a functional coordination mechanism to ensure effective labour inspection services. He supported the launch of the tripartite plan of action on OSH and encouraged the Government to develop a comprehensive and viable framework on OSH. The speaker also encouraged the ILO to support the Government in the implementation of international labour standards.

The Government representative thanked the Employer and Worker members for their constructive advice and comments. He reiterated the Government's full commitment and readiness to take as many measures as necessary to improve compliance with the Convention. The Government might not have achieved what had been expected of it but, nevertheless, it would be agreed that much progress had been made. Results and achievements were not uniform across all provinces but work was ongoing. Even where the action taken had not been completed, there was concrete progress to report. An important feature of this progress was that it was based on tripartite dialogue and the Government was moving forward in close consultation with the social partners and the ILO. The reporting requirements under Article 21 of the Convention were acknowledged. A system-wide annual report would be generated in September 2014 containing the detailed statistics that had been requested. With respect to labour inspection activities carried out in the province of Punjab, he indicated that there had been 169,632 inspections and 1,547 prosecutions on child labour alone. Under the Factories Act, 9,198 inspections had been carried out, 4,848 warnings issued and 1,170 prosecutions made in the Punjab. Similarly, under legislation concerning shops and establishments, 328,866 inspections had been carried out and 21,311 prosecutions made in the province in 2013. Similar momentum was being seen in other provinces which would be reported on in the future. The labour inspection system had been computerized in the province Punjab and it was hoped that by mid-2015 the other provinces would also have computerized systems. As a policy, provincial governments would provide means of transport (motorbikes) to all the labour officers and labour inspectors for effective inspection in the next budget. The resources allocated from the federal to provincial governments had increased. Other departments, such as labour welfare departments, old-age benefit institutions and mine welfare organizations had their own inspectorates and were enforcing international labour standards. An integrated national database of workers and employers had been developed for use by inspections in provinces and organizations engaged in labour welfare. Irrespective of whether a worker was in a registered or unregistered establishment, a tripartite committee headed by a district officer was in place in every district to accord compensation in cases of accidents, so that no accident went unreported. Article 270 AAA of the Constitution provided protection for existing labour laws until laws were adopted at the provincial level, and there was hence no legal gap. The establishment of provincial OSH Councils was under way and the provinces of Punjab and Sindh had already established this oversight body. With ILO assistance, decent work country profiles had been completed for 21 selected thematic areas and the report would be published soon. The development of an OSH profile in Pakistan with a focus on the province of Sindh was under preparation and would look at the situation as to legislation, inspection and monitoring mechanisms in the country. In May 2014, the federal government convened a round of detailed consultations with the four provincial governments to raise their awareness concerning the importance of the enforcement of international labour standards and reporting thereon. The concerns of the Employer and Worker members had been carefully noted and the Government would incorporate their advice and comments into its work. The Government representative provided his assurances that more progress would be made in the upcoming months and he requested ILO technical assistance to assist the Government in its ongoing work concerning labour inspection.

The Employer members said that the process of devolving responsibility to the provinces was not an easy task and was a challenge in many countries. This process was challenging as it called for careful planning and organization so as to ensure that those to whom the powers were being devolved had a clear understanding of their new responsibilities. The Government had indicated that it understood why the labour inspection system had failed, but it was now required to take action. It was necessary to look at the entire system, its purpose, its management and to determine what resources were required for its proper functioning. Some progress had been made, but the system was not as efficient as it could be. There was insufficient coordination concerning funding between provinces and the federal government. It was unclear what funding was available and who was responsible for it. There was an assumption that the provinces were free to provide additional funding. The Government was urged to clarify the funding infrastructure and ensure that it established and allocated a minimum level of funding to the provinces. It was also necessary to provide adequate training for labour inspectors and a national framework should be drawn up in this regard. Laws needed to be clear for those implementing them. The Government was urged to avail itself of ILO technical assistance.

The Worker members welcomed the Government's indication that it intended to comply with the requests made by the Committee of Experts. However, a sense of urgency was lacking, given the importance of the issues at stake. Although the process of delegating power to the provinces would take time, insufficient practical progress had been made. The Government should ensure that all four provinces had legislation in place that was in conformity with the Convention, by the end of 2014. The

labour inspectorate in the country remained weak. In this regard, a direct contacts mission should take place, to address the implementation measures that were required. The Joint Action Plan in the province of Sindh was not a strategic plan and it did not outline how the steps therein would be specifically accomplished. The Government should therefore accept a direct contacts mission to begin the process of developing a coherent strategic plan, including in mining, and the garment industry. The mission should include experts in occupational safety and health and labour inspection, as well as legal experts. The Government indicated that it was willing to accept further technical assistance with regard to establishing an effective labour inspection system, and this assistance should focus on effective implementation as a follow-up to the direct contacts mission. Noting the willingness expressed by the Government, the Worker members requested the Government to comply with all requests made relating to reporting obligations, prior to the end of 2014.

QATAR (ratification: 1976)

A Government representative indicated that his country had made progress with regard to the application of the Convention. The protection of the rights and living conditions of both national and migrant workers was an important part of the Government's policies, particularly reflected in the recruitment programmes for migrant workers. He indicated that Qatar wished to continue its collaboration with the ILO in the areas of international labour standards and decent work, and recalled that the General Secretary of Amnesty International had recently commended the Government on the country's receptiveness to work with human rights organizations and those engaged in the protection of migrant workers. In addition to government bodies, a number of national entities were monitoring the rights of migrant workers, for example, the National Human Rights Committee. Qatar's economy had attracted an increasing numbers of migrant workers in numerous sectors. In 2014, the number of those workers living in Qatar had reached 1.7 million, that is, 85 per cent of the total population, which constituted a challenge for labour inspection. Qatar had therefore requested ILO technical assistance for the training of labour inspectors, both at the national level and at the Turin Centre. Furthermore, interpreters had been appointed to enable migrant workers to explain their needs to labour inspectors. The regular communication of annual labour inspection reports showed the developments that had been made in law and practice. Furthermore, the upgrading of the previous labour inspection body into a labour inspection department at the Ministry of Labour and Social Affairs, as noted by the Committee of Experts in its 2011 observation, had greatly enhanced the role of labour inspection. The geographical structure of labour inspection had been expanded, as shown in an organizational chart annexed to the Government's last report to the Committee of Experts under article 22 of the ILO Constitution, and the number of its labour inspectors had been increased to 198. Such inspectors were granted several financial incentives in order to attract candidates to the post of labour inspectors and to respond to the growing need for human resources. Modern and mobile computer equipment had been provided to inspectors to enable them to enter data and immediately send inspection reports to the territorial directorates, which saved time and efforts and facilitated their work. Moreover, efforts were currently being made to connect the special national mapping system to a GPS system to facilitate access to undertakings liable to inspection. Such measures had led to an increase in the number of inspection visits from 46,624 in 2012 to 50,538 in 2013, that is, an increase of 8.4 per cent.

In relation to the request of the Committee of Experts concerning women inspectors, the Government representative referred to the national legal framework prohibiting discrimination between men and women in employment, and providing for equality of all citizens before the law. Among other laws, he referred to Act No. 8 of 2009 governing public servants, which did not provide for any distinction with regard to wages or other conditions of service between men and women. The Regulations governing labour inspection provided for the same opportunities for the promotion and training of labour inspectors, without any distinction concerning their gender. Labour inspection posts were open to women without any restriction. Among the 198 labour inspectors at the Department of Labour, 16 were women, representing 8.1 per cent. Inspection visits were carried out in accordance with international standards, and included both regular and surprise inspection visits, as well as necessary measures to detect and enforce non-compliance with the law. Furthermore, labour inspections had become more efficient as a result of enhanced training at the Ministry of Labour and Social Affairs and the exchange of experiences with other countries, including the provision of occupational safety and health (OSH) training courses by the ILO Regional Office for Arab States in Beirut, and the provision of training courses by the ILO Turin Centre. It was worth mentioning that the Committee of Experts had previously noted with satisfaction the progress made by Qatar concerning the subjects covered by the annual labour inspection reports. The Labour Inspection Department had carried out 10,500 labour inspection visits in the first quarter of 2014, 7,015 of which related to general conditions of work, covering 6,523 undertakings. In relation to OSH inspection, 3,485 visits had been carried out covering 920 undertakings. The results of these inspection visits were as follows: in 79.9 per cent of cases no violations were detected; in 1.2 per cent of the cases non-compliance reports were issued, in 3 per cent of cases, prohibition notices were issued and in 15.9 per cent of cases, warning notices were issued, aimed at remedying violations. Laws and regulations were continuously reviewed to provide for the protection of workers, while taking the characteristics of Qatar's society, and its cultural, economic and religious background into account. Regulations were currently being developed to address the specific risks for workers in the construction sector. Amendments to the Labour Code, aimed at increasing penalties for non-compliance with OSH requirements were also currently being drafted. Both the Labour Code and Ministerial Decisions contained many OSH requirements, as well as compensation for occupational accidents and fatal accidents, and corresponding penalties for non-compliance. Ministerial Decision No. 16 of 2011 provided for the establishment of a National OSH Committee, composed by representatives of different governmental bodies and chaired by representatives of the Ministry of Labour and Social Affairs. This Committee was responsible for the following tasks: (1) propose a national OSH policy and programme; (2) examine the causes for occupational accidents, and propose prevention means to avoid their occurrence; (3) propose and review regulations and rules on occupational safety and health; (4) propose mechanisms for the implementation of OSH laws and regulations; (5) provide OSH advisory services; (6) review and provide for the development of the conditions for industrial accidents and diseases insurance, and compensation in accordance with the Labour Code; (7) review the occupational diseases schedule annexed to the aforementioned Labour Code, and propose its development in coordination with relevant bodies; (8) undertake studies and research in the area of OSH; and (9) examine and study international Conventions and Recommendations on OSH, as well as provide

its views and recommendations thereon. Hospitals and medical centres had been set up in all regions, and new ones were envisaged to meet the needs of migrant workers. The Labour Code required an employer to provide a health card at his or her expense to a migrant worker, in accordance with the regulations in force. The Ministry of Labour and Social Affairs, in collaboration with the Central Bank of Qatar, was in the process of preparing a wage protection system, which would soon be finalized and would oblige all employers to transfer wages to bank accounts of workers. This system would enable labour inspectors to electronically monitor and follow up on the payment of salaries and quickly detect delays in the payment of wages. The Government concluded by indicating that it would submit a detailed report in reply to the observation of the Committee of Experts in the course of this year, and that it was determined to continue to work with the ILO to ensure workers safety and health.

The Worker members recalled that during the past year, the eyes of the world had been on the situation of some 1.5 million migrant workers in Qatar. The United Nations organizations, especially the ILO, human rights organizations, the media and researchers had all made the same observation: migrant workers, who represented 80 per cent of the total population of the country, were experiencing difficult conditions, exploited by their employers and caught up in a sponsorship system which, in practice, did not allow them to change their job or to leave it without the authorization of those infringing their rights. This system continued to exist partly because there was no effective labour inspection service or labour justice framework effectively protecting these workers. The international trade union movement had, on many occasions, called upon the Government to act on these specific cases of exploitation, through the Labour Inspectorate. However, it had never taken action but merely made promises. The Government should immediately adopt specific measures to protect the safety and health of migrant workers in construction and domestic workers, who were often subjected to brutality and rape on the part of their employers. Article 10 of the Convention stipulated that the number of labour inspectors should be sufficient to secure the effective discharge of the duties of the inspectorate. Yet in Qatar there were 150 labour inspectors to cover a foreign labour force estimated to be in the region of 1.5 million workers. This was totally inadequate. Moreover, questions could be raised as to the accuracy of the number of inspection visits reported by the Government. If the numbers it had given were correct, the labour inspectors had to carry out these inspections at a rapid pace, at the expense of quality. Complaints made by hundreds of workers questioned in the many labour camps focused on the confiscation of their passports, the non-payment of wages, the refusal to grant them identity papers and the squalor of their accommodation, all of which pointed to the shortcomings of a labour inspectorate that was described by the Government as being sound. All the accounts given by the workers in Qatar concurred that they had never seen a labour inspector inspect a work site. The training of labour inspectors was also an issue. The inspectors had not been adequately trained, especially from a linguistic point of view, and did not have the necessary resources to carry out their work successfully. Being unable to communicate with the vast majority of workers in the country, they were therefore incapable of conducting effective inspections. The Government presumed that workers brought problems to the attention of the competent authorities. The fact, however, was that the majority of workers did not submit complaints to the concerned authorities because they were afraid of reprisal, losing their job or being expelled from the country. A report published in June 2011 by the National Human Rights Commission of Qatar gave an account of this state of affairs.

Article 18 of the Convention provided for adequate penalties for violations of the legal provisions, the application of which was monitored by labour inspectors. Even if the work sites and work camps were inspected, the inspection services had limited powers to have their decisions applied or to monitor their application. Many violations of the labour legislation did not result in specific fines. Although penalties existed for forced labour and trafficking in persons, these were not correctly applied. All this information was stated in the conclusions of the tripartite committee set up to examine the representation against Qatar under article 24 of the ILO Constitution. Article 17 of the Convention stated that persons who violated or neglected to observe legal provisions enforceable by labour inspectors should be liable to legal proceedings. Nonetheless, there were serious obstacles preventing access to justice. Migrant workers found it difficult to have access to the Labour Court because they were obliged to pay a large sum, which they did not always have, (600 riyals) to lodge a complaint, and they often had to wait several months before a ruling was made. The tripartite committee had called upon the Government to guarantee access to justice without delay to the migrant workers, so that they might assert their rights effectively, including by means of strengthening the complaints mechanism and the labour inspection system. The Worker members requested the Government to take the measures required to establish an effective labour inspection system with a view to preventing or putting right any infringements of the labour legislation, which were prevalent and serious. The Government no doubt had the necessary resources, now needing the political will.

The Employer members stated that the first reason for the examination of this case by the Conference Committee was that the Government needed to provide better reports, as the Committee of Experts had observed that it was not providing the necessary information in the required form. The second reason, which was widely publicized in the media, regarded migrant workers engaged in building infrastructure for the 2022 Football World Cup. The Government had commissioned an investigative report, from an external corporate law firm, which contained ten pages on the subject of labour inspection. They were encouraged by the fact that few migrant workers had died on job sites, which meant that some labour inspection was occurring in a somewhat effective manner. They noted with interest, from the observations of the Committee of Experts, that the 150 labour inspectors (number which subsequently increased to 200) had performed close to 47,000 inspections in 2012, up from 2,240 inspections in 2004. The low number of inspectors in relation to the high number of inspections meant that each inspector performed a large number of inspections on an annual basis, leading them to wonder how thorough and effective the inspections were in reality. The external report mentioned that each labour inspector had a quota of two inspections a day, leading to a lack of thoroughness of reports, and that additional responsibilities, such as the inspection of workers' housing, increased inspector workloads and further compromised effectiveness. It was specified that the Government planned to add 100 inspectors, which would hopefully result in better inspections. The external report made a number of suggestions, namely: hiring more labour inspectors; bolstering the powers of inspectors, who were currently only able to issue recommendations and did not have the power to issue sanctions; improving coordination with the justice system to prosecute violations; reducing the minimum number of inspections per inspector; and taking steps for inspectors to receive comprehensive training to better assume their role.

They acknowledged that the Government was doing what it could and by hoping the situation would be effectively supervised.

The Employer member of Qatar stated that Qatari employers were firmly behind the need to ensure that OSH was guaranteed to all workers and that concrete measures were taken, in all sectors of the economy, to ensure that workers had good working conditions and that inspections were carried out. The country's economic condition attracted large numbers of migrant workers and, considering development at the expense of human life was unacceptable, the creation of a solid labour inspection base was of paramount importance. In order to deal with the increased pressure resulting from the influx of workers, the number of inspectors had increased from 150 to 200 and legislation had been enacted, or was in the process of being enacted. The Government should make sure labour inspections proceeded in an effective manner, which would necessitate the implementation of numerous measures. It was pointed out that in the past years, Qatari employers had cooperated with the Government and had endeavoured to provide inputs in order to find solutions for the development of OSH and the improvement of worker awareness. With regard to statistics and data, the employers agreed with the Committee of Experts that the current system was not fully comprehensive, and therefore urged the Government to take every possible measure to comply with the requirements of the Convention. Qatari employers reiterated their willingness to cooperate with the Government in ensuring that labour inspection functioned properly.

The Government member of France noted that Qatar had ratified five of the eight fundamental ILO Conventions and one of four governance Conventions, and she encouraged the Government to continue its effort for ratification. She welcomed the progress that had been made in bringing the labour legislation into line with international standards implementing fundamental labour rights and principles. The migrant workers legislation must fully recognize workers' freedom of association and of movement. However, the organization and functioning of the labour inspectorate did not, so far, make it possible for it to monitor the implementation of legislation effectively, or to identify and eradicate forced labour. The Government had chosen to support major important international human rights causes and was set to host the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice in 2015. A quality, independent and efficient labour inspection system would be proof of the Government's credibility.

The Worker member of Norway, speaking on behalf of the trade unions of the Nordic countries and of the Netherlands, recalled that the report of the tripartite committee of the Governing Body set up to examine the representation against Qatar under article 24 of the ILO Constitution had confirmed that migrant workers found themselves in situations prohibited by the Forced Labour Convention, 1930 (No. 29). Such situations were facilitated by contract substitution, inability to leave the employment relationship or country, non-payment of wages or threats of retaliation. Based on current trends, the International Trade Union Confederation (ITUC) had estimated that at least 4,000 workers would die by 2020, from accidents but also from heart attacks caused by heat, stress and poor living conditions. The available statistics indicated that the number of deaths in the workplace was three to four times higher than the European average. Despite some protections in the Labour Law, the violations demonstrated that this legislation was not properly enforced. Workers did not have access to effective mechanisms to remedy these violations. Migrants had difficulty accessing the available complaint mechanisms, partly because of lack of information, legal aid and interpreters, and partly because of fear of retaliation. Additionally, one such mechanism, the National Human Rights Committee, had limited means and powers. This body had downplayed the seriousness of the situation of migrant workers, undermining its independence and effectiveness. Additionally, statistics on workplace accidents were not published in Qatar and the existing statistics were very incomplete. The Government was therefore urged to take measures to ensure that workplaces were effectively inspected, that inspectors were properly trained and recruited, and to provide relevant statistical data regarding inspection visits, industrial accidents and cases of occupational diseases. The Government was also enjoined to ensure easy access to effective judiciary mechanisms for workers, as those currently available provided little, if any, remedy for migrant workers trapped in severe forms of exploitation.

The Government member of Morocco observed that the labour inspectorate had been reorganized and that efforts were being made to reinforce labour inspection in order to achieve conformity with the Convention. The experts had welcomed the progress made. There were some 200 labour inspectors, of whom 8.1 per cent were women, and who had been adequately trained for the proper performance of their duties, resulting in a considerable increase in the number of inspections conducted. In addition, the National Human Rights Commission of Qatar had observed progress in the observance of human rights. With an eye to the organization of the 2022 Football World Cup, the Government had adopted significant measures in areas such as OSH. There was no question that the authorities wished to reinforce labour inspection. In conclusion, everyone, including the ILO, needed to encourage the Government to continue improving conditions of work, including those of labour inspectors.

An observer representing the Building and Wood Workers' International (BWI) indicated that the BWI had conducted two missions in Qatar, in October 2013 and March 2014, visiting construction sites and labour camps, interviewing workers in private and meetings with the ambassadors of different countries represented in Qatar, the Ministry of Labour and other entities. A large number of fatalities had been reported, causes of which included a gas explosion and heart failure presumably due to the life threatening effects of heat stroke, exhaustion, lack of proper nutrition, excessive working hours and miserable working conditions. Moreover, annually, over 1,000 construction workers were treated for falls, and 10 per cent of them were facing permanent disability. The deaths and serious injuries were not recorded or reported by the Ministry of Labour, their circumstances were not investigated, no cases were prosecuted and no fines or penalties were imposed. The number of recorded cases of occupational accidents and diseases, in relation to the country's workforce, was clearly grossly underestimated. Of the 150 labour inspectors in post at the time of the BWI missions, only 33 were qualified in OSH and none specialized in construction. Labour laws were not properly enforced, illegal practices were endemic and prevention measures on the part of the labour inspectorate were wholly inadequate. Interviews with workers also revealed numerous cases of worksite accidents that had not been followed up by labour inspection, trade unions were banned and laws were regularly violated. Interviewed workers complained of the consequences of the *kafala* system, including illegal payments to employment agents, withholding of documents, non-payment of wages, poor nutrition and hygiene facilities, and restricted freedom of movement. It was likely that another million migrant workers would find their way to Qatar for construction work before 2022. Therefore, the BWI urged the Government to ratify relevant OSH Conventions, namely Occupational Safety and

Health Convention, 1981 (No. 155) and Safety and Health in Construction Convention, 1988 (No. 167). Firm laws and their effective implementation were necessary. Without effective, independent labour inspection and enforcement, it was unlikely that the various new charters and standards, which were being published, but did not constitute law, would be effective. However, even an army of labour inspectors would not be the answer. Without trade union rights, rights to organize and to participate in the workplace, there could be no credible system to ensure human and labour rights, including OSH. This was a humanitarian crisis that required urgent attention and remedies. Therefore, the BWI called for all migrant workers in Qatar to have the right to form and join unions.

The Government member of Switzerland encouraged the Government to continue increasing the number of labour inspectors, particularly in the construction sector. At the time of recruitment of new inspectors, it should be ensured that the conditions of their recruitment and exercise of their functions were in line with the terms of the Convention. A special effort should be made in the area of training so as to ensure that inspections were carried out in accordance with high quality standards. Those inspections should be carried out independently and regularly. The health and safety of workers should thereby be strengthened by the effective implementation of the Convention. While noting efforts underway to revise the right to work in Qatar, particularly in order to include new groups of workers, he indicated that it was equally important to implement the current legal provisions on the protection of workers. The Swiss Government would continue to offer its expertise and cooperation regarding labour migration by exchanging experiences and information on good practices. He welcomed the Qatari Government's decision to abolish the sponsorship system: a practice which led to the excessive restriction of the exercise of fundamental rights and freedoms.

An observer representing the International Transport Workers' Federation (ITF) stated that while construction and domestic workers faced the most serious workplace and industrial relations problems in Qatar, migrant workers in all sectors suffered from the lack of an adequate labour inspectorate. Despite several protections in the Labour Law relating to protection against dismissal on the grounds of having obtained maternity leave or due to marriage, a company in the country maintained policies that were in direct contradiction of these provisions of the Labour Law. If labour inspection in the country had been adequate, such discriminatory practices that violated national law would have been uncovered. There were only six women employed by the labour inspection services, and addressing issues such as maternity discrimination and harassment would require more female labour inspectors. The Government was therefore encouraged to ensure that the labour inspectorate was adequately staffed with female inspectors, and that the inspectorate properly covered the transport sector, including road transport, as well as large state-owned companies.

The Government member of Sudan pointed out that Qatar witnessed a significant influx of migrant workers who wanted to work in order to benefit from the interesting wages offered in return for their participation in the economic development projects in the country. The authorities of Qatar had to meet a challenge arising from the increasing numbers of migrant workers, especially in the area of inspection, monitoring and ensuring the good application of labour regulations. To this end, the ILO had provided technical assistance and its help in raising the capacity building of inspectors. This in turn helped Qatar implement the fundamental rights and principles at work, which were all agreed upon in different ILO Conventions. The Government was set on promoting and developing the labour inspection system in law and in practice, as well as on concretely improving the working conditions of migrant workers. The Government deployed efforts to avoid any discrimination against women especially through the promulgation of laws and regulations which guaranteed equal opportunities between men and women, and subsequent monitoring by the competent Qatari authorities. Finally, he welcomed the measures implemented for the inspection of construction sites and for the establishment of the necessary health infrastructure, whose aim was to fulfil the needs of migrant workers in addition to the preparation of a wage protection system based on Qatari banks.

The Worker member of Tunisia welcomed the information that there had been an increase in the number of labour inspectors, particularly women inspectors, in the Labour Inspectorate. Nonetheless, information was still required on the impact of these achievements on migrant workers. The Government should be invited, at the next session of the International Labour Conference, to provide detailed information on: the way in which the Labour Inspectorate carried out its duties to protect workers, in particular the fundamental rights of migrant works; the social security measures adopted for this category of workers; and the statistics on the number of accidents and occupational diseases registered. The Government should increase inspection on night work and women's work. The inspection visits should cover all workers in the country. Finally, some workers were expelled from the country whereas others, like the Tunisian journalist, were prevented from leaving. The ILO should call upon the Government to put an end to these practices.

The Government member of Norway speaking on behalf of the Nordic countries shared the concerns raised about the working and living conditions of migrant workers who made up 95 per cent of the workforce in Qatar. Hundreds of thousands more migrant workers were expected to be recruited for the 2022 Football World Cup, while already a high number of fatal accidents had occurred on relevant construction sites. The disquieting number of work-related accidents and the insufficient activities of the labour inspection in the construction sector were alarming. Statistics provided by the Government about the number of inspectors and inspections carried out in 2012 were considered surprising when compared to the number of inspectors and inspection visits carried out in Norway. In Norway, 300 labour inspectors carried out 15,000 inspections per year, while in Qatar 150 inspectors carried out 46,000 inspections. This was hard to understand and she questioned the efficiency and effectiveness of labour inspections carried out in Qatar. The Government was strongly recommended to actively promote the improvement of working conditions of foreign workers and to provide them with the necessary legal protection by improving the labour inspection capacity in the construction sector. This should be guaranteed and demonstrated by the enforcement of relevant regulation and standards for which an effective labour inspection system was crucial.

The Worker member from Libya presented the case of a women worker who was dismissed from her job but subsequently unable to leave the country as she had not obtained an exit visa, a requirement for any worker to leave the country. Thousands of workers faced a similar situation. The exit visa was part of the sponsorship system *(kafala)* and constituted a serious obstacle especially to workers who had fallen ill or were dismissed. The Government was called upon to abolish the sponsorship system. Rights of workers were human rights, and the labour inspectorate was presumed to play an important role in protecting workers' and human rights, and to end labour exploitation.

The Government representative raised a point of order, requesting that the Worker member of Libya not expand her intervention beyond the subjects raised by the Committee of Experts. Consequently, the Worker member of Libya was asked by the Chairperson to limit her observations to the issue under discussion.

The Worker members raised a point of order against the Government representative, requesting him to refrain from making accusations against the support of an official to the Worker member of Libya. Subsequently, the Chairperson requested the Government representative to let the Worker member of Libya continue her intervention, and recalled that the Government representative could make use of his right to reply at the appropriate moment.

The Government member of the Russian Federation was somewhat intrigued by the very high increase in the number of labour inspections carried out during the past years and wished to congratulate the Government for these brilliant statistical results. Some members of the Committee had nevertheless expressed doubts on the statistics submitted and stated that it would not be an easy task to keep them up in the future. It was also vital to ensure the quality of the inspections carried out, to improve the training of inspectors and to increase the number of women labour inspectors. Moreover, it was expected that the number of migrant workers, which was already very high, would increase considerably to take up the Herculean task of building the necessary infrastructure for the 2022 football World Cup, which would represent an enormous challenge for the labour inspection services. The Government should therefore continue to keep the Committee of Experts informed in detail of the measures taken to apply the Convention.

The Government member of Lebanon acknowledged the efforts made by the Government to comply with the provisions of the Convention. Already measures were taken to better protect workers such as reduced or suspended working hours during the hottest period of the day. Large resources in the country allowed the Government to appoint more inspectors and to increase the quality of inspection reports which included information on payment of wages. In the preparation for the Football World Cup of 2022, 1.5 million expatriate workers had been hired, and the Government was providing them with adequate housing facilities and access to health services, which was in itself a tremendous accomplishment. The Government was doing everything possible to comply with the Convention, both in law and in practice.

The Government representative called upon those speakers who had questioned some of the information that had been provided regarding the application of the Convention to recognize that the Government was aware of the magnitude of the problem and the related challenges, and was dealing with them. All who came to Qatar were considered to be partners in development. Regarding statements related to the media, he considered that these were their personal views, and that the media were politicized and biased. He emphasized that all migrant workers had the right to litigate, that litigation costs were free, and that workers could use the existing arbitration mechanisms before referral to the courts. In 2013, the courts had dealt with about 10,000 cases. Regarding fatal accidents, Qatar valued the life of every individual working on its territory. Although shortcomings existed, it should be taken into account that the Government was working on new legislation imposing sanctions on employers who violated the occupational safety and health legislation. Moreover, the Government was also considering the review of the sponsorship system *(kafala)* and was looking at several proposals in this regard. He reiterated his Government's commitment to international labour standards and cooperation with the ILO on matters relating to occupational safety and health and labour inspection. Qatar was working at both national and international levels and intended to continue sending labour inspectors to the International Training Centre in Turin for training. His Government would send a detailed annual report on the Convention in time for its examination by the Committee of Experts.

The Worker members first of all indicated their emphatic rejection of the Government's remarks against an official of the Bureau of Workers' Activities. They also deeply deplored the fact that the workers of Qatar had not been represented in the Conference Committee by a genuine trade union member but by an official from the human resources directorate of a major enterprise in the country. The discussions in the Committee concerning the application of Convention No. 81 were clearly based on the report of the Committee of Experts but they were also connected with the other work of the ILO, in particular the report of the tripartite committee set up to examine the representation against Qatar under article 24 of the ILO Constitution alleging non-observance of the Forced Labour Convention, 1930 (No. 29), which had been adopted by the Governing Body at its March 2014 session. Those conclusions could therefore be adopted, mutatis mutandis, by the Committee. By way of recapitulation, the Governing Body had invited Qatar to amend its legislation on the residence of foreigners without delay, which, inter alia, infringed in practice the right of workers to complain to the authorities in the event of failure by the employer to fulfil his obligations. The Governing Body had also invited Qatar to guarantee access for migrant workers to the labour inspectorate and to the labour courts. In that respect, the Government should be urged, with regard to labour justice, to ensure that complaints could be lodged free of charge, that there was easy access to the courts without fear of reprisals and that cases brought by migrant workers would be processed rapidly, while also ensuring that migrant workers had access to interpreters and legal assistance. Moreover, the testimonies heard during the discussions had shown that it was important that the Government was able to provide the Committee of Experts with reliable statistics on the work of the labour inspectorate, as had been requested by the Governing Body. The present case was concerned with serious violations of the rights of more than 1.5 million migrant workers who were in a situation of great vulnerability. The action taken by the Government was minimal and had had no impact. To put an end to the persistent crisis in human rights in Qatar, exceptional measures were now called for. Apart from the conclusions of the Governing Body which had already been referred to, the Worker members urged the Government to increase considerably the number of labour inspectors and to ensure that the latter could communicate effectively with the workers. Furthermore, the Government was invited not only to accept technical assistance from the Office but also to receive a high-level tripartite mission early enough in the current year for the mission's report to be available for examination by the Committee of Experts at its 2014 meeting. In conclusion, concerned at the seriousness of the situation, the Worker members asked that the conclusions relating to the present case be inserted in a special paragraph in the Conference Committee's report.

The Employer members supported the statement of the Government member of the Russian Federation and echoed the comments made by the Worker members regarding the services provided by the Bureau for Workers' Activities and the Bureau for Employers' Activities to the Workers' and Employers' groups respectively. There was general agreement that Qatar was performing an increasing number of labour inspections and the Government deserved praise for the efforts it had made in this regard. However, there was also consensus that far more labour

inspectors were needed to carry out the number of required inspections, with each inspector having to perform fewer inspections. The number of labour inspectors, including women inspectors and inspectors who spoke the language of the migrant workers concerned, should be substantially increased. The Employer members agreed with all of the points made by the Worker members in their concluding statement, except for the inclusion of a special paragraph in the conclusions of this case in the Committee's report.

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

ALGERIA (ratification: 1962)

A Government representative expressed his appreciation of the efforts made by the Committee of Experts and the Committee on Freedom of Association to assess the compliance of countries with ILO Conventions and Recommendations so that they could improve their national legislation. His Government took note of the observations of the Committee of Experts regarding the application of Convention No. 87, but he insisted that that it had supplied all its observations requested within the required deadline. It should be recalled that 94 workers' organizations were currently operating in Algeria in every branch of activity, both in the public service and in the private sector. Algerian legislation on labour relations set out the principle of social dialogue and collective bargaining as the foundation of the relationship between the partners at the work place. On the basis of that principle, some 3,000 collective workers agreements, 80 sectoral collective agreements, over 16,000 collective workplace agreements and 156 branch accords had so far been concluded a National Economic and Social Pact that had been concluded in 2006 and renewed in February 2014 at the 16th tripartite meeting, in the form of a National Pact for Economic and Social Growth. The Algerian experience in the area of social dialogue had been the subject of a detailed presentation at the 309th Session (November 2010) of the ILO Governing Body, when it had been unanimously welcomed. With regard to the observations of the Committee of Experts' on the registration of trade unions, the Government indicated that, once its by-laws had been modified to conform to the country's legislation, the National Autonomous Union of Secondary and Technical Education Teachers (SNAPEST) had been registered and was conducting its affairs without any problem in accordance with the rules and regulations in force. The National Autonomous Union of Public Administration Staff (SNAPAP) was also conducting its affairs in compliance with the existing laws and regulations. The internal dispute within SNAPAP had been ended by a ruling of the Supreme Court on the matter. For its part, the Government had maintained a position of neutrality, as recommended by the Committee on Freedom of Association. Moreover, the ILO Director-General himself had met the leader of the SNAPAP, and with the parties to the dispute, when he had visited Algiers in April 2013. Since the ruling handed down by the country's highest judicial body had resolved the dispute, the Government requested that the case before the Committee on Freedom of Association be dropped. The Committee of Experts had also noted with satisfaction the registration of the National Union of Vocational Training Workers (SNTFP), which was standard procedure when requests for registration were submitted in conformity with the law. The delays in registering certain trade unions could not be seen as an attempt to hamper freedom of association, but rather as arising from the need to ensure that the by-laws complied with the law. Ten unions had been registered since 2012.

As to the acts of intimidation and the death threats that had allegedly been made against union leaders and members, which was punishable under the Penal Code in Algeria, the Government observed that no complaints had been lodged with the competent courts, and that the allegations were not backed by any concrete evidence. Concerning the implementation of section 6 of Act No. 90-14 on the exercise of freedom of association, the Government had already stated that foreign workers were free to join trade unions. A worker's nationality was therefore no obstacle to union membership, and foreign workers enjoyed the same rights and the same protection as Algerian workers. However, the question of the nationality of persons seeking to establish a trade union was currently being examined for inclusion in the final draft of the new Labour Code. With regard to the application of section 4 of Act No. 90-14, the new Labour Code would also spell out the criteria governing the right of workers' organizations to establish federations and confederations of their own choosing, irrespective of the sector. Finally, regarding the implementation of section 43 of Act No. 90-02 on the prevention and settlement of collective labour disputes and the exercise of the right to strike, the Government observed that the Convention did not deal with the right to strike. That said, the right to strike was embodied in the Algerian Constitution, and as such it was set out in the legislation and governed by legal procedures of prevention, conciliation, mediation and arbitration. The number of strikes recorded each year showed that the right to strike existed for trade unions in the country. The latest strike had been called by trade unions in the national education sector, and had been resolved to the workers' satisfaction following negotiations with the public authorities. Algeria had ratified 59 ILO Conventions, including the eight fundamental Conventions and three governance Conventions, and was among the countries that had ratified the highest number of international labour Conventions. The world of work was constantly evolving in order to adapt to new economic and social circumstances, and the Government welcomed any recommendations or observations that might help it improve the country's labour legislation and foster a more peaceful social climate.

The Worker members noted that the issues raised in the present case mostly concerned the public sector, i.e., workers employed by the State. That did not exclude the private sector, which encountered the same problems. In its reply, the Government had not replied to accusations of intimidation and threats, including death threats, reported by the International Trade Union Confederation and a number of Algerian trade unions in the public sector. Speakers would take the floor to bear witness to the alleged occurrences. The Government had also not replied to the observations of the Committee of Expert on the compliance of the law with ILO standards. In that regard, it should be recalled that Algerian law reserved the right to establish trade unions for persons who had acquired Algerian nationality at birth or at least ten years ago, and that the trade unions had limited possibilities of establishing federations or confederations of their choice. While it could be accepted that national legislation might require founders of a trade union to respect certain clauses concerning publicity and other similar provisions, those provisions should not be tantamount to prior authorization or be applied in such a way as to prohibit the establishment of organization. In a case examined by the Committee on Freedom of Association in March 2013 (Case No. 2944), the Committee had asked the Government to indicate whether the two trade union complainants, the Higher Education Teachers Union (SESS) and the National Autonomous Union of Postal Workers (SNATP) had obtained registration. The Worker members understood that those organizations had still not been registered.

Trade unions were subject to various limitations on their right to organize their activities and to formulate their programmes in full freedom. It was not a question of the mere problem of the right to strike. According to Algerian law, strikes were prohibited when there was likely to provoke a "serious economic crisis". The Government stated that the notion was substantially the same as the phrase "acute national crisis" commonly employed by the Committee of Experts and the Committee on Freedom of Association. Nevertheless, the latter had asked the Government to clarify that notion and to provide examples. In reality, all notices of strike action submitted over recent years in the public sector had been subject to interim proceedings before an administrative court and, in all cases, the strike had been declared illegal. That procedure was unilateral, as the trade unions concerned were not invited to present their views. The orders were not reasoned and could only be appealed before the State Council, which issued its decisions within an average of two years. The Worker members recalled that, according to jurisprudence of the Committee on Freedom of Association, the decision to declare a strike illegal should not come from the Government, but from a body independent of and entrusted by both parties. However, when such an excessive number of strikes was declared illegal, at the simple request of the public authorities party to the conflict, without any grounds and without the opportunity for the parties involved to set out their view, there was grounds for questioning the independence of the judiciary and the confidence that the parties could have in it. The Committee of Experts also mentioned the National Arbitration Commission, to which the Government could refer in order to intervene in collective disputes. The Worker members questioned the composition of that body in the absence of trade union elections or of an independent membership count in Algeria. The independence of the National Arbitration Commission and the confidence that the parties could have in it was once again open to question. In reality, trade union activity, like the organization of assemblies or training meetings, was dependent on authorization from the Ministry for the Interior and the procedure almost systematically gave rise to intimidation, delays and harassment.

The Employer members thanked the Government for the very constructive submission and its clear receptivity to the constructive feedback from the Committee of Experts on how to improve its labour relations and legislation. The Employer members appreciated that the Government recognized social dialogue and collective bargaining as essential pillars, as well as its submission with respect to negotiation and consultation with the social partners. There appeared to be two broad themes observed by the Committee of Experts with regard to the application of the Convention. The first issue, raised in past observations of the Committee of Experts, concerned section 6 of Act No. 90-14 of 1990 that restricted the right to establish trade unions to persons who were Algerian by birth or had been of Algerian nationality for at least ten years. The Committee of Experts had noted that the right to organize had to be provided to workers and employers without distinction concerning their nationality. Also in its prior observations, the Committee of Experts had repeatedly called on the Government to ensure legislative reforms to deal with this issue and to provide information on the action taken. In addition, in its past observations, the Committee of Experts had repeatedly called on the Government to amend its legislation to remove all obstacles preventing workers from establishing federations of their own choosing. The Employer member had heard the Government's explanations that nationality was not a barrier to registration. However, it was a factor in the ability to establish trade unions. They understood that the comments of the Committee of Experts would be taken into account in the context of the current revision of the Labour Code and encouraged the Government to provide more information in this regard. The second issue was of concern to the Employer members. The Committee of Experts, in its observations for the past few years had referred to section 43 of Act No. 90-02, under which strikes were forbidden in essential services when they were liable to give rise to a serious economic crisis. The Committee of Experts had not only requested the Government to amend the language of its legislation, but had also proposed draft language in this respect. Moreover, the Committee of Experts had requested specific examples of cases where, in light of this language, strikes had been prohibited because of their possible effects. In the view of the Employer members, this was problematic, as the Committee of Experts had exceeded its mandate in this regard. It was important that the right to strike not be addressed in the conclusions of the Conference Committee because there was no tripartite consensus that it was dealt with in the Convention. In its submissions, the Government also considered that the Convention did not deal with the right to strike. In conclusion, the Employer members considered that the Government had been very constructive and encouraged it to provide the information that the Committee of Experts had requested. The Government should be commended for its openness in accepting constructive feedback from the Conference Committee to improve labour relations in the country, as well as the efforts it had already made and would continue to make.

The Worker member of Algeria observed that, despite the specific situation that the country had been facing for a number of years, this had not hindered the development of trade union pluralism, at least in certain sectors. The major trade union federations had had to face, in the past years, new political choices which had been brought about by the economic and social situations. He expressed solidarity with the unionists of his country facing difficulties. While these difficulties were undeniable, they could be resolved within the framework of social dialogue at the national level. Describing the situation of workers and trade unionism in the region, he emphasized that the situation required understanding, conciliation and the adoption of certain measures.

An observer representing the International Trade Union Confederation (ITUC) recalled that, following the events of October 1989, the ruling party, under force by popular revolt, had ceded small reforms on trade union pluralism, which were however restricted to sectoral trade unions. As such, the SNAPAP had been registered in 1990. However, 90 per cent of sectoral trade unions registered during this period of revolt had been dissolved following the halting of the electoral process in 1992. The trade unions that had been spared remained the constant target of a power which sought to control or neutralize them. Algeria had ratified Convention No. 87 in 1962, but trade union pluralism had not been written into the national Constitution until 1989. Even though article 132 of that Constitution provided that ratified Conventions prevailed over national laws, the content of the Convention could not be cited in the courts in relation to the free exercise of trade union rights. With regard to the suspension and dismissal of trade unionists, in September 2013 nine members of the federal bureau in the public works sector had been suspended for one month following a strike. Today 137 trade unionists, mostly women, were still suspended following a general strike which had started in April 2012. In reference to the ban on demonstrations and physical and judicial repression, hundreds of protesters and strikers had been assaulted and arrested in 2012, in particular Mr Abdel Khader Kherba and Mr Tahar Bel Abes, of the

SNAPAP Committee for the Unemployed, and Mr Yacine Zaïd, a representative from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF). In February 2013, police forces had surrounded the trade union premises to prevent the Maghreb forum for unemployed graduates from taking place, and had then detained and deported the delegations of Morocco, Mauritania and Tunisia who were due to participate. In March 2013, the border police prevented a delegation of 100 people from SNAPAP from travelling to Tunisia for the World Social Forum. With regard to interference in the internal affairs of trade unions and the "cloning" of unions, which was common practice by the authorities, a "clone" trade union of SNAPAP had been created by the authorities in 2001 which was under the leadership of a retired member of Parliament. The objective of this "clone" union was to discredit SNAPAP with the ILO. The regional or national trade union congresses were held under court order, and yet it was surprising that the Ministry of Labour refused to consider the records relating to SNAPAP resulting from the congresses. Moreover, the general intelligence services had summoned the founders of the solidarity trade union of higher education teachers with the aim of putting pressure on the workers and at the same time attempting to identify people likely to help the administration in creating a "clone" organization. With regard to the refusal to register autonomous trade unions or umbrella organizations, the refusal to register trade unions or confederations was a discretionary decision not based on any regulatory text. Years later, the registration requests of new trade unions were still pending, with the aim of dissuading the creation of any new trade unions. The requests for authorization from the Ministry for the Interior for the organization of meetings, training seminars or trade union congresses were consistently refused. In reality, there was a complete lack of social dialogue. When a trade union had finally been registered, the employer could still refuse to recognize it, or harass its officers, as was the case with the workers' trade union SONELGAZ (gas and electricity sector). In conclusion, SNAPAP had already lodged several complaints with the Committee on Freedom of Association, which had made recommendations that had been ignored by the Government. The repression against SNAPAP members had even increased. ILO technical assistance had not produced any results. The severity of the situation meant that other possible options set out in the ILO Constitution invited consideration.

The Government member of Egypt commended the efforts of the Government to draw up the draft Labour Code, which took account of the comments of the Committee of Experts, particularly with regard to the possibility of creating trade unions, federations and confederations freely in all sectors of activity and the recognition of the trade union rights of foreign workers. Moreover, measures had been taken to strengthen dialogue with the social partners and consultations were being held on all aspects of trade union activity. Furthermore, the right to strike was recognized by the national Constitution, and strikes were not therefore prohibited, but simply regulated. The justice system took account of ILO Conventions and its operation deserved respect. The far-reaching reforms undertaken in Algeria were ongoing and were not without their problems and challenges. The population was fully involved in that process and Algeria was thus a guardian of fundamental human rights, good governance and trade union pluralism.

An observer representing Education International denounced the use of precarious employment contracts in education, which made it impossible to foster a social climate that was conducive to unionization advocated in the Convention. Since 2006 the Algerian Federation of Education of SNAPAP had been demanding permanent contracts for tens of thousands of teachers on precarious contracts. Their movement had been met with repression. Over 7,000 protesting teachers on precarious contracts had been arrested, 5,000 had been fined like common criminals and dismissed, sometimes after teaching for more than ten years. Most of them were women who now had no source of income, and many reported that they had suffered brutality by the forces of order. The advent of the Arab spring and the fear that the protests might get out of hand had created an opening, and 35,000 teachers had been given permanent contracts by Presidential decree. But the regularization of their situation had not been negotiated with the trade unions, and 30,000 other teachers were still on precarious contracts. With SNAPAP's support they had, since 2011, maintained their demand for permanent contracts. The struggle between the two sides was still continuous, as were harassment, arrests and termination of contracts. At the start of the 2013–14 school year the temporary contracts of over 1,000 teachers had not been renewed. All of them were union members.

The Government member of the Bolivarian Republic of Venezuela emphasized that the Committee of Experts had noted with satisfaction the progress made in relation to freedom of association, particularly with regard to the registration of trade unions. The progress made by the Government through social dialogue should be highlighted. Evidence of this was the signing of many collective agreements and the renewal of a National Economic and Social Pact in February 2014. The Government demonstrated goodwill by considering the recommendations made by the Committee of Experts in the framework of the draft Labour Code. The Government denied any alleged acts of intimidation or threats against trade union delegates and trade unionists, and emphasized no complaints had been made in this regard to the competent bodies, nor was there any evidence of such acts. There was no doubt that the Government would continue its efforts and progress in this regard, guaranteeing freedom of association and protection of the right to organize. As a result, the conclusions of the Committee needed to recognize and draw attention to the progress made by the Government, as well its commitments and good faith in relation to the application of the Convention.

The Worker member of the United States, also speaking on behalf of the Worker members of Canada, Spain and Switzerland, pointed to the various forms of intimidation to which Algerian trade unionists had been subjected for many years. These included the Government practice of "cloning" unions, dismissal, physical violence and threats, imprisonment based on false charges and restrictions on the freedom of trade unionists to travel. The attempts to intimidate trade union leaders and activists were blatant and unrelenting, and she particularly referred in this regard to: the death threats received by the President of SNAPAP in 2011 after his meeting with the United Nations Special Rapporteur on the right to adequate housing; his termination for "unlawful absence from his position" in 2013; and the arbitrary decision to revoke his union leave of absence granted to him over a decade earlier. Most troubling was the murder of Professor Ahmed Kerroumi, an activist for the National Council for Democratic Change, an organization which SNAPAP had helped to form, after his meeting with the United Nations Special Rapporteur on the right to freedom of expression in April 2011. The Government had not undertaken any official investigation into this killing. She provided further examples of false charges against and prison sentences of trade union activists, including for organizing a strike, participating in meetings or in hunger strikes or, recently in April 2014, for distributing leaflets likely to

undermine national interest. Regarding restrictions on the freedom of trade unionists to travel, the President of SNAPAP had been arbitrarily deprived of his passport while attempting to travel to France in 2009 and had been banned from travelling for one month. Another union activist had been arrested in 2012 and imprisoned while attempting to travel for the purpose of organizing workers, and had been detained recently when he had tried to board a flight to attend the Dublin Platform for Human Rights Defenders. In July 2013, the authorities had not allowed the delegation of SNAPAP to travel to attend the World Social Forum in Tunisia. In addition, workers had faced serious repercussions for participating in peaceful protest action, strikes or demonstrations, including in February 2014. These had included arrest, physical assault, non-payment of wages and the stopping of social security and health benefits. The right of unions to function freely was also restricted, as illustrated by the repeated attacks and harassment against the "House of Labour" of SNAPAP over the past five years. All of these examples, which were only a few of many, illustrated that the acts of repression faced by trade unionists of Algeria were severe and widespread. The Government therefore needed to undertake serious reforms in order to meet its obligation to ensure freedom of association, as required by the Convention.

The Government member of Angola expressed support for the statement by the Government, which had made substantial progress in the implementation of ratified Conventions. Freedom of association was respected in the country as trade unions were formed and collective agreements were signed, and particularly the National Economic and Social Pact. The right to strike was also respected and it appeared that the Government had answered the questions asked regarding the application of the Convention in the country.

An observer representing Public Services International (PSI) noted that, although Algeria had ratified 53 ILO Conventions, including Convention No 87, freedom of association was constantly undermined by the administration's abusive practices. Trade union delegates in various sectors of activity had had their rights infringed; they had been banned from taking part in trade union activities and been refused to allow their members to hold general assemblies. "Cloned" trade unions had been set up, trade union members and delegates had been suspended and struck off lists, and the secondment of trade unionists, even with a national mandate, had been prohibited. According to the law to be considered representative, a trade union had to cover at least 20 per cent of the total workforce of the enterprise. However, in practice, it was the employer who determined the representativeness of the trade unions, thereby preventing their right to recognition and the exercise of their right of collective bargaining. In addition, trade unionists were victims of threats, suspensions, arbitrary dismissals, judicial harassment and police violence, and were prevented from freedom of movement and proceedings before the courts to denounce these facts produced no outcome. The social situation of women trade unionists was also deteriorating because women who had taken part in a strike in April 2012 had been subjected to restrictive measures since then. Finally, in May 2013, a trade unionist at the Training University had been dismissed because of trade union activities and his commitment to human rights. The Convention should be fully applied, and the technical assistance provided should be extended with the participation of SNAPAP and the Autonomous General Confederation of Algerian Workers (CGATA).

The Government member of Cameroon indicated that the information provided demonstrated that Algeria took the Committee of Experts' observations seriously. It should be noted that the revision of labour laws in Africa was a complex process since the reforms had to go through various advisory committees before being brought before Parliament. The Government should therefore be given time to implement the reform that had been called for. The Government was showing genuine willingness to respond to the concerns expressed by the Committee of Experts in the context of the revision of the Labour Code, which was being finalized. There were many different trade unions in the country and the Government might be accused of promoting the splintering of the trade union movement but not of obstructing freedom of association, when its exercise in practice was so clear. The Government should be encouraged to speed up the process of revision of the Labour Code taking into account the Committee of Experts' observations.

The Worker member of Libya, also speaking on behalf of the Worker members of Bahrain, Egypt, Mauritania, Morocco, Tunisia and Yemen said that the judiciary did not enjoy independence in Algeria. When trade union members of SNAPAP and SNAPEST appealed to the Supreme Judicial Council and the Council of State, their cases remained pending for years without any result. A lawsuit by unions against the Minister of Labour in 2005 in relation to public financial support had resulted in the establishment of a parallel rival union by the Government, which had received the same registration number as the original union. In addition, the Government had transferred workers' union contributions from the original union to the parallel union. Numerous international labour conventions had not been published in the *Official Gazette,* which denied workers the opportunity to use these Conventions in legal proceedings. Teacher trade union members faced harassment, intimidation, non-payment of wages and arbitrary arrest, and under these circumstances members of teachers' unions had had no choice but to call a strike in 2012, which had been followed by 95 per cent of the workers in the sector. Some members who had participated in the strike continued to face the same kind of reprisals, but the Government had not undertaken any proper investigations. He also accused the Government of having attempted to assassinate the president of one union, but the alleged perpetrator of this criminal act had not been subject to any action by the justice system. The silence of the judiciary in these cases was sufficient in itself to understand that it currently had no power. The Government suppressed trade unionists and eliminated independent unions. There was no other option than to turn to this distinguished Committee for justice.

The Worker member of Bahrain noted the statement by the observer representing the ITUC, which showed that Algeria was currently facing economic difficulties which required the collaboration of all the social partners to reach agreed solutions. Under the current circumstances, the trade union situation in Algeria did not require any intervention by the Committee and he considered that the ITUC had taken an extreme position with respect to this case. Certain parties appeared to be exploiting the ILO to undermine the role played by Arab trade union federations. The situation in Algeria should be examined in an equitable manner based on the evidence.

The Government representative indicated that he intended to respond calmly and confidently to the accusations levelled against his country. Algeria had made enormous sacrifices to recover and preserve its stability, was nowadays a safe haven where there were no restrictions, no death threats, and no curbs on the organization of national or international events so long as the country's laws and regulations and its procedures were respected. Testimony to that was the recent holding in Algiers of the Conference of Ministers of Foreign Affairs of Non-Aligned Countries. Some of those who claimed to have been

threatened were actually present in the room where the Committee was meeting. If they were really under threat, it should be asked how they had managed to leave the country to take part in an international Conference. The discussion of the case before the Committee was based on completely false premises and on baseless accusations that could prejudice the ILO and have unforeseeable harmful consequences. Algeria respected human rights and the ILO's international standards, as was obvious from the number of Conventions it had ratified. As had been explained in detail in his Government's statement at the start of the discussion, Algeria fully respected trade union rights. Considering the number of trade unions that were active in the country, it was inconceivable that Algeria should be accused of impeding freedom of association, just as it was inconceivable that it should be accused of impeding the right to strike when one knew just how many strikes were called each year. Every country needed laws that everybody respected to avoid anarchy. Employers could not therefore be blamed for taking legal action when strikes were called in total violation of established procedures. No diktat from the employers or from the workers could be tolerated, and that was why the country's entire social legislation was built on dialogue and negotiation when any disputes arose between parties. Regarding the allegation that a Maghreb forum had not been allowed to take place, should be recalled that no country in the world could tolerate the organization of an international meeting on its territory that violated its laws and regulations. The ITUC had been informed of the meeting via the ILO in a report issued on 8 May 2013. As for the allegation that restrictions had been placed in the way of the CGATA's constitution, for over a year it had still not responded to the Government's observations based on the legislation in force concerning the CGATA's by-laws and its administrative files. As to the cloning of trade unions as alleged by the ITUC, it should be noted that trade unionists in Algeria had never heard of any such practice, if it existed. If some trade unions did not take part in tripartite meetings, that was simply because the most representative organizations were recognized as having certain prerogatives, in accordance with relevant international standards. Sectoral trade unions participated fully in discussions concerned their area of activity and they were consulted on all matters related to the material and moral interests of the workers concerned. Finally, with respect to trade unionists whose dismissal had been allegedly unjustified, they enjoyed the full protection of the law and were entitled to defend their rights in court. It was everybody's duty to maintain the Committee's credibility by making sure that the complaints brought before it were based on facts. Algeria reaffirmed its absolute readiness to collaborate with the Committee in order to improve its legislation, which was inevitably a long-term process.

The Worker members indicated that the organizations concerning which the Committee on Freedom of Association had issued a decision in 2013 had still not been registered one year later. Workers' organizations faced a variety of obstacles on their activities that went beyond mere restrictions on their right to strike, for reasons which were not legally plausible and which were not in conformity with ILO standards. Moreover, the bodies that were called upon to rule on the legality of union action did not meet the requirements of the standards either. Their independence was highly questionable, they were not trusted by the parties concerned and the procedures they applied did not meet the criteria of a fair trial. For all those reasons, the Government should be asked to accept a visit from a direct contacts mission in order to verify with the interested parties the conformity of the laws and regulations and administrative practices with international standards.

The Employer members welcomed the readiness of the Government to cooperate with the Committee and the ILO with a view to improving its national law and practice on freedom of association. There was apparently consensus that the Government should be encouraged to report on the measures it was taking relating to freedom of association, including information on the reform of the Labour Code and measures related to the establishment of trade unions, their registration and social dialogue in general. This information needed to be reflected in the conclusions to the present discussion. In light of the discussions and the submissions of the Worker and the Employer members, as well as those of the Government representative regarding the scope of the Convention, the conclusions should also include reference to the fact that the Committee did not address the right to strike in this case, as the Employers did not agree that there was a right to strike recognized in Convention No. 87. It should be noted that there was no consensus between the groups in the Committee on the right to strike as being part of Convention No. 87. Proposed conclusions which called upon the Government to bring its national law and practice into line with the principles of the right to strike set out by the Committee of Experts were to be avoided.

BELARUS (ratification: 1956)

The Government provided the following written information.

With regard to the measures taken to implement the recommendations of the Commission of Inquiry concerning the registration of trade unions, as of 1 January 2014, 37 trade unions had been registered in the Republic of Belarus, including 33 national trade unions, one local trade union and three plant-level trade union organizations. Some 23,193 primary trade union organizations were registered. In the past few years, only isolated instances have been noted of refusal to register trade unions. Only four such refusals occurred over the period 2010–13. On several occasions, the Government of the Republic of Belarus has considered improving the law on the registration of trade unions. Together with the social partners, the Government will continue working to secure the rights of citizens to free association in trade unions.

With reference to the development of collective labour relations and tripartite cooperation, as of 1 January 2014, 556 agreements were in force in the Republic (one general agreement, 46 sectoral wage agreements and 509 local agreements), and 18,119 collective agreements. The law of the Republic of Belarus does not restrict the rights of trade unions (irrespective of their membership) to take part in collective bargaining. By way of example, there are large enterprises in our country, such as "Belaruskalii" or the "Mozirsky Oil Refinery", in which the parties to a collective agreement include both trade unions belonging to the Federation of Trade Unions of Belarus (FPB) and trade unions belonging to the Belarus Congress of Democratic Trade Unions (BKDP). One of the most important elements of cooperation in the social partnership system is the shared preparation of general agreements between the Government of the Republic of Belarus, the national employers' associations and the trade unions. A general agreement regulates the most significant aspects of economic and social policy: the criteria for the living standards of workers and their families, and the policy on wages, employment, pensions and benefits. In addition, a general agreement contains provisions for the development of social partnership and for contributing to the collective bargaining process. Beginning with the general agreement that was concluded for 2006–08, it is specified that such an agreement applies to all employers (and employers' associations), trade unions (and their federations) and workers in the Republic of Belarus. Accordingly, both

trade union federations (the FPB and the BKDP), regardless of their representative character, can enjoy the guarantees provided in the general agreement. In line with a decision by the National Council on Labour and Social Issues (NCLSI), work was in progress in Belarus in the second half of 2013 on drafting the new General Agreement for 2014–15. All the trade union federations and employers' associations took part in its drafting. The General Agreement between the Government of the Republic of Belarus and the national employers' associations and trade union federations for the period 2014–15 was signed on 30 December 2013.

With regard to the application of the law governing the receipt of foreign assistance, the arrangements for receiving and using foreign assistance in the Republic of Belarus were laid down in Decree No. 24 of 28 November 2003 of the President of the Republic, "on receiving and using foreign assistance". This Decree does not prohibit the receipt by trade unions of foreign assistance, including assistance from international trade unions. The Decree defines the conditions (purposes) of using such assistance, and also provides that it must be registered in the established manner. However, the procedure for registering foreign assistance granted free of charge is not complicated, and does not take long to carry out. From 2010 until the end of the first half of 2013, the receipt of foreign assistance was registered in the Department for Humanitarian Affairs of the Office of the President of the Republic. It must be emphasized that for the whole of the period in which Decree No. 24 has been in force, there has not been one instance of trade unions being refused registration of foreign assistance.

On the basis of its consideration of the question of Belarus in June 2013, during the 102nd Session of the International Labour Conference, the Committee on the Application of Standards invited the Government of the Republic of Belarus to accept a direct contacts mission "with a view to obtaining a full picture of the trade union rights situation in the country, and assisting the Government in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry". The Government of the Republic of Belarus accepted the Committee`s proposal and took the necessary steps to enable the direct contacts mission to carry out its tasks in full. The direct contacts mission visited the Republic of Belarus from 27 to 31 January 2014. The mission met with the Republic's Council of Ministers, the Administration of the President of the Republic, the Office of the Procurator-General of the Republic, and the Ministries of Labour and Social Protection, Justice and Foreign Affairs. The views of the Government were supported by the social partners, who also showed considerable interest and held their own constructive and fruitful meetings with the mission. The direct contacts mission paid special attention to the work of the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere. The mission held a meeting with the members of the Council, during which all the parties represented on it emphasized its importance as a necessary forum to enable all those involved to express their opinion and make proposals for resolving current problems. None of those on the Council expressed any doubt of the usefulness and necessity of this tripartite body. As the outcome of the work in Minsk, the direct contacts mission suggested pursuing a number of future options which, in its view, should enable the recommendations of the Commission of Inquiry to be implemented. The Government of the Republic of Belarus, together with the social partners, is conducting an active dialogue with the International Labour Office on the organization of measures to implement the proposals of the mission. It has now been agreed to hold a seminar on 10–11 July 2014 to study international experience of the work of tripartite bodies (with a view to increasing the potential of the Council on the improvement of legislation in social and employment matters). In addition, the International Labour Office has prepared a "roadmap" for the accomplishment in 2014 of the remaining measure on: collective bargaining; dispute resolution and mediation; and instructing judges, prosecutors and lawyers in the application of international labour standards. All the measures will be carried out on a tripartite basis, with the participation of all those involved.

In addition, before the Committee, **a Government representative** said that the direct contacts mission had had a positive effect on the strengthening of constructive relationships between the Government and the social partners and had facilitated a number of steps to implement the recommendations of the Commission of Inquiry made in 2004. The Government was profoundly convinced that the development of social dialogue, tripartism and the right of freedom of association and collective bargaining was only possible with joint and constructive interactions between the Government, employers' and workers' organizations. The implementation of many of the recommendations of the Commission of Inquiry required a complex approach and involved work over a longer period. For this purpose, it was necessary to take into account the views of all interested parties, which was why the Government had proposed the establishment of the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere, which had been supported by the social partners, both at the national and international levels, and by the ILO. The Council was composed of trade union representatives of both the FPB and the BKDP and provided a basic forum for carrying out mutually agreed steps and recommendations. In the Council, questions concerning registration, dismissals, collective bargaining and other issues had been discussed. However, the adoption of decisions was a complex process. Each party had their own vision of the problems and their solutions and, as a result, not all of the decisions adopted were understood as optimal solutions by everyone. Despite having made some criticisms, the trade unions had never been called into question and had been perceived positively. The Council permitted enhanced interactions between the interested parties and their active participation in discussions, in a spirit of social dialogue. Problems were discussed and participants had often adopted decisions on an agreed basis. This had also promoted constructive cooperation between the parties in other areas, such as the regular conclusion of general agreements between the Government and the trade unions concerning important issues, for instance in relation to standards of living, wages, pensions and other benefits. On 30 December 2013, a new general agreement for 2014–15 had been concluded with the participation of the FPB and the BKDP, which was applicable to all employers and workers, regardless of their level of representativity. The Council had a special role to play in the implementation of the recommendations of the Commission of Inquiry. During the direct contacts mission in January, the ILO experts had also held meetings with members of the Council. Discussions on further improvements of the activities of the Council had been held. The Council was of high importance, as it gave all interested parties the possibility to express their views and solve problems, and its usefulness had never been called into question. The good relationship between the Government and the social partners was a direct result of a consistent policy of implementing trade union pluralism. As a result of the work of the direct contacts mission, there had been proposals concerning some promising outlets in the future, with a view to the further implementation of the recommendations made by the Commission of Inquiry, including for the improvement of legislation and

collective bargaining processes through the enhancement of the potential of the social partners, the training of judges, public prosecutors and other public representatives in the area of freedom of association. The proposals had been made in the course of the direct contacts mission in the Tripartite Council, and had been supported by the Government and the representatives of the social partners. The Ministry of Labour had received from all the trade unions and employers an expression of their interest and readiness to implement the proposals. The Government was carrying out effective dialogue with the ILO to organize events aimed at improving and implementing these proposals, among others, to improve the potential of the Council in the future. The Government fully respected the principles of the ILO, and appreciated the cooperation with the ILO, including the work of the direct contacts mission in January to further improve the situation and implement the recommendations of the Commission of Inquiry. The Government was aware of the interest of the ILO in trying to help the Government and the social partners bring about a solution and for the further development of social dialogue and tripartism. The implementation of the proposals made during the direct contacts mission would certainly pave the way for further progress.

The Worker members observed that the case, which was being examined because of the Committee of Experts' double footnote, was still about the violation of the fundamental right of the workers of Belarus to organize and of their trade unions to conduct their affairs. Legal obstacles to the establishment of new organizations were still in force, in the form of provisions regarding their legal address, and of a requirement that their members comprise at least 10 per cent of the companies' workers. In 2013, the Government had indicated that those provisions were to be amended, but nothing had happened since then. On the contrary, it was no longer considered to be a priority. Meanwhile, the Government was making it more and more difficult for trade unions to register, with the result that newly constituted organizations were completely discouraged from registering. Moreover, in addition to the fact that unions not affiliated to the official trade union federation continued to encounter difficulties, the generalized system that had been introduced of resorting to fixed-term contracts, which served as a means of bringing pressure to bear on the members of independent trade unions, who ran the risk of not having their contracts renewed. In addition, independent unions were systematically denied the right to demonstrate and hold peaceful meetings in defence of the workers' interests; and the provision of assistance free of charge by international workers' or employers' organizations not only required prior authorization, but was also greatly restricted. For years the Government had failed to send the Committee of Experts any information on amendments to the provisions governing the registration of trade unions, free international aid, mass collective action or the right of unions to organize their activities freely. Nor had it provided any information on cases of the refusal of registration or authorization to demonstrate. The plan drawn up with the participation of the ILO and of the social partners in 2009 had not been implemented, and the country's Tripartite Council served no real purpose at all. As a result, the Committee of Experts had been obliged to note the total absence of progress.

The Committee had already examined the measures taken by the Government to comply with the Commission of Inquiry's recommendations on eight occasions, had also noted the lack of progress in 2013 and had decided to include Belarus in a special paragraph of its report. According to the report of the direct contacts mission in January 2014, the Government had indicated that it was aware of its international obligations, but that the country's interests also had to be taken into account and that some of the Commission of Inquiry's recommendations were no longer relevant. The mission had indicated that, even if some recommendations had been implemented, after ten years the underlying problems had still not been resolved, as free and independent trade union activities could not be conducted at every level, and workers could not join independent unions for fear of losing their jobs. The direct contacts mission had therefore concluded unequivocally that, although the union rights situation had evolved, there had been no fundamental change and no notable progress in the implementation of the Commission of Inquiry recommendations. According to the Worker members, the situation was ever worsening. For instance, the Secretary-General of the Belarusian Independent Trade Union (BNP) regional organization in Soligorsk had been arrested and fined for infringing the law on collective action, whereas she had merely met up with some of her fellow workers near the enterprise on the way to work. Independent trade unions continued to suffer discrimination. At a Bobrisk tractor factory the management had evicted the Belarus Free Trade Union (SPB) from its premises in the factory, despite the refusal of the regional economic tribunal to authorize such a measure. The leader of the trade union had been denied access to the enterprise despite the tribunal's ruling that it constituted anti-union discrimination. He now had to be accompanied by two guards when entering the enterprise, but his union was no longer allowed to take part in collective bargaining and its members were threatened with dismissal. Given the situation, five workers had gone on a hunger strike. Consequently, the Worker members were very suspicious of the announcement by the President of Belarus of a plan to prohibit agricultural workers from leaving their place of work without official permission from the authorities, which could develop into a generalized use of forced labour.

The Employer members appreciated the positive and constructive tone of the Government. They were pleased that the Government had accepted a direct contacts mission and welcomed the explanation of the Government representative concerning some of the outcomes of the direct contacts mission and the follow-up measures that were to be adopted. The Employer members had not yet had the occasion to assess the information of the direct contacts mission, but looked forward to the assessment by the Committee of Experts. The majority of the information provided by the Government related to the Tripartite Council and they were pleased to hear that, according to the Government, as a result of this Council, cooperation between the Government and the social partners had improved. They also noted that promises had been made in relation to the direct contacts mission to further the implementation of the 2004 recommendations, which related to legislation, legislative processes and the training of judges on freedom of association principles. Convention No. 87 was a fundamental Convention, which had been ratified by the Government in 1956. The status of double footnote showed the seriousness that the Committee of Experts had attached to this case. The Employer members thought that it was important to note that a 2003 complaint made under article 26 of the Constitution had resulted in the 11 recommendations made by the 2004 Commission of Inquiry, which had called for free and independent trade unions to be able to play their proper role in the country's social and economic development. In 2013, almost one decade later, the Committee of Experts had noted with regret that no new information with regard to the implementation of the recommendations of the Commission of Inquiry had been made. In 2013, the Government had indicated to the Conference Committee that no cases of registration had been refused and no trade

unions had been charged with criminal or administrative offences in 2012. The Government had expressed its commitment to bringing its legislation into conformity with the Convention and to social dialogue, and had emphasized the positive role of the Tripartite Council since its operation in 2009, where several issues including freedom of association rights had been discussed. The Government had further stated that the Tripartite Council was best suited to making progress on legislative matters and had committed to amending Presidential Decree No. 2 as part of the required amendments.

At the 2013 discussion of the Conference Committee, the Employer members had welcomed the indication by the Government that the Tripartite Council had been operating since 2009, that the relations between the Government and the social partners had stabilized and that a number of collective agreements had been concluded. However, the Employer members had requested the Government to intensify its cooperation with the social partners and to avail itself of the expert advice and assistance of the ILO, and had supported the request by the Worker members that the Government should accept a direct contacts mission. In 2013, this had resulted in a special paragraph of the Committee's report. In its conclusions, the Conference Committee had urged the Government to immediately take all the measures necessary to ensure that employers and workers could fully exercise their rights of freedom of expression and association. The Conference Committee expected detailed information on the proposed amendment to be provided to the Committee of Experts and had trusted that the Committee of Experts would be in a position to note significant progress in 2014. The 2013 observations of the Committee of Experts were a follow-up to these conclusions of the Conference Committee. In its latest observation, the Committee of Experts urged the Government to amend Presidential Decree No. 2 and to address the registration of trade unions in practice. The Committee of Experts noted with deep regret that no progress had been made with the implementation of the recommendations of the Commission of Inquiry and the application of the Convention in practice. The Employer members recalled that the case had been examined almost every year since 2001, and they had seemed to sense progress after 2007. They had appreciated the efforts made by the Government after that date. Now, however, the Employer members noted that, despite the opportunity to do so, it appeared that the Government had not provided information on the amendment to Presidential Decree No. 2, nor had it addressed the requirement of registration, and there also seemed to be a lack of information on the Act on Mass Activities and how this Act related to freedom of association, among other concerns. Furthermore, no information relating to measures regarding the amendment to the relevant section of the Labour Code appeared to have been provided. The Employer members wished to emphasize the obligation of the Government to provide additional information to the Committee of Experts regarding all these issues. In light of the 2013 conclusions of the Conference Committee and the observation of the Committee of Experts, now was the time when progress had to be intensified beyond what had been seen up to the present. They encouraged the Government to commit itself to the full and effective implementation of the 2004 recommendations of the Commission of Inquiry without further delay, taking into account the full participation of the social partners. They took the opportunity to indicate that they would be disappointed if progress were not intensified in the short term.

The Worker member of Belarus emphasized that the recommendations adopted ten years ago by the Commission of Inquiry had considerably helped in promoting the trade union movement and encouraging social partnership in Belarus. He paid tribute to the direct contacts mission that had taken place in January 2014, which had met all the parties concerned, and particularly the trade unions, without encountering any obstacles. It might be considered that all the recommendations made by the Conference Committee in 2013 had continued to be implemented, with ILO assistance. With regard to the legal provisions concerning the 10 per cent minimum membership requirement, it should be recalled that the rule applied to all trade unions without exception. Nonetheless, the FPB was open to the idea of attempting to do away with this requirement, despite the fact that it did not cause any real problems in Belarus. With regard to the recommendation concerning foreign financial aid, the FTUB opposed its implementation because it could cause problems for workers in the country. The direct contacts mission of January 2014 had found that five recommendations had been implemented, but this matter had not been raised during the Committee's discussion. The FPB had organized a large demonstration on 1 May and all trade unions had participated in the preparation of the general agreement with the Government, which proved that the trade unions could operate freely in Belarus. It was undeniable that progress had been made by the Government. Finally, with regard to the allegations of forced labour, he said that they were not true and needed to be substantiated before they were made by any parties.

The Employer member of Belarus considered that the measures taken by the Government to give effect to the recommendations of the Commission of Inquiry had helped to alleviate the seriousness of the issues under discussion. The situation regarding the observance of trade union rights had improved, as had been noted by the direct contacts mission in January 2014. The platform for social dialogue had been extended, the BKDP and the FPB were now participating in the implementation of the general agreement with the Government and in collective bargaining in enterprises. Employers in Belarus supported the principle of equal treatment for all trade unions. Cases of dismissal were handled within an established legal framework. Most allegations of anti-union dismissal had been rejected, although cases had been brought before the ILO arguing that the decisions handed down were unjust. Belarusian employers supported a discussion of these issues and of mutually beneficial solutions regarding objective criteria for the admissibility of complaints, but they recalled the proposal made in this regard by the Employer Vice-Chairperson to the November 2013 session of the Committee of Experts. The development of social dialogue depended on all the parties concerned, and it was undeniable that the authorities in Belarus, as well as the employers and trade unions, had endeavoured to give effect to the principles contained in the ILO Constitution, such as a guaranteed wage, decent living and working conditions, and combating unemployment. The meetings which had taken place with the direct contacts mission had paved the way for constructive dialogue. Belarusian employers were in favour of holding a seminar, with ILO assistance, to gather the experiences of other countries with regard to collective bargaining and trade union pluralism. Lastly, account should be taken of objective indicators to illustrate the positive dynamic in the development of labour and employment relations in Belarus and decisions should be taken in the interests of both workers and employers.

A representative of the European Union (EU), speaking on behalf of the EU and the Governments of Albania, Iceland, Montenegro, Norway, Serbia, the former Yugoslav Republic of Macedonia and Ukraine, said that the EU attached great importance to its relations with Belarus and remained gravely concerned about the lack of respect for human rights, democracy and the rule of law. He wel-

comed the fact that an ILO direct contacts mission had managed to visit Minsk and met with stakeholders from both governmental and non-governmental sides, but remained gravely concerned that the mission had shown that there had been no fundamental change or significant progress in the implementation of the recommendations of the 2004 Commission of Inquiry. In this context, he recalled that the failure of Belarus to implement the recommendations had led to its suspension in 2007 from the EU Generalized System of Preferences, which was still effective. He asserted that the development of bilateral relations under the Eastern Partnership was conditional on the progress of Belarus towards respecting the principles of human rights, democracy and the rule of law, and indicated the EU's willingness to assist Belarus in meeting its obligations in this regard and that it would continue to closely monitor the situation in the country. He called on the Belarus authorities to eliminate the obstacles to trade union registration, which hindered the establishment and functioning of trade unions in practice, and particularly the requirements imposed by Decree No. 2 of January 1999 on the legal address and the minimum membership of 10 per cent of the workforce. He also urged the Government to provide the information requested by the Committee of Experts, notably concerning the refusal to authorize the holding of demonstrations and the restrictions imposed by the Act on Mass Activities, and to amend Presidential Decree No. 24 concerning the use of foreign gratuitous aid, which was essential in ensuring that workers' and employers' organizations could benefit from international assistance. He urged the Government to intensify its efforts to implement the recommendations of the 2004 Commission of Inquiry, in cooperation with all concerned social partners. He also encouraged the Government to avail itself of the technical assistance of the ILO.

An observer representing the International Trade Union Confederation (ITUC), (President of the Belarusian BKDP), said that in the ten years since the Commission of Inquiry had formulated its recommendations, Belarus had become one of the worst places in the world for the rights of workers and the social partners, particularly due to dismissals and reprisals. Presidential Decree No. 2 had made it impossible for trade unions to develop, union activists were immediately dismissed and workers were threatened unless they returned to state-supporting unions. He emphasized that the State had huge legal and administrative resources which left no chance for worker and union rights to be protected and had denied them the right to picket or participate in 1 May demonstrations for many years. He asserted that the Presidential Decree had created a system of modern-day slavery and, as the direct contacts mission had been able to note, State efforts were all directed towards this. He maintained that since the recommendations of the Commission of Inquiry had been ignored, it was essential for the ILO to send a clear message to the Government in order to ensure the return to trade union rights and to put an end to discrimination and forced labour.

The Government member of Canada recalled that in 2013 Canada had expressed grave concerns at the overall situation of human rights, including labour rights, in Belarus. His Government was still disturbed by continued reports of numerous violations of the Convention, including interference by the authorities in the activities of trade unions and continued barriers to the registration of independent unions. Canada recognized that the Government of Belarus had improved its degree of cooperation with the ILO supervisory bodies by facilitating a direct contacts mission, which had reported to the last session of the Governing Body in March 2014, but which had been unable, in the same way as this year's report by the Committee of Experts, to report significant progress on any follow-up to the recommendations of the 2004 Commission of Inquiry. His Government therefore urged the Government of Belarus to take the necessary measures to address these serious allegations and to make a real effort to eliminate violations of trade unions rights, including the right of workers to participate in peaceful protests to defend their occupational interests. The Canadian Government also called on the Belarus Government to follow-up on the 2004 Commission of Inquiry recommendations and to fully cooperate with the ILO, while respecting its obligations under the Convention.

The Worker member of the Russian Federation indicated that he was an adviser to his Government and had participated in efforts to form a customs union in the Urals. He noted the agreement between the Governments of Kazakhstan and the Russian Federation and the involvement of workers in those efforts. There were two trade unions representing the Russian Federation at the International Labour Conference, which had different histories and membership, among other things, but which had a shared perspective on what was happening in Belarus. He regretted the failure to make headway and that workers' opportunities to make progress in the area of collective bargaining were diminishing. In the tripartite conference held under the auspices of the ILO and with the participation of the ITUC and the International Organisation of Employers (IOE), there had been hope of progress, but those expectations had come to nothing. He recalled that the case had been dealt with at the 2013 session of the International Labour Conference. The case concerned a common forum for workers in the Urals to discuss legislation, workers' rights, etc. Workers in that forum had called on the Government of Belarus to end the violations of workers' rights and, as a result of the direct contacts mission, certain measures had been adopted, but no further progress had been made. He considered that ILO assistance should be based on the steps taken by Belarus and requested the Conference Committee to take them into account. He concluded by referring to a recent statement by the President of Belarus in which he had considered plans to reintroduce a right of serfdom in agriculture.

The Government member of China noted the strengthened cooperation between Belarus and the ILO since June 2011, which had led to progress regarding the application of the recommendations of the Commission of Inquiry. Particular mention should be made to the easing of the minimum requirements with respect to the exercise of trade union rights, signing tripartite and wage agreements, and undertaking a direct contacts mission. The member States which had ratified ILO Conventions were obliged to implement them and the measures taken by Belarus with a view to applying the Convention should therefore be taken into consideration. In that context, cooperation with the ILO should continue.

The Worker member of Finland, speaking on behalf of the Worker members of the Nordic countries, recalled the tradition of trade union pluralism in the Nordic countries, where the trade unions represented 9 million workers, and the strategic partnership between the BKDP and the Baltic Sea Trade Union Network (BASTUN), which had existed since 2006. This network consisted of representatives of 22 democratic trade union confederations around the Baltic Sea region. The Government had only partially implemented the recommendations made by the Commission of Inquiry in 2004, without any significant progress being made. Belarusian workers faced obstacles to union registration, and intimidation and pressure when they wanted to join unions. Workers were afraid to lose fixed-term contracts when joining unions. The other repressive legislation in force consisted of the Act on Mass Activities and the legislation concerning foreign gratuitous aid,

which were not in conformity with the Convention and could be used against independent trade union activities. She urged the Government to implement effectively all the recommendations of the Commission of Inquiry, as the right to organize freely went hand in hand with true democracy.

The Government member of the Bolivarian Republic of Venezuela indicated that the measures taken by Belarus represented considerable progress with respect to the discussions which had previously taken place within the Committee. She was convinced that dialogue would continue to be strengthened, and had already resulted in the full recognition of trade union rights, the improved registration of trade unions and the development of collective agreements and general agreements, in particular the general agreement for 2014–15, which was designed to encourage collective bargaining and dialogue. The acceptance of the direct contacts mission showed good faith on the part of the Government and dialogue had started with the social partners on the mission's conclusions. The Committee's conclusions should emphasize the progress and commitments of the Government in relation to compliance with the Convention.

The Worker member of Sudan recalled the various discussions concerning Belarus that had been held over previous years in the Committee and noted the many activities recently carried out by the country's tripartite partners. The number of trade unions, which represented over 4 million members, was on the rise. Trade union pluralism was a reality, as demonstrated by the existence of trade union federations with different points of view, which allowed them to cooperate by means of social dialogue. Certain aspects of labour law had been revised, particularly relating to the minimum wage. The initiatives taken by the Government were encouraging and deserved to be supported in the future.

The Government member of the Russian Federation noted the significant progress made with regard to the measures taken to ensure full compliance with the Convention and the views expressed by the FPB regarding the effect given to the majority of the recommendations made by the Commission of Inquiry. The ILO direct contacts mission that had taken place in January 2014 had led to consultations with eminent bodies such as the Council of Ministers, the President's Office and the Office of the Public Prosecutor, which clearly reflected the cooperative spirit of the Government to collaborate with the ILO. Substantive discussions had taken place to solve outstanding individual issues. Necessary conditions had been created to promote freedom of association and social dialogue, which was confirmed by the discussion in this Committee. The Tripartite Council was fully committed to improving labour legislation and all organizations representing Belarus workers and employers had taken part in the general agreement between the Government and the social partners for the period 2014–15. The tone of the Committee's discussion was therefore artificially inflated, as many accusations against the Government were either unfounded or outdated. Constructive proposals now needed to be taken into account. The ILO should continue providing technical cooperation to resolve the outstanding matters with respect to the application of the Convention.

An observer representing the World Federation of Trade Unions (WFTU) emphasized the achievements attained by the workers in the country with the strong and decisive intervention of the FPB. It should also be emphasized that, although the major European powers were experiencing widespread opposition to adjustments imposed by the EU, Belarus continued to grow and guarantee public health, social security and an unemployment rate of barely 1 per cent. This demonstrated the strength of a planned economy in which the State accepted its role and imposed rules and limits on monopolies. It was for this reason that the EU and the United States wanted to condemn Belarus and the discussion of the present case was merely a pretext. It was inadmissible that the efforts and positive changes achieved had not been recognized by the ILO and that the ILO criticized a country that should serve as an example. Meanwhile, no reference was made to the events in Ukraine, where an attack on trade unions had caused 200 serious injuries. She reaffirmed her complete confidence that Belarus would refuse any aggression similar to that taking place in Ukraine, especially since Belarus had signed the agreement setting up the Eurasian Economic Community with the Russian Federation and Kazakhstan, which would strengthen the integration of those countries.

The Government member of the United States recalled the consistent message of the ILO supervisory bodies over the past decade that the Government should intensify its efforts to ensure the application of the Convention in law and practice, and to fully and immediately implement the recommendations of the 2004 Commission of Inquiry. Although pleased that the Government had accepted the ILO direct contacts mission in January 2014, she noted that its findings were disappointing. Although the direct contacts mission had found that the trade union situation had evolved and some of the recommendations of the Commission of Inquiry had been implemented, many underlying issues that had been raised remained unresolved. New problems had arisen, and the direct contacts mission had concluded that no fundamental change or significant progress had been made. Workers in Belarus continued to encounter significant difficulties when trying to organize outside the existing trade union structure and lacked effective protection against anti-union discrimination and interference, which made genuine trade union pluralism impossible. She recalled her request made to the Government in the ILO Governing Body in March 2014 for it to engage in meaningful and sustained cooperation with the ILO aimed specifically at the implementation of the recommendations of the Commission of Inquiry. She urged the Government to make good on its stated commitment to trade union pluralism and social dialogue in the country and to implement the suggestions made by the direct contacts mission.

The Government member of Cuba considered it positive that the Government had accepted the visit of a direct contacts mission and assistance from the ILO with a view to the effective implementation of the recommendations of the Commission of Inquiry. Recognition should be given to the progress that had been made in strengthening social dialogue, improving the indicators relating to trade union registration, developing collective labour relations and tripartite cooperation, in particular the participation of the social partners in the drawing up of the general agreement for 2014–15 concluded at the end of 2013. The efforts made should be complemented by greater technical assistance from the ILO and support from other countries that were in a position to help, adopting a respectful approach of collaboration and dialogue that was conducive to genuine international cooperation. Furthermore, if the supervisory machinery was to contribute towards enhancing the culture of compliance with the Conventions, special attention had to be given to the need to take steps to prevent considerations not directly linked to the issues concerned from obstructing the cooperation and interchange that should take precedence within the Committee.

The Worker member of the Bolivarian Republic of Venezuela expressed his concern and interest in the workers' situation in Belarus. The two countries maintained productive exchanges following the installation of Belarusian factories in his country and the training of Venezuelan workers in technology in Belarus. He therefore endorsed

the position of the FPB and of other members of the Committee regarding the Government's progress in applying the Convention. The participation of the social partners in the dialogue at the national level and with the ILO was a welcome development, and there was reason to hope that the situation would continue to improve.

The Worker member of Poland recalled the recommendations made by the Commission of Inquiry ten years ago and the hope raised by the acceptance by the Government of the direct contacts mission held in January 2014. She expressed her disappointment that the report of the direct contacts mission indicated that the Government did not intend to amend acts and decrees of crucial importance, and that obstacles to the registration of new workers' organizations remained. Statements made by the Government indicating that the recommendations of the Commission of Inquiry were outdated and should be reviewed in the light of the country's realities, showed its unwillingness to implement any recommendations whatsoever. Since the direct contacts mission, realities in the country had become worse. The Government was expected to fulfil its outstanding obligations if it wanted to be taken seriously and obtain respect. Under the current conditions, permanent requests by the Government for ILO technical assistance without a simultaneous commitment to produce results were inappropriate and not justified. The Government should therefore stop benefitting from ILO technical assistance unless it guaranteed full and immediate implementation of all the recommendations made by the Commission of Inquiry. If not, the possibility of applying other provisions of the ILO Constitution could be considered by the Committee. She also commented on a remark made by the Employer member of Belarus who had claimed that there was equal treatment of unions in Belarus. While employers negotiated with all trade unions, the final collective agreement was signed only by the most representative trade union, and thus in most cases only covered its members. This constituted an explicit example of anti-union discrimination and had nothing to do with equal treatment between trade unions.

The Government representative called for the discussion concerning the case in question to be carefully considered by the Committee and for its members to demonstrate greater objectivity with regard to the situation in his country. In that respect, the statement that respect for union rights continued to deteriorate was without grounds and the direct contacts mission had moreover indicated that the situation was improving. In addition, while there were differences between the interested parties concerning the number of recommendations of the Commission of Inquiry that had already been implemented, no one had disputed that some recommendations had been effectively applied. In all industrial relations systems, it was natural that tensions arose in certain enterprises and in that regard Belarus was no exception. However, the Government was in no way the source of those disputes and the allegations of interference were especially unfounded. Furthermore, while dismissals were carried out throughout the country, cases of anti-union dismissal were isolated and qualified for redress through both the courts and the Ministry of Labour. In that regard, it would also be helpful for the social partners to examine contentious cases in the Tripartite Council. It should also be noted that the conclusions of the direct contacts mission conducted from 27 to 31 January 2014 by experts in industrial relations had been supported by all the social partners. The Government and the social partners had undertaken work to implement them, particularly through seminars to facilitate the application of the recommendations of the Commission of Inquiry. Therefore, in respect of recommendations Nos 5 and 7 of the Commission of Inquiry, seminars on tripartite conflict resolution would contribute to the more efficient operation of the Tripartite Council; seminars for judges and members of the prosecution services would contribute to the application of recommendations Nos 4 and 8; and activities relating to collective bargaining within enterprises would allow relations between the social partners to be more effectively regulated and would contribute to the implementation of recommendations Nos 6 and 11. The full benefits of the practical application of the conclusions of the direct contacts mission would only be reaped, however, if all the social partners participated. In that regard, the BKDP had shown its inconsistency by being the only body to contest the holding of an international tripartite seminar on compliance with international labour standards. Lastly, the Government called on the Committee to support cooperation with all the social partners and the ILO, and reaffirmed its adherence to fundamental ILO principles, for the implementation of which it would take all the necessary measures.

The Worker members expressed their deep concern regarding the current case and shared the concerns of the BKDP on the following points: of the 12 recommendations made by the Commission of Inquiry ten years ago, only three, one of which was of minor importance, had been implemented; the harassment endured by the independent trade unions had never stopped and had become more sophisticated; and state policy continued to prevent trade union pluralism and independent trade unions were sidelined. New organizations were no longer registered, the pervasive use of fixed-term contracts (through which current and potential independent trade union members were denied employment) impeded trade union affiliation, and the official trade union federation was being used as a tool to prevent the participation of independent trade unions in social dialogue and collective bargaining. The Government, for its part, claimed that the recommendations of the Commission of Inquiry were no longer relevant, about which it would be interesting to ask the opinion of the Commission itself, and which reflected, above all, the lack of will by the Government to give them effect. Faced with that attitude, the Worker members called on the ILO to stand by its recommendations and asked the Government to finally implement them through the following actions: adapting legislation and regulations in force concerning, in particular the Decree on trade union registration, the Decree on foreign gratuitous aid, the Act on Mass Activities and the provisions in the Labour Code affecting the rights of trade unions to organize their activities in full freedom; assigning concrete responsibilities to the Tripartite Council, which should also be competent to deal with cases of anti-union discrimination and registration of trade unions; and increasing social national dialogue and collective bargaining with the full inclusion of independent trade unions. In those circumstances, the Government should send a detailed and comprehensive report to the Committee of Experts on the development of the situation for its next meeting in 2014. Lastly, the depth of concern expressed during the discussion meant that the Committee's conclusions on the case should once again be included in a special paragraph of the Committee's report.

The Employer members thanked the Government for its submissions, noted the diversity of views heard, and reaffirmed the seriousness of the case regarding the application of the Convention in Belarus. In 2013, the Employer members had been optimistic about the developments that had taken place since 2007, and by the desire expressed by the Government to move forward on the recommendations made by the Commission of Inquiry in 2004. The Employer members had hoped to remain optimistic after the acceptance by the Government of the direct contacts mission held in January 2014. Progress related to the recommendations of the Commission of Inquiry had been

noted, although it was very slow, despite the conclusions adopted by the Conference Committee in 2013 calling for progress in law and practice. They called on the Government to seize the opportunities following the direct contacts mission and to accelerate its efforts to achieve full compliance with the provisions of the Convention. They recalled the essential role of social dialogue, which should be continued in the framework of the Tripartite Council based on updated legislation. Full legislative compliance with the Convention should be complemented by intensified tripartite contacts and full participation of social partners, as well as ILO technical assistance. While looking forward to hearing from the Government on the efforts made to resolve the issues raised by the Commission of Inquiry, the Employer members did not oppose the inclusion of the Committee's conclusions in a special paragraph of its report, as proposed by the Worker members.

Conclusions

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

The Committee took note of the comments of the Committee of Experts and of the report transmitted to the Governing Body in March 2014 of the direct contacts mission, which visited the country in January 2014 with a view to obtaining a full picture of the trade union rights situation in the country and assisting the Government in the rapid and effective implementation of all outstanding recommendations of the Commission of Inquiry.

The Committee noted that in the light of the findings and concrete proposals formulated by the direct contacts mission, the Government has accepted ILO technical assistance to conduct a series of activities aimed at improving social dialogue and cooperation between the tripartite constituents at all levels, as well as enhancing knowledge and awareness of freedom of association rights. The Committee took note of the Government's statement that these activities would contribute to the effective implementation of the recommendations of the Commission of Inquiry. The Government considered, in particular, that: a seminar for the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere would improve its effectiveness and thus assist in addressing Recommendations Nos 5 and 7; training for judges, prosecutors and lawyers would assist in implementing Recommendations Nos 4 and 8; and an activity on collective bargaining would allow the elaboration of a set of guidelines on collective bargaining to ensure that trade union pluralism is respected in practice, thus addressing Recommendations Nos 6 and 12.

Noting the Government's stated commitment to social dialogue and cooperation with the ILO, the Committee expressed the hope that these activities would give rise to concrete results. The Committee hoped, in particular, that the Tripartite Council would evolve into a forum where solutions could be found at the national level, including as regards cases of anti-union discrimination and issues relating to trade union registration. The Committee expected that amendments would be made to Presidential Decree No. 2 dealing with trade union registration, Decree No. 24 concerning the use of foreign gratuitous aid, the Law on Mass Activities and the Labour Code, in line with the provisions of the Convention. The Committee called upon the Government to continue engaging with the ILO, to intensify its cooperation with all the social partners in the country and to accelerate its efforts towards rapid and effective implementation of the outstanding recommendations of the Commission of Inquiry.

The Committee invited the Government to submit detailed information on the results of the abovementioned activities and all other measures taken to implement the outstanding recommendations of the ILO supervisory bodies to the Committee of Experts at its meeting this year and trusted that it would be in a position to note significant progress with respect to all remaining matters at its next session.

The Committee decided to include its conclusions in a special paragraph of the report.

CAMBODIA (ratification: 1999)

A Government representative emphasized that the Cambodian national Constitution and its labour law both provided for freedom of association. In addition, the Government was currently drafting a Trade Union Act. The Ministry of the Interior had issued guidelines for the registration of associations and non-governmental organizations (NGOs) and had to date registered 4,003 such organizations. The Ministry of Labour and Vocational Training (MLVT) had to date registered 12 union confederations, 80 union federations, 3,026 enterprise-level trade unions and seven employers' associations. Associations and NGOs had participated in drafting the laws and regulations. The Government clearly respected the right of freedom of association. Concerning accusations by the international community that Cambodia was violating Convention No. 87, he provided updates on three important cases. First, Chhouk Bandith had been sentenced by the appeals court to 18 months in prison and required to pay 38 million Cambodian riels (KHR) in compensation to the three victims; the police were currently searching for him. Second, the two suspects accused of the murder of trade union leader Chea Vichea had been released and the case had been re-opened. Third, on Case No. 2655 of the Committee on Freedom of Association, the Vice-President of the Building and Woodworkers Trade Union of Cambodia (BWTUC) and three of its other leaders had met representatives of the MLVT twice in 2014. Due to the fact that the leaders of the BWTUC changed frequently, the Vice-President had requested more time to review the allegation. The Committee would be kept informed of progress on the cases. The Trade Union Act was being reviewed with the assistance of the ILO, and the MLVT was committed to adopting it by the end of 2014 or early 2015. The National Assembly was currently preparing an additional three laws on the establishment of the judicial organization, the organizing and functioning of the judges' council and the status of judges and prosecutors. Lastly, the MLVT was planning to amend the national labour law, including its provisions relating to fixed-term contracts.

The Employer members recalled that this case had been considered by the Committee the previous year and that, in its conclusions, the Committee had noted the grave issues of impunity and flawed judicial processes and had requested the Government to take measures to remedy the lack of independence and effective functioning of the judiciary, to provide information on the proposed law on the status of judges and prosecutors and to intensify efforts to ensure the rapid adoption of the draft trade union law by the end of 2013. They observed that the Committee of Experts had noted with regret that no information had been received from the Government. Noting that elections had taken place in July 2013, the Employer members felt encouraged by the information provided by the Government that three draft laws were pending adoption by the National Assembly, namely the law on the organization of the courts (establishing labour courts), the law on the supreme council of judges and the law on the status of judges and prosecutors. They further understood that an inter-ministerial council including employers and workers had been established to facilitate reporting to the ILO and encouraged the ILO to provide, and the Government to continue to accept technical assistance relating to the establishment and working of the Council. The Employer members also understood that the Government was

working together with the social partners on the draft trade union law to be reviewed by the ILO. They encouraged the Government to continue progress in that regard and to consult the social partners when preparing the draft legislation. There was a need to ensure that the legislation concerning trade unions was balanced in terms of the accountability of both the employer and the trade unions regarding unfair labour practices and in terms of a clear prohibition of violence. Certain national challenges should also be taken into account, such as a difficult economic environment, the multiplicity of trade unions in an enterprise and the occurrence of violence in trade union demonstrations. The Employer members also considered that the Committee should note the progress made by the Government in the promotion of freedom of association since the ratification of Convention No. 87. They encouraged the Government to report without further delay on the progress made to date and the measures that were being implemented, and to continue to request ILO technical assistance if it was considered helpful.

The Worker members expressed disappointment at the fact that the current case had been discussed four times in the past five years, and that the situation had steadily deteriorated year by year. There was hope, however. Global unions and some of the world's largest apparel brands had jointly forged a roadmap that urged the Government to take action on various issues. Sustainable industrial relations would only be possible in Cambodia if they were founded on respect for the right to freedom of association and collective bargaining. On 2 and 3 January 2014, the Government had used overwhelming violence to quash spontaneous demonstrations by garment workers, which had erupted after the Government had announced a new minimum wage rate that was far below the rate that its own research had indicated was adequate to meet basic needs. Heavily armed soldiers and police had mobilized and had been responsible for six deaths to date, and approximately 40 hospitalizations for bullet wounds. Rather than heeding the calls of the United Nations Special Rapporteur on the situation of human rights in Cambodia to establish an independent committee to investigate the violence, the Government had set up a hand-picked committee, and had publicly praised its security forces for their efforts. The Government had not provided any compensation to the victims or their families. Twenty-three workers had been arrested for participating in the demonstrations. They had been unfairly tried and had been sentenced to four or five years in prison. However, due to intense international pressure, their sentences had been suspended. The Worker members were deeply concerned that the sentences, although suspended, would be used as threats, limit or prohibit the exercise of the right to associate.

Following the demonstrations of 2 and 3 January, the Government had repeatedly used force to break up rallies on labour issues and had imprisoned trade union leaders for their participation in such events. Without any legal basis, it had frozen the registration of new independent trade unions during the crisis, and had subsequently erected ad hoc requirements that hindered the registration of new unions. The Government had failed to respect the deadline set by the present Committee for the adoption of a new Trade Union Act in conformity with Convention No. 87. The current Bill marked a step backwards relative to the existing Labour Code. If it was not significantly changed, and if it did not incorporate the recommendations of the ILO and trade unions, it would be better to scrap it entirely, as it would only serve to further strangle the right to freedom of association for workers in Cambodia. The Government had failed to address a number of issues raised in the report of the Committee of Experts: it had still not conducted an independent investigation into the murders of union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy; and no serious efforts had been made to apprehend Chhouk Bandith, convicted of shooting several garment workers in 2012. The judicial system remained deeply corrupt. In May 2014, the National Assembly, composed entirely of members of the Cambodian People's Party (CPP), had swiftly passed three laws that would ostensibly bring national legislation into line with international standards on the administration of justice. However, the laws had been drafted secretly and rights groups had warned that, if approved by the Senate, they would reinforce the Government's control over judges and prosecutors, seriously threatening the rule of law. Lastly, the cause of the current conflict in Cambodia was minimum wage setting, the subject of the 2014 General Survey. A study commissioned by the Cambodian Government in August 2013 had found that the appropriate minimum wage would be between US$157 and US$177 a month. However, the Government had then set the minimum wage at US$95, and later US$100 a month. International unions and garment brands had together called on the Government to immediately provide workers with a living wage, a right enshrined in the Cambodian Constitution and appropriate in an industry that generated US$5.5 billion annually.

The Employer member of Cambodia believed that certain Worker members had deliberately exceeded the remit of this case and called for such interventions to be removed from the record. With regard to the independence of the judiciary, progress had been made with the adoption of the three abovementioned laws which satisfied the requests of the Committee of Experts. She therefore requested that this issue no longer be considered by the Conference Committee and acknowledged that capacity building of the judiciary would take time. The Government should be encouraged to further strengthen the judicial system, including commercial and labour arbitration. In terms of freedom of association, she denounced the inaccuracy of the information supplied by the International Trade Union Confederation (ITUC). She reiterated that there had been an increase of 60 per cent in the number of trade unions in 2013, which brought their number to a total of 3,026 in 2013, of which 3,000 were in the garment sector (in 800 factories); an increase of 80 per cent in the number of federations (80) and an increase in the number of strikes by 255 per cent in 2012 and 21 per cent in 2013. These numbers illustrated that trade unions were not operating in a climate of fear and were granted many rights and freedoms in law and practice. The reality on the ground was characterized by a proliferation of unrepresentative minority and violent trade unions which hindered harmonious industrial relations, which were a precondition for harmonious growth. The national legislation failed to establish a minimum membership requirement for the establishment of a trade union. She raised the question of how employers were supposed to negotiate collectively with 17 mostly unrepresentative trade unions in one and the same factory. She believed that, rather than tabling accusations that did not reflect reality, the Committee should recognize and discuss the real practical challenges. The freedoms granted by national legislation were misused. The violence in January 2014 had started in the trade union movement with trade unionists destroying hospitals that were currently being rebuilt, damaging workplaces and disabling public officials. Violence was detrimental to the rule of law and sustainable enterprises, and should be condemned by all parties. Furthermore, the enforcement of law and order, including the requirement of an appropriate registration of trade unions, instead of their automatic registration, and of accountability for violence and non-compliance with the law should not be considered as infringements of freedom of association. It

was essential for the new draft trade union law to address the needs of Cambodia, such as the need to attract investment and create jobs, as well as stability and peace. The law was currently in the drafting phase, being discussed and negotiated by the social partners, and it was inappropriate to examine specific provisions of a draft law in a direct request addressed to the Government. She called for the removal of the case of Cambodia from the list and for conclusions focusing on the issues at hand and which did not go beyond the remit outlined in the Committee of Experts' observation.

The Government member of Greece, speaking on behalf of the European Union (EU) and its Member States, as well as the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Norway, Ukraine and Republic of Moldova, expressed commitment to promoting the universal ratification and implementation of the eight ILO core labour standards which were important international tools for ensuring democracy, the rule of law and respect for human rights. Their implementation supported the development of human potential and each country's economic growth. In January 2014, the EU had voiced concern about the violent demonstrations in Cambodia and the excessive use of force to quell them, calling on all parties involved to use all possible means to find a peaceful solution. She welcomed the release on 30 May 2014 of the trade unionists and garment workers who had been charged in relation to the demonstrations, and hoped that it signalled a positive shift with regard to the situation of freedom of assembly in Phnom Penh, which had recently been deteriorating. The Government should accelerate the restoration of workers' fundamental rights and should release the results of the investigation into the January killings. She called on all stakeholders to develop constructive dialogue on improving industrial relations. Regarding the issues raised in the Committee of Experts' report, she urged the Government to provide the information requested on the outcomes of the investigations into the murders of trade union leaders. It should also ensure full respect for workers' trade union rights and ensure that they were able to engage in their activities in a climate free from intimidation or risk. The Government should demonstrate how its planned legislative reform would promote the independence and effectiveness of the judicial system. It should intensify its efforts to adopt rapidly the Trade Union Act in full consultation with the social partners. Lastly, she called on the Government to avail itself of ILO technical assistance and to comply with its reporting obligations.

The Worker member of the Republic of Korea said that human and civil rights were easily infringed in the absence of freedom of association, as the bloody suppression of peaceful workers' demonstrations in January 2014 had shown. On 2 January, in front of the headquarters of a Korean company, special forces had been deployed to suppress the protesting workers, ten of whom had been arrested by the military. Thirty-eight protesters had been seriously wounded, and some had been killed. In response to the violence, the Korean Confederation of Trade Unions (KCTU) and other Asian labour and civil organizations had sent a fact-finding mission to Cambodia. Interviews with workers who had participated in the protests or witnessed the arrests revealed that during the crackdown soldiers had been armed with rifles, slingshots, knives and iron pipes, although the workers were protesting peacefully. Soldiers had arrested ten protesters. Use of the military and the police against a country's own citizens was never acceptable. The mobilization of the armed forces in response to the wage protests was manifestly excessive and had been condemned categorically by the United Nations. The Government should conduct a thorough and independent investigation into the bloody suppression of the protests and hold those responsible to account. It should also compensate the victims and their families. While the authorities had failed to arrest those responsible for the murder of workers, the Government had wasted no time in arresting and detaining 23 workers for five months without bail. Although they had been released on 30 May 2014, their convictions had incurred penalties, such as a prohibition on serving as union leaders. There had been no inquiry into whether the ten workers arrested had been involved in violence or the damage of property. Indeed, witnesses had stated that one of them, Vorn Pao, had been attempting to calm the situation by urging non-violence. The imprisonment without bail and subsequent convictions and suspended sentences were serious violations of civil rights and were politically motivated. They should therefore be quashed. Impunity for violence against trade union leaders prevailed in Cambodia, allowing the same crimes to be repeated. There needed to be justice, and the need for an independent judiciary was pressing.

The Worker member of the United States recalled that, despite the fact that the Government had long been called upon to adopt a new trade union law so as to comply with the Convention, the situation in the country was deteriorating dangerously. Although, after the circulation of the first draft law in 2011, the trade union movement had succeeded in removing certain restrictions on freedom of association from the proposed law, the enactment of the trade union law had stalled since the beginning of 2014. The Government had recently introduced a new draft which was much worse than the one developed in 2011 in consultation with the trade unions. The new draft had been criticised by the ILO for, inter alia, increasing the minimum number of workers required to register a union from 8 to 20 per cent of the workforce; giving the courts increased power to suspend or revoke union registrations for a wide range of infractions; using vague language in respect of penalties against trade unionists; requiring excessive qualifications for trade union leadership, including age and educational requirements and the absence of a criminal record; specifying the amounts of trade union dues; regulating details about strike ballots; limiting the term of elected trade union leaders, etc. In addition, the new draft only granted collective bargaining and representational rights to the union with the most representative status or the largest federation, thus restricting the rights of minority unions, in violation of Convention No. 98. The Government had failed to remedy the problem despite the concerns expressed by the ILO. Considering that a new trade union law complying with ILO principles was necessary for a sustainable labour relations regime, she strongly urged the Government to take into account the views expressed in detail by trade unions regarding the draft law, and to engage constructively with the ILO.

The Government member of Canada expressed great concern at the reports of violence, murder, torture and intimidation outlined in the 2013 observation of the Committee of Experts, as well as by reports in 2014 of excessive force being used in response to labour demonstrations in Cambodia, and particularly reports of related deaths of striking garment workers. He recalled that trade unionists must be able to engage in their activities in a climate free from intimidation or risk to their personal safety or that of their families, and that workers had the right to participate in peaceful protests to defend their occupational interests. He called for peaceful demonstrations to be allowed to be held safely and without fear of intimidation, detention or excessive use of force by the Cambodian authorities. Noting the observation of the Committee of Experts that there was a prevailing situation of impunity, he called for the investigation of the mur-

ders, deaths and other forms of violence against trade union leaders, the bringing forward of all information to impartial courts and the punishment of the guilty parties. He also called on the Government of Cambodia to undertake urgent efforts, in full consultation with the social partners and with ILO assistance, to ensure the rapid adoption of the Trade Union Act. Lastly, in the absence of replies and reports from the Government, he called on the Government of Cambodia to cooperate fully with the supervisory mechanisms of the ILO and with the social partners.

An observer representing the International Trade Union Confederation (ITUC) emphasized that the numerous trade union organizations existing in Cambodia were not treated on an equal footing. Those controlled by the Government, political parties or employers were given priority in terms of registration by the Ministry and recognition by employers, while independent unions were not registered for months or years, and were thus unable to function legally. After freezing union registration at the beginning of 2014, the Government had made it even more difficult for unions to become registered. The Labour Advisory Committee that set new labour policies was only composed of unions loyal to the Government. Almost the entire garment industry refused to engage in collective bargaining with independent trade unions. He added that independent unions faced continued anti-union discrimination and referred to cases examined by the Arbitration Council where, in spite of rulings favourable to the dismissed union leaders, employers never complied with the reinstatement orders. Finally, he expressed concern at the recurrent use of the judicial system to intimidate independent trade unionists when they stood up for workers' rights.

The Government member of the Netherlands thanked the Committee of Experts for its excellent report and encouraged the Government to fully implement ILO Conventions and particularly Convention No. 87. Welcoming the agreement reached in establishing the list of 25 cases submitted for the Committee's consideration, he stressed the importance of coherent and consensus-based conclusions and called on all parties to build on the progress achieved in the run-up to the Governing Body of November 2014. He emphasized once again his Government's commitment to the ILO supervisory mechanism, the effectiveness and credibility of which were of core importance to the Organization. He looked forward to constructive progress, which would need to be accomplished on a tripartite basis at the next session of the Governing Body.

The Worker member of Indonesia quoted a 2013 report by ILO Better Factories Cambodia which indicated that 90 per cent of newly registered factories assessed classify all workers as fixed duration contract (FDC) workers, and that the use of FDCs could result in workers receiving fewer of their legal benefits. The decision by the garment industry to shift from unlimited duration contracts (UDCs) to FDCs had created substantial employment insecurity for many workers and consequently damaged industrial relations. It had had the intended effect of preventing the formation of new trade unions and undermining the power of existing ones. The shift had nothing to do with a drop in the number of full-time regular workers, but rather had been a decision by the garment industry as a whole to simply reclassify workers in order to intimidate them and prevent efforts to form independent unions. The system violated national labour law, yet was widely permitted in practice. Workers with FDCs had fewer rights than those with UDCs in terms of paid annual leave, seniority rights and maternity leave, for example. It was also much easier for them to be dismissed. The move to FDCs was undermining freedom of association and collective bargaining. Workers rightly feared that their contracts would not be renewed if they did not obey their employers, or if they joined a trade union. Despite a memorandum of understanding reached years ago between the Garment Manufacturers' Association in Cambodia (GMAC) and several trade unions, which included a commitment to address the issue, negotiations had not been initiated.

The Government member of the United States recalled that for many years the ILO supervisory bodies had consistently asked the Government to bring to an end the prevailing situation of impunity regarding violence against trade union leaders, to ensure the trade union rights of workers and the independence and effectiveness of the judicial system and to adopt a Trade Union Act, following full consultation with the social partners, which fully guaranteed the rights enshrined in Convention No. 87. However, over the past year, the situation in Cambodia had worsened and labour conditions had deteriorated significantly. Wages in the garment sector had continued to decline, leading to labour unrest, a lack of government restraint in dealing with the unrest and a general breakdown in industrial relations in the country. Despite the release the previous week of a number of labour activists under suspended sentences, she remained concerned by the fact of their detention in the first place, as well as by the reported irregularities in their trials, their convictions and the continued threat of imprisonment. She urged the Government to convene an independent inquiry into the deaths, assaults and arrests of workers during the January protests. She also expressed concern at the obvious concerted efforts by some employers to take legal action against the leaders of independent trade unions and by possible Government interference in trade union activity. Genuine freedom of association could only be exercised in a climate that was free from violence, pressure and threats of any kind. She firmly urged the Government to adopt and implement a trade union law that was fully consistent with international standards and based on transparent and meaningful dialogue with all of the social partners, as well as with the ILO. It seemed that the Government was disregarding ILO recommendations with respect to its draft Trade Union Act and was moving in the wrong direction with respect to several critical provisions. She urged the Government to make the draft public and to engage in a consultative process with the social partners before submitting it to the Parliament. Finally, she encouraged the Government to intensify its cooperation with the ILO supervisory bodies and to avail itself of ILO technical assistance with a view to bringing the national law and practice in conformity with Convention No. 87. It would be critical for promoting industrial peace and addressing the root causes of the ongoing labour conflicts in Cambodia.

The Government representative indicated that he had taken note of all comments, which were constructive, made during the discussion. The Government would also take note of all recommendations made by the Committee on Freedom of Association. In close cooperation with all stakeholders concerned, and with ILO technical assistance, the Government would finalize the draft law on trade unions, which would guarantee the right to organize and freedom of association in compliance with the relevant international standards. Information on any progress made in those areas would be communicated to the Committee in a timely manner.

The Employer members appreciated the comments made by the Government, Worker and Employer members. The Government had taken measures to address the situation of the independence and effectiveness of the judicial system, including the adoption of draft laws by the national assembly: (1) laws on the organization of the courts; (2)

the law on the supreme council; and (3) the law on the status of judges and prosecutors. That was an important first step. The Government had also established an inter-ministerial coordination council, which included the participation of the social partners, to deal with issues related to the Government's reporting requirements under Convention No. 87. Those were two areas in which the Conference Committee had asked the Government in 2013 to take immediate measures. The Government should provide a full report to the Office concerning those measures and the progress made in that regard. In addition, tripartite negotiations were ongoing concerning a draft trade union law and, while concerns had been expressed concerning the law, it was important for the tripartite consultative process to be completed before the Committee commented on the appropriateness of the legislation. The Government should provide a report to the Office once the negotiations had been completed. The Government also needed to work with the social partners to ensure that violence and harassment, which the Employer members condemned, were eradicated. They also continued to urge the Government to avail itself of ILO technical assistance to fulfil its reporting obligations so that the Committee of Experts would have a clearer picture of progress, or the lack thereof. The Conference Committee's conclusions should also recognize those areas of progress and highlight where further progress and action were required. The conclusions should also reflect the fact that the Committee did not address the right to strike in that case because the Employer members did not agree that there was a right to strike in Convention No. 87.

The Worker members indicated that it was clear from the previous and present discussions on that case that very serious issues remained unaddressed. Global unions and international brands were trying to address labour issues in the garment sector, which was the largest, but the denial of freedom of association and the right to bargain collectively was not unique to that sector, since most Cambodians worked in other sectors such as the agricultural products, sugar and rubber sectors. The ILO needed to play a much greater role in Cambodia to find solutions that would lead to sustainable jobs and a sustainable economy. While Cambodian workers wanted dialogue in good faith with the Government, they were met by deepening authoritarianism. The Worker members were very concerned about this. They called on the Government to: conduct independent investigations into the killing and wounding of protesters in January 2014 and the murder of trade unionists, and to prosecute the perpetrators; annul the sentences against the 25 persons issued on 30 May 2013; ensure that workers could register freely with trade unions without any prerequisites; ensure that workers who were dismissed for their lawful trade union activities were reinstated and compensated; guarantee freedom of assembly and expression; redraft the current trade union bill in consultation with independent trade unions and in the light of the comments of the ILO supervisory bodies; and consult civil society with respect to the proposed new legislation on the judicial system. They also called on the ILO to facilitate a discussion on fixed-term contracts and their impact in Cambodia on freedom of association, and to send a high-level tripartite mission as soon as possible in view of the seriousness of violations and the lack of progress in the situation. They finally requested that the conclusions of the Committee be placed in a special paragraph.

SWAZILAND (ratification: 1978)

The Government provided the following written information.

During the 102nd Session of the International Labour Conference, the Conference Committee welcomed the information provided by the Government on the publication of the Industrial Relations (Amendment) Bill No. 14 of 2013 and noted the report that all outstanding legislative amendments would be attended to and the Government's commitment to observe and implement Convention No. 87. The Government made an undertaking with time lines to demonstrate its commitment to take the issues forward, in consultation with the social partners. With regard to progress made to date, the Committee will recall that the year 2013 was the national election year for the Kingdom of Swaziland. National elections are, by any standard, a very challenging task for any government. Peace, stability and socio-economic development are, to a greater extent, a function of a successful election process. Parliament was dissolved on 31 July 2013 and Cabinet was fully constituted on 4 November 2013. Parliament was officially opened on 7 February 2014. This effectively reduced parliamentary activity by seven months and left the Government with five months to comply with its undertakings. This situation rendered it difficult for the Government to take the necessary legislative steps as there was no legislative authority to ensure that the amendments to the Industrial Relations Act (IRA) are passed into law. The Industrial Relations (Amendment) Bill No. 14 of 2013, for instance, was one of over 27 bills, which were before Parliament when it dissolved. However, the Government has shown its commitment and prioritized the Bill and it was the first Bill to be tabled after the opening of Parliament. The progress to date is set out below. With regard to the amendment of the Industrial Relations Act to allow for registration of federations, the current problems related to freedom of association emanate from a lacuna in the law regarding registration of federations. The Government has now tabled in Parliament an amendment bill which seeks to comprehensively provide for the registration of federations. Following the opening of Parliament on 7 February 2014, the Bill was prioritized and tabled as the first Bill (Industrial Relations (Amendment) Bill No. 1 of 2014). In terms of the Constitution of the Kingdom of Swaziland, 2005, bills are debated after the debates on the Appropriation Bill, which by its very nature is an urgent bill. However, in this case and in recognition of the urgency of the matter, the Bill was tabled before the Appropriation Bill. The Bill was quickly referred to the Parliamentary Portfolio Committee of the Ministry of Labour and Social Security. However, at the request of the Portfolio Committee the Bill was then withdrawn. According to the Committee, the withdrawal was necessitated by the intervention of the US Department of Trade, which expressed concern that the amendments of sections 40 and 97 of the Industrial Relations Act, as requested by the ILO, had not been included. Workers and employers also expressed their dissatisfaction with a number of sections of the Bill as it stood, and made written proposals for further refinement of the Bill, notwithstanding the fact that the Bill was published in May 2013 and no written objections were received from the social partners. The Portfolio Committee was of the strong view that rushing the Bill through the legislative process was futile if the end product would not serve its purpose. The Government noted the position of Parliament and the Bill was withdrawn from Parliament for further consultations as requested. It should be further noted that when the Bill was withdrawn from Parliament on 10 April 2014, the Labour Advisory Board, which should provide advice to the Minister, was no longer operational, following the withdrawal of workers from all tripartite structures. However, considering the importance and urgency of the Bill, negotiations are ongoing with the social partners. As a result of the consultations, on 19 May 2014, amendment proposals to section 97 were agreed upon; however, for section 40 of the Industrial

Relations Act, employers and workers cannot agree. It is clear that broader consultation is required to unlock this deadlock. With regard to the operationalization of tripartite structures, following the undertaking to work together with social partners through General Notice No. 56 of 2013, the Government is pleased to report that, in all areas of action that require the involvement of social partners, especially legislative review activities, social partners were fully consulted and consultations went well and were held in full freedom. A lot of the progress achieved so far is credited to the smooth operation of all social dialogue structures. This is so, despite the fact that, on 28 March 2014, workers withdrew from all statutory bodies, citing dissatisfaction with the provisions of General Order No. 56 of 2013 and allegations of disruption of the Trade Union Congress of Swaziland (TUCOSWA) programmes and activities.

The Government accepted and hosted the high-level ILO fact-finding mission from 27 to 29 January 2014 (two months after the new administration came to office). The mission held consultations with the Government and its social partners to gather information on steps taken to assess progress made in all outstanding issues. In its report the mission urged the Government to: (a) fast-track the process of facilitating the adoption of the amendments into legislation, for the registration of the workers' and employers' federations by the end of April 2014 and to see their actual and immediate registration thereafter and in time for the ILC in June 2014; and (b) consult with the social partners and the ILO Pretoria Office to draw up a timetable by the end of April 2014 for the finalization of all other outstanding matters. With regard to progress made on other legislative amendments, as advised by the ILO, the Public Service Bill was indeed tabled before the National Social Dialogue Committee, which in turn referred it to the Labour Advisory Board for review. Since the Government's report to the ILO, dated 28 October 2013 (stating that the Bill has been referred to the Labour Advisory Board) it has been reviewed by the Board and is now with the Ministry of Public Service for adoption. Thereafter it will be submitted to Cabinet for approval, publication and brought to Parliament for processing. By any standard of measure the Government has achieved tangible progress which should be noted and acknowledged as such. With respect to the determination of minimum services in sanitary services (to ensure that workers are not unduly denied their right to strike). This is so particularly in light of the fact that whereas the Government was requested to ensure a minimum service in sanitary services, the Government agreed with the social partners that sanitary services be removed altogether from the list of essential services as per the Industrial Relations Act. The Government wishes to reiterate that the King's Proclamation to the Nation of 12 April 1973 is superseded by the Constitution which is now the supreme law of the land. As such, the exercise of all executive, judicial and legislative power and authority is guided by the Constitution and not at all by the 1973 Proclamation. The continued presence of this issue on the agenda of outstanding issues for Swaziland is unfair to the Government. Progress is being made on the issues concerning the 1963 Public Order Act. Swaziland, because of shortage of Legislative Drafters and expertise, approached the ILO to assist and the request was accepted. The ILO requested terms of reference and these were given to the ILO Regional Office in Pretoria on 17 April 2014. As soon as the legislative drafter has been identified and made available, the drafting process will commence. The Labour Advisory Board has finished debating the draft Correctional Services (Prison) Bill which, among other things, deals with the right to organize for prison staff, and has compiled a report of its views on the Bill. The Board's comments will be sent to the ministry responsible for correctional services. Progress so far is that the draft Code of Good Practice for protest and industrial actions has been considered by the social partners and the police and technical assistance to facilitate the process of finalization and implementation of the Code was requested from the ILO in June 2013 and again in April 2014. It is hoped that the consultation between the Government and the ILO will continue. The Suppression of Terrorism (Amendment) Bill has been considered by Cabinet, published in a Government Gazette as Bill No. 18 of 2013 and awaits Parliamentary debate for passage into law.

In addition, before the Committee, **a Government representative,** with reference to the Committee of Experts' request to ensure the registration of employers' and workers' federations, explained why the amendment bill of the Industrial Relations Act (IRA) had still not been passed. The bill had been drafted with the social partners' input and issued on 23 May 2013. In line with the commitment made by the Government, the bill had been tabled in Parliament in June 2013. Progress had then been stalled, however, because Parliament was involved in debating six key election bills at the time, and had not had time to include the IRA amendment bill on its agenda before its dissolution. Following the reopening of Parliament, the bill had been given priority, and had been rapidly referred to the competent parliamentary committee. However, it had subsequently been withdrawn at the request of the parliamentary committee due to concerns expressed by another country as well as by the Swazi social partners. When the bill had been withdrawn from Parliament on 10 April 2014, the Labour Advisory Board was no longer operational. Due to the importance and urgency of the bill, however, negotiations with the social partners were currently under way. As a result of the ongoing consultations, consensus had been reached on 19 May 2014 regarding part of the new bill, but employers and workers still did not agree on one amendment; broader consultation was required to resolve the matter. The Government had accepted the proposed high-level ILO fact-finding mission, which it had hosted from 27 to 29 January 2014. During the mission, the Government had requested the ILO's technical assistance with regard to outstanding matters; the logistics of that assistance were being organized. In the context of the Committee of Experts' request for concrete information on progress with regard to various legislative texts, she explained that, since the Government's report to the ILO of 28 October 2013, it had begun processing the Public Service Bill, which would be submitted to Parliament for deliberation. With regard to the need to determine a minimum level of sanitary services to ensure that workers were not unduly denied their right to strike, the Government had agreed with the social partners to remove sanitary services from the list of essential services, as per the IRA. The 1973 Proclamation had been superseded and made irrelevant by the Constitution, which guaranteed freedom of association for all in specific terms. Its continued presence on the Committee of Experts' list of outstanding issues was unfair to the Government, and it should be removed. The Government representative said that much progress had been made since the ILO fact-finding mission, and requested an extension of the deadline for meeting the requests of the Committee of Experts. If an extension was not granted, there would potentially be massive trade and job losses, threatening the country's stability. She reiterated the Government's request for ILO technical assistance with regard to, inter alia: validation of the Code of Good Practice; the drafting of the Public Order Bill; and the determination of best practices on the issue of the right to organize for correctional services staff and the matter of defining trade unions' civil and criminal liability in the IRA.

The Employer members appreciated the information provided by the Government regarding efforts made to bring law and practice in compliance with the Convention, as well as the Government's willingness to accept ILO technical assistance. They encouraged the Government to continue to cooperate with the ILO Office in Pretoria. In light of the seriousness of this longstanding case, they expressed their surprise at the Government representative's view that the case should no longer be examined by the Committee. During the discussion of the present case in 2013, the Employer members had pointed out, as regards the Committee of Experts' request relating to the right to strike in sanitary services, that Convention No. 87 did not include the right to strike and that, in view of the lack of consensus, the Committee of Experts should refrain from requesting the Government to amend the IRA in this regard. In its 2013 conclusions, the Committee: (i) strongly urged the Government to immediately take the necessary steps to ensure that the social partners' views were duly taken into account in the finalization of the IRA amendment bill and that it would be adopted without delay; (ii) expected that this action would enable all the social partners in the country to be recognized and registered under the law, in full conformity with the Convention; (iii) in the meantime, expected that the tripartite structures in the country would effectively function with the full participation of TUCOSWA, the Federation of Swaziland Employers and Chamber of Commerce (FSE&CC), and the Federation of the Swaziland Business Community (FESBC) and that the Government would guarantee that these organizations could exercise their rights under the Convention; (iv) urged the Government to conduct certain activities to ensure that progress was made within the framework of the social dialogue mechanisms in the country in relation to the other pending matters; (v) urged the Government to ensure full respect for freedom of association for all workers' and employers' organizations; and (vi) called on the Government to accept a high-level ILO fact-finding mission and requested that this information, as well as a detailed report, be transmitted to the Committee of Experts for examination at its next meeting.

In its 2013 observation, the Committee of Experts: (i) noted the Government's indication that the tripartite structures in the country were functioning with the full participation of the federations of employers and workers (FSE&CC, FESBC and TUCOSWA); (ii) noted with regret the Government's indication that the IRA amendment bill, approved by Cabinet, could not be tabled to Parliament due to other pressing parliamentary issues; (iii) observed with deep regret that TUCOSWA was still not registered and urged the Government to ensure that the necessary steps were taken for the registration without delay of TUCOSWA and the other workers' and employers' federations affected; and (iv) firmly trusted that the Government would report in the near future on concrete progress made on the Committee's long-standing requests concerning amendments to several laws, such as the Public Service Bill, the Industrial Relations Act, the 1973 Proclamation and the 1963 Public Order Act. In light of the above, the Employer members: (i) looked forward to receiving the Committee of Experts' review of the information collected during the 2014 high-level mission which would hopefully indicate that concrete and tangible measures had been taken; (ii) recommended that the Government follow a fast-track process to facilitate the adoption of amendments to the legislation concerning the registration of employers' and workers' federations by the end of 2014; and to ensure that they were registered immediately thereafter; (iii) noted that the present Committee would not deal in its conclusions with any issue related to the right to strike as there was no consensus that Convention No. 87 included the right to strike; and (iv) highlighted their concern about the lack of tangible progress to date and requested the Government to draw up, in consultation with the social partners, a timetable on the finalization of the outstanding matters, which would signal the Government's commitment to compliance with the Convention.

The Worker members emphasized that the Committee had noted every year since 2009 that the Government was not complying with the Convention and still appeared not to realize that the ILO constituents expected results. In June 2013, in order to avoid having the present case included in a special paragraph of the Committee's report, the Government had signed an agreement in which it undertook to adopt a number of time-bound measures. None of those commitments had been honoured, either with regard to legislative matters, such as the finalization of the bill amending the IRA, or with regard to the registration of TUCOSWA. Moreover, that lack of progress had been confirmed by the high-level ILO fact-finding mission which had visited the country in January 2014. The Government had continued to repress trade union activity, to arrest and imprison trade unionists and to prevent the registration of trade unions by invoking laws that did not comply with the Convention and which it had undertaken to amend. TUCOSWA had been established in January 2012 and had received legal recognition from the Ministry of Labour. When TUCOSWA had announced in April 2012 that it would boycott the 2013 legislative elections, the Government had revoked its registration on the grounds that the IRA only applied to "organizations" and not to "federations". Furthermore, the Amalgamated Trade Union of Swaziland (ATUSWA), which was affiliated to TUCOSWA, had applied for registration in September 2013 and was still awaiting a reply. TUCOSWA had filed an appeal with the High Court claiming that the refusal to register it as a federation was unconstitutional. But after the union's lawyer (Mr Maseko) had been arrested by the authorities on 17 March 2014, the hearing initially scheduled for 19 March 2014 had been postponed. Mr Maseko had initially been released on the order of a judge, who had then been arrested in turn, and he had subsequently been re-arrested and imprisoned. At the present time he was still in prison, after being accused of obstructing the course of justice for questioning the independence of the national judiciary in a newspaper article. The Secretary-General of TUCOSWA (Mr Ncongwane), who had been wrongly accused of instigating an illegal demonstration, had also been arrested in September 2013 and placed under house arrest. The legal assistant of the Swaziland Transport and Allied Workers Union (Mr Thwala) had been imprisoned for a year, under the Road Traffic Act and the Public Order Act, for taking part in a strike. The police and security forces continued to disrupt trade union activities, especially those of TUCOSWA, by preventing or curtailing demonstrations, and had prevented an international delegation of the International Trade Union Confederation (ITUC), which had come to collect testimonies from Swazi workers, from doing its work by confronting its members and dispersing meetings.

With regard to the legislative issues, the Worker members emphasized that the current legislation placed severe restrictions on the right to freedom of association. The IRA, the interpretation of which formed the basis of legal arguments for refusing to register trade unions and imposing civil and criminal liability on trade unionists, was still in force. Even though the amendment bill had been adopted in 2013, freedom of association was still limited since the draft conferred absolute power on the Labour Commissioner with respect to the registration of trade unions. The Public Order Act, which conferred extensive powers on the police, applied to trade unions in practice even

though they were excluded from its scope. In that respect, a 2011 ILO report had recommended replacing the Act with another law clearly establishing the procedure for requests to organize public gatherings. The unions had been clamouring for revision of that legislation. Regarding the Suppression of Terrorism Act, the amendments submitted to Parliament for consideration in February 2014 had still not been examined. The Government also refused to repeal Decree No. 2 of the King's Proclamation banning political parties and concentrating power in the hands of the King. The Correctional Services (Prison) Bill, which had been submitted to the Labour Advisory Board in 2012 and recognized employees' right to establish associations – but not trade unions – provided for strict controls by the Commissioner of Correctional Services and, by already establishing the name of the association in question, suggested that a trade union monopoly was being established in the sector. Lastly, the Public Service Bill, which had been under discussion since 2005, contained restrictions on freedom of expression and on civil servants' right to collective bargaining. The Worker members regretted that the Government had not followed up on any of the Committee of Experts' observations or recommendations and that it had failed to honour the written commitments it had given at the previous session of the Conference. Deploring the Government's unacceptable conduct, they strongly condemned the serious and constant repression, in law and in practice, of the workers in Swaziland and expressed the hope that the Government would take the present opportunity to honour its obligations and international commitments.

The Worker member of Swaziland said that the violation of the Convention by the Government had reached deplorable levels. By refusing to register TUCOSWA, the only national federation of trade unions in the country, it had stalled the prospect of any meaningful and productive social dialogue. It had deliberately misled the Committee by setting unrealistic deadlines for the revision of various pieces of legislation, not one of which had been met. Although it had agreed before the Committee to allow TUCOSWA the full exercise of its rights under the Convention and the terms of the IRA, the Government continued to brutally prevent TUCOSWA from conducting its activities. With regard to the IRA, the Government had tabled an amendment bill in July 2013 that excluded proposals made by the social partners. TUCOSWA had been pushing for the speedy amendment of various acts, especially the IRA, when Parliament was dissolved before it had been able to consider the IRA amendment bill. Although TUCOSWA had notified the Government in January 2014 that the bill was not the product of the Labour Advisory Board, the Government had tabled it again in February 2014, only to then unilaterally withdraw it, without any explanation to the social partners. This illustrated a complete absence of political will on the part of the Government to register TUCOSWA. It was also important to note that the so-called lacuna in the IRA, which necessitated its amendment in the first place, was a politically motivated concept: if the IRA was to be interpreted strictly in accordance with the Convention, it would necessarily guarantee the same rights to federations that it guaranteed to unions. TUCOSWA had made its contributions to the amendments of the following pieces of legislation by mid-February 2014: the Public Service Bill, the Correctional Services Bill, the Code of Good Practice for protest and industrial action and the Suppression of Terrorism Act. The social partners had not been given an opportunity to discuss the Public Order Bill, as the Government had alleged that its amendment was still being drafted by the Attorney-General's Office, and that the person responsible for the drafting had died. In June 2013, the Government had reiterated its position with regard to the 1973 Proclamation, namely that it would not institute legal proceedings to obtain a definitive ruling from the highest court on the Proclamation's status. Thus, the practical effects of the Proclamation remained in force. Social dialogue structures, having been disrupted in April 2012, had later been restored by General Notice No. 56, which provided that "all processes and programmes whose progress was affected by the issue of registration of federations shall be continued in line with principles of tripartism and shall be recognized as legitimate and all decisions made or resolutions reached shall be binding on the tripartite partners as if they had been registered in terms of the Industrial Relations Act, 2000 …". However, the Government had continued to disrupt the activities of TUCOSWA, and a letter to the federation from the Attorney-General dated 4 September 2013 had stated that the General Notice did not, in fact, grant any rights that the IRA provided for. In light of this, TUCOSWA had requested clarification of the Government's position regarding its participation in social dialogue tripartite structures. Receiving the promised response a month late, TUCOSWA decided to withdraw from all legislative tripartite forums. Its withdrawal had not obstructed any legislative process, however, as it had already submitted its proposals for amendments to the legislation long before. Following the 2013 ILC, the Government had continued to disrupt TUCOSWA's activities as follows: among other incidents, on 22 July 2013, the Government had violently brought an end to a meeting of the Manzini shop stewards local council; and on 5 September 2013, security forces had arrested and detained ITUC panellists who were to hear testimonies from textile workers on violations of their rights. Furthermore, the Government refused to register ATUSWA to date without any justification. In light of the above, the Government must be encouraged, in the strongest possible terms, to honour its obligations under the Convention for industrial and economic peace to prevail in Swaziland.

The Employer member of Swaziland indicated that in January 2014 the employers had met the ILO high-level mission which had visited the country to assess the progress achieved with respect to the commitments made at the 2013 ILC Conference. He recognized that his country had not been able to fully adhere to those commitments. In this regard, he stated that it was the employers' view, in line with the recommendations of the high-level mission, that the registration of the workers' and employers' federations enabling full legal recognition by all stakeholders would ensure speedy progress. The employers had therefore been actively engaging as social partners to enable progress in the adoption of the IRA amendment bill. Recalling the employers' concerns raised with the high-level mission that the bill did not actually reflect the agreement reached by the social partners, he indicated that they had been addressed in the meantime and trusted that, if the bill was introduced in Parliament in its current form, it would be compliant with the requirements of the Convention. The only issue on which the employers and workers were not able to agree related to criminal and civil liability during protest actions. The employers' proposal had been that such liability be removed from individuals and be placed on the federations, as body corporates, which did not exclude the liability of employers' federations. It was the employers' view that once the liability on individuals had been removed, the Committee's concerns would have been addressed. He pointed out however that the employers remained open to advice on best practices in this respect so as to reach consensus by the social partners and move forward. Finally, he stated that, while his country had not been able to meet the deadlines, there was tangible evidence and desire of the social partners, indicating that these issues could be finalized

once and for all. He therefore urged the Committee to provide guidance, allow time and assist the country in moving towards full compliance with the Convention. This would ensure that Swaziland did not lose out on any of the trade privileges with its international partners, a loss that would entail a negative impact on business as well as job losses. He requested the Committee to consider allowing the completion of processes already under way to address the current compliance issues, and expressed the employers' commitment to unlock bottlenecks wherever possible.

The Government member of Namibia took note of the information provided by the Government. Fully understanding the complexity of the matter at hand as well as the current circumstances in Swaziland, her Government encouraged the Government of Swaziland to take all measures to address the comments raised by the Committee of Experts. The Government of Namibia also requested that the Government of Swaziland be allowed more time to work on the outstanding issues, taking into account the circumstances that had prevailed during the period when it was required to comply with the issues raised by the Committee of Experts. Lastly, her Government called upon the ILO to consider the Government of Swaziland's request for technical assistance.

The Worker member of South Africa, speaking also on behalf of the Worker members of Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Zambia and Zimbabwe, stated that the Swazi Ministry of Labour had described the formation of TUCOSWA in January 2012 as an "important milestone in the history of industrial relations". However, when TUCOSWA had started to call for genuine democratic elections, it had been deregistered and its activities prohibited. The Government had considered, suddenly, that there was no law that allowed for the registration of union federations – a right guaranteed by the Convention. This decision had been confirmed by the industrial court on 26 February 2013. When TUCOSWA went to the High Court to challenge the decision, its lawyer had been arrested days before the scheduled hearing. The Government was clearly aware that it was in violation of the Convention, and its statements were no longer credible. Although it had issued General Notice No. 56, with the stated aim of ensuring that union federations were able to exercise their rights and participate in tripartite bodies, this had not yielded any results to date. The Government did indeed permit TUCOSWA to participate in tripartite bodies, but its opinion on important topics, such as the reform of the IRA, was largely ignored. Moreover, the Government had intensified its attacks on workers' rights. Unions in numerous sectors had decided to merge in September 2013 to form ATUSWA. Prior to its launching congress, the union had requested registration, which had been denied up to the present, with the Government putting forward various reasons that were far removed from normal practice. Even during the era of apartheid in South Africa, trade unions and federations had been registered and free to operate. Trade union rights were human rights.

The Government member of Greece, speaking on behalf of the European Union (EU) and its Member States, as well as Turkey, The former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Norway and the Republic of Moldova, stated that the EU attached importance to the rights of freedom of expression, opinion, assembly and association, without which democracy could not exist. She wished to recall the commitment made by Swaziland under the Cotonou Agreement – the framework for Swaziland's cooperation with the EU – to respect democracy, the rule of law and human rights principles which included freedom of association. Compliance with the Convention was essential in this respect. The case had been discussed by the Committee several times over the past decade. The EU was very concerned by recent developments in Swaziland that infringed on the rights of freedom of expression, opinion, assembly and association. Considering that the arrest of political activists and trade unionists on 1 May 2014, as well as the arrest and detention of human rights lawyer, Thulani Maseko and journalist Bheki Makhubu, constituted clear infringements, the EU called on the Government to respect these rights at all times. Noting that the Committee of Experts had requested the Government to take all necessary steps, including legislative measures, to proceed with the registration of TUCOSWA, the EU asked the Government to urgently amend the IRA so as to provide for that federation's registration and to urgently take forward this legislation, ensuring that it was in line with the Convention. Noting also that the Committee of Experts had highlighted several legal acts for their non-conformity with the Convention, the EU urged the Government to make sure that its legislation was fully compliant with the Convention. While appreciating that a high-level ILO fact-finding mission had been able to visit Swaziland in 2014, the EU expressed the hope that its results would be taken into consideration to produce tangible progress in all pending issues. It called on the Government to cooperate with the ILO and to respond to the requests of the Committee of Experts. The EU also urged the Government to avail itself of ILO technical assistance and expressed its continued readiness to cooperate with the Government to promote the implementation of fundamental rights.

The Worker member of Angola expressed grave concern that the Government had failed to meet its commitments made in 2013. In Swaziland, workers were harassed and intimidated with impunity. In March 2013, police had violently put an end to a meeting held on the anniversary of the founding of TUCOSWA, the only federation that brought together unions from all sectors in Swaziland. TUCOSWA remained unregistered, against workers' wishes and against international legal instruments that promoted and protected freedom of association and the right to organize. On 6 September 2013, police had abruptly ended a Global Inquiry Panel that had been organized by TUCOSWA with the aim of hearing workers' testimonies about conditions of work in Swaziland. While this was happening, the offices of TUCOSWA were raided by the armed police. On 5 September 2013, the Royal Police had put the Secretary-General of TUCOSWA, Mr Ncongwane, under house arrest, allegedly for taking charge of logistical arrangements for the Global Inquiry Panel. On the same day, trade union officials and other delegates arriving in Swaziland for the event had been detained by police upon their arrival and instructed to leave the country the following day. The Government had withdrawn the IRA amendment bill from Parliament. This action made it clear that the Government had no intention of recognizing or registering workers' and employers' federations in line with the commitment it had made to the Committee in June 2013. In light of the lack of progress it had made, she requested that the Committee include Swaziland in a special paragraph of its General Report.

The Government member of Morocco thanked the Government representative for the information supplied in response to the Committee of Experts' comments on the exercise of freedom of association, the registration of workers' organizations and a number of parliamentary bills. The Convention was difficult to implement because of constantly evolving industrial relations and required the adoption of regulations and institutional measures. According to the Government, considerable progress had

been made, particularly with regard to the IRA amendment bill, the Public Service Bill, amendments to the Suppression of Terrorism Act and the efforts to promote social dialogue and tripartite consultation. The adoption of those measures testified to the Government's determination to bring national legislation and practice in line with the Convention. He therefore proposed that the Government's efforts be endorsed and that it be given time to pursue those efforts and to address the issues that were still outstanding.

The Employer member of Zimbabwe expressed his solidarity with the Employer member of Swaziland. He acknowledged that the Government had not kept its word and still had to complete what it had undertaken to achieve. The Government representative had been very eloquent in presenting its accomplishments and the reasons for which other matters had not been addressed. The bottom line was, however, that the registration of workers' and employers' federations was critical – at present it was the workers' federation that was denied registration, in the future it could be the employers' federation. Moreover, the placing of criminal and civil liability on individuals had an intimidating effect. While acknowledging the unique circumstances of Swaziland, the speaker underlined that the Government had been aware of the requirements when joining the ILO and ratifying the Convention. According to an African saying, when two elephants fought, it was the grass that got hurt – this was to illustrate that the situation between the Government on the one side, and one or the other or both social partners on the other side, was negatively affecting the national economy and thus the well-being of the population. The conclusions of the Committee should therefore be unequivocal as to the need for the Government to honour its commitments and the Committee should expect no less.

The Government member of Zimbabwe urged the Government and its social partners to avail themselves of the ILO's technical assistance in order to resolve the outstanding issues that had been raised by the Committee of Experts. It had been pleased to note that the Government of Swaziland was cooperating with the ILO supervisory bodies. The ILO was encouraged to continue supporting the efforts made by providing the much needed technical support. It was recalled that, if nurtured, social dialogue at the national level could provide a platform to collectively deal with socio-economic issues. Investing and strengthening social dialogue became one of the ILO's entry points, in its endeavour to improve labour markets in member States.

The Worker member of the United Kingdom said that Swaziland's failure to respect the Convention was longstanding. Freedom of association and trade union activity had been restricted both in law and in practice, often with severe and violent consequences for trade unionists. The Public Order Act and the Suppression of Terrorism Act were used to silence dissidence and in recent months the number of arrests of those criticizing the regime had increased. The King had proclaimed Swaziland a monarchical democracy. It was not, however, a democracy, as there was a ban on political parties, a restriction on political information and the people of Swaziland could not participate meaningfully in organized political activity. Legislative and judicial powers were all vested in the King which had been consolidated by the revised Constitution of 2005. The State encroached on all civil and political rights and freedoms. The fact that trade unionists were brought before the courts for breach of laws, such as the Public Order Act, was a breach of ILO standards. The judiciary was not independent. Two senior members of the justice system had been dismissed; the first for allegedly criticizing the King and the second for refusing to support the dismissal of his colleague. A high-level ILO mission had visited Swaziland but no changes to the law had been made. Trade and other agreements with partners, such as the European Union, required that respect for international commitments, including freedom of association and freedom of assembly and speech, were met.

The Government member of Botswana said that freedom of association and the right of workers and employers to organize were preconditions for meaningful social dialogue and collective bargaining. Countries voluntarily ratified Conventions that promoted these principles but, on occasion, circumstances arose that undermined intentions. Some progress had been made towards compliance with the Convention, including the drafting and tabling of the Industrial Relations (Amendment) Bill in Parliament. Although it had not been adopted, these efforts bore testimony to the Government's commitment. Challenges had been encountered in the process of amending the Industrial Relations Act, which pointed to the need for capacity building to ensure effective social dialogue on a variety of matters, including the obligations arising from the Convention. It was hoped that collaboration with the ILO would assist Swaziland in overcoming the challenges it was facing in this regard. In the light of the meaningful efforts made by Swaziland, the speaker requested that it be granted additional time to complete its work.

The Worker member of the United States referred to the previous comments made by the Committee urging the Government to amend its legislation and to the high-level ILO fact-finding mission which had visited Swaziland in January 2014 which reported that no measurable progress had been made toward amending the problematic legislation. The speaker also referred to the African Growth and Opportunity Act which provided for the "protection of internationally recognized worker rights, including the right of association and the right to organize and bargain collectively". Swaziland's laws had to be amended by 15 May 2014 to ensure continued eligibility for trade benefits under the Act; another deadline that had not been respected. The speaker referred to some of the legislative issues raised by the ILO supervisory bodies over the past decade that had still not been resolved, including with regard to the Industrial Relations Act, the Public Order Act and the 1973 Proclamation. Prison staff were still legally excluded from the right to establish or join unions and a bill proposed in 2012 to address the issue was no longer being discussed. Moreover, the Government had recently reintroduced the Public Service Bill, prior to consultation with the social partners. If passed, this law would permit the termination of public sector workers for making political statements, limit the subjects public sector workers could negotiate, and provide that these workers had no access to grievance processes. In conclusion, there was much work needed for the Government to bring its labour laws into compliance with the Convention. The speaker therefore urged the Government to cooperate with the ILO in order to complete those reforms.

The Government member of South Sudan stated that the Government had shown its strong political will towards ensuring compliance with the Convention. However, due to circumstances beyond its control, such as the dissolution of Parliament in July 2013 which was reinstated in February 2014, the whole process was delayed. The Committee of Experts was called upon to take note of the progress made so far. In addition, the ILO was requested to provide its technical assistance to the Government, in order to speed up the legislative reform process undertaken. The speaker invited the Government to continue its negotiations with the social partners in order to prevent further delays.

The Worker member of Nigeria said that workers and citizens could not exercise their rights on freedom of association, assembly and participation in democratic pro-

cesses. The Government had continued to wilfully and arbitrarily circumvent the application of the Convention and other similar instruments, thus failing to deliver on the promises it had made. There were a number of areas of concern. TUCOSWA, a legitimate trade union, was banned. The police and other state security agencies continued to harass and intimidate union leaders. Four workers had been arrested and detained for wearing T-shirts that allegedly belonged to a political party. A student, who had joined his parents and co-workers to celebrate May Day, was detained. Associating with workers was considered a serious crime in Swaziland. Trade union activists had been forcefully prevented from participating in legitimate trade union activities and TUCOSWA's lawyer had been in detention for having expressed an opinion on the arrest of a trade unionist from one of TUCOSWA's affiliates. The treatment received by TUCOSWA was in breach of Swaziland's Constitution.

The Government member of the United States stated that the situation of freedom of association and trade union rights in Swaziland was a matter of grave concern to the United States. The situation had been followed closely for several years, particularly in the context of Swaziland's continued eligibility for trade preferences under the African Growth and Opportunity Act. The United States Government fully endorsed the recommendations of the ILO supervisory bodies regarding Swaziland's application of the Convention, as well as the technical advice that the ILO had provided to the Government with a view to implementing those recommendations. Her Government was concerned by the lack of concrete, tangible progress to date; these issues had been pending for a very long time, some for over a decade. The speaker was pleased that the Government had accepted a high-level ILO fact-finding mission in January 2014. Nonetheless, she deeply regretted that TUCOSWA was still not registered. It was imperative that TUCOSWA be able to effectively exercise all of its trade union rights without interference or reprisal. It was equally important that employers' organizations were registered and able to fully represent their members' interests. Legislative omission that had resulted in the de-registration of workers' and employers' organizations, and the Government of Swaziland's subsequent lack of meaningful recognition pursuant to its General Notice, had had serious consequences for genuine freedom of association and meaningful tripartite social dialogue in Swaziland. The speaker urged the Government to take the necessary measures to ensure that TUCOSWA and other workers' and employers' organizations were registered without further delay. The Government was also urged to take all of the measures recommended by the ILO supervisory bodies with regard to legislative amendments and their effective implementation. Moreover, she urged the Government to implement a Code of Good Practice for managing industrial and protest actions. In this regard, she called on the Government to cooperate closely with the ILO.

An observer representing the International Transport Workers' Federation (ITF) indicated that in 2014, the ITF had sent a fact-finding mission to Swaziland to investigate anti-union measures taken by the authorities against the Swaziland Transport and Allied Workers' Union (STAWU). In addition to the Public Order Act used to target trade unionists, including the STAWU, another law had also been used to that end. Five STAWU union leaders, including the Secretary-General, had been served notice of prosecution under the Road Traffic Act of 2007 for holding a union gathering in the airport car park. Although this law was supposed to cover offences on public highways, it had been applied to the airport car park – another way in which statutory instruments were creatively used to suppress unions in Swaziland. Furthermore, in 2014, the Civil Aviation Authority had submitted an application to the Government's Essential Services Committee requesting that a range of airport services be classified as essential services. This would bring airport staff under specific legislation restricting their employment and trade union rights, and would be a step backwards in the application of the Convention. The speaker also referred to their visit of STAWU's legal officer, Basil Thwala, in prison. He had been arrested following a demonstration in July 2012 and had been charged and convicted for offences under both the Road Traffic Act and the Public Order Act. Although he was initially granted bail, it was later revoked by the High Court of Swaziland allegedly on the ground that he had breached his bail conditions. No witnesses were called before the court to verify this allegation and Mr Thwala himself had not been in court when his bail was revoked. Mr Thwala was then sentenced to two years of imprisonment. Even though he had lodged an appeal two months after being convicted, his appeal, filed on a certificate of urgency, was never dealt with. Mr Thwala was released in 2014 after serving his full sentence. ITF's mission had questioned the independence of the judiciary in both Mr Thwala's case and that of the STAWU leaders. STAWU's plight showed the Government's non-compliance with the Convention. He urged the Government to amend the legal texts that had been subject to scrutiny. Moreover, the Government should be asked to report on the Road Traffic Act and its misuse aimed at targeting legitimate activities of the trade unionist.

The Government member of Egypt stated that the Government had taken a series of measures to fully implement the provisions of the Convention despite the difficulties the Government had faced, especially during the national elections which were held after the dissolution of Parliament in July 2013. These difficulties had delayed the adoption of legislative measures that would allow the provisions of the Convention to be implemented. The Government had demonstrated its full commitment to making the necessary amendments, particularly with regard to the registration of trade unions. In conclusion, the speaker asked the Committee to grant the Government additional time to enable it to take the necessary measures and bring national legislation in line with the requirements of the Convention. In this regard, he supported ILO technical assistance for the Government.

The Government representative thanked all the members of the Committee for their positive criticism and wished to assure the Committee that Swaziland was committed and was tirelessly working on the pending issues. Given the required time and technical assistance, the Government would be able to report tangible results at the Committee's next meeting. In response to the issues raised during the discussion, the Government representative stated that all the relevant information had been provided with respect to the 1973 Proclamation and clarified that it was only on this specific issue that further examination and supervision did not appear to be required. With respect to the new allegations of non-compliance raised during the discussion, the Government representative asked that the normal process be used, namely that these complaints of non-compliance be channelled through the government structure in order to afford the Government the opportunity to provide information or a report on the new issues raised. Some of the issues raised had been a distortion of the facts. The speaker added that TUCOSWA was not banned in Swaziland and enjoyed the right to organize and to meet and the right of freedom of expression. TUCOSWA celebrated May Day in 2014 and had invited representatives of the Government to attend the celebration. This was proof that their relationship was not as it had been portrayed. With respect to the Bill

amending the Industrial Relations Act (Bill No. 14 of 2013), it had not been the Government who had withdrawn the Bill from Parliament but a Parliamentary Committee. A bill could not be promulgated overnight and the Government therefore asked the Committee for some time in order to move forward with the process that had already started. The Government representative requested the ILO's technical assistance to help resolve the pending issues and stated that the Government would report on solid results at the Committee's next meeting.

The Employer members thanked the Government for the information submitted. Some measures had been taken but highlighted that there was a lack of concrete progress with regard to this case. They recalled that the Committee did not address the right to strike in this case as the employers did not agree that there was a right to strike recognized in the Convention. The Government was urged to implement in law and in practice real change that would see the Government's legislation come into compliance with the Convention. Priority should be given to establishing a fast-track process to allow the immediate registration of workers' and employers' organizations and federations, including the immediate registration of TUCOSWA which had to be dealt with as a matter of urgency. Once organizations were registered, the Government could turn to consulting with the social partners in order to draw up a timetable to finalize the revision of the outstanding legal texts that had been discussed. Revision of legislation presented challenges but with the assistance of the ILO and in consultation with the social partners it would be possible to deal with those challenges. Given the Government's willingness to achieve progress, the Employer members expected that the recommendations would be taken seriously and given priority.

The Worker members expressed the view that the evidence provided was irrefutable and proof enough of the systematic attacks on the workers' right to establish and join trade unions freely. The Government was trying to prevent the creation of TUCOSWA and ATUSWA by refusing to register them and by prohibiting them from engaging in trade union activities. Freedom of movement and expression of the leaders and members of the unions was limited and they risked criminal charges and prison if they denounced the Government's repressive tactics. The police and security forces had been watching the workers closely and, citing abusive legislation that the Government refused to change, had threatened to use force if they tried to assert their rights. On several occasions the Government had pledged to stick to a timetable of reforms, but had failed to do so. The ILO mission that had recently visited the country had not been able to record any progress. The Worker members felt that they could not allow the Government any more time and reiterated their demands: the Government must register TUCOSWA and ATUSWA immediately and ensure the full exercise of their rights under the Convention and national legislation, with particular reference to the IRA. The Government must release Thulani Maseko immediately and abandon the legal proceedings regarding his freedom of expression and legitimate trade union activities, and take urgent steps to institute an independent judiciary; the Government must provide the police and security forces with relevant information and hold them responsible for any violent intervention in peaceful and legitimate trade union activities; the Government must immediately amend the IRA, the Correctional Services (Prison) Act, the Public Service Act, the Suppression of Terrorism Act and the Public Order Act so as to bring them into line with the Convention; the Government must initiate judiciary procedures conducive to a definitive Supreme Court ruling on the status of the provisions of the 1973 Proclamation. Given that the Government was persisting in its ways, the Worker members would use all the facilities available to them under the ILO Constitution. Considering the seriousness of the case, the Government's systematic refusal to act for the past ten years and the complete absence of progress, the Worker members were in favour of the Committee's conclusions being included in a special paragraph.

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

CROATIA (ratification: 1991)

The Government provided the following written information.

With regard to the promotion of collective bargaining (Articles 4 and 6 of the Convention) and concerning the economic trends before the cancellation of the Basic Collective Agreement (BCA) (2012), the global financial and economic crisis has had a belated effect on the Croatian economy, which was reflected in a considerable decrease in economic activity, a steady decline in the gross domestic product (hereinafter: GDP) and a constant increase in the rate of unemployment, with a subsequent decrease in the citizens' standard of living. Also, at the end of 2011, the share of the public debt in GDP amounted to 46.7 per cent with a further growth tendency, so that in 2012 it accounted for 55.5 per cent. Given that the deterioration of macroeconomic trends continued during the first half of 2012, it was necessary to further reduce government spending to maintain fiscal consolidation and respect the fiscal rule (whose share increased in the GDP and continued to grow). Consequently, the Government of the Republic of Croatia, under economic circumstances that were continuing to deteriorate, proposed amendments to the BCA during public services negotiations with the trade unions. Eight meetings were held from 4 June 2012 to 16 July 2012. Proposed amendments were aimed at reducing or temporarily suspending the following rights: the right to a Christmas bonus in 2012; the right to a holiday bonus in 2013; and the right to jubilee awards in 2013, except for employees who had been employed for more than 35 years and were retiring in the year to which they were entitled to the bonus; travelling allowances would be reduced from 170 Croatian kuna (HRK) to HRK150; and the method of reimbursement of transport costs to and from work would be regulated differently for the purpose of rationalization. During the negotiations on those amendments to the BCA, which were aimed at avoiding wage adjustments, four of the eight trade unions who had signed the BCA confirmed that they would accept the proposed amendments; the other four had refused to accept them, requesting that the Government commit itself to paying the funds to the public servants in the future. Considering that the BCA envisages the possibility of bringing the dispute before arbitration (article 9), the Government, at the proposal of the four trade unions who had signed the proposed BCA amendments, had, on 17 July 2012, suggested arbitration to the trade unions who had refused to sign the amendments. On 19 July 2012 it appointed its representatives to the arbitration council, while constantly inviting the trade unions to reach an agreement. Those trade unions that had refused to sign the amendments sent a written rejection of the arbitration settlement of the dispute, stating that arbitration was not mandatory. The conciliation procedure was unsuccessful. Article 23 of the BCA provided that the Agreement can be cancelled in writing by both parties in the event of economic circumstances that have significantly changed, after the party cancelling the Agreement had proposed amendments to the other party beforehand, with a notice period of three months. Having exhausted all possibilities

of coming to an agreement, based on article 23 of the BCA, the Government, on 17 September 2013, took the decision to revoke the BCA for public service employees with a notice period of three months. The procedures for cancellation were therefore conducted legally. At the same time that the Government was expressing its intention to repeal the existing BCA, it was initiating negotiations on the conclusion of a new BCA, whose text would not change with respect to the text of the revoked BCA. Negotiations would only refer to the issue of the reimbursement of transport costs, whereas the issues of the Christmas bonus, holiday bonus and jubilee award would be settled in an annex to the BCA. The new BCA, with an Annex I, was signed on 12 December 2012, before the cancellation of the previous agreement had entered into force. Collective bargaining was conducted with the bargaining committee of the trade unions established in accordance with the Act on the criteria for participation in tripartite bodies and the representativeness for collective bargaining, which entered into force in the meantime (28 July 2012). It was signed by a total of six out of 11 representative trade unions.

Concerning the act on the suspension of payment of certain benefits to public service employees, despite the conclusion of the new BCA and Annex I (agreement to reduce or temporarily suspend some material benefits), pursuant to the principle in the Labour Code to apply the more favourable law, those rights continued to be applied according to the branch collective agreements, because they had been agreed in branch/sectoral collective agreements for each public service (health care, social welfare, primary and secondary education, science, higher education and culture). Civil servants had negotiated their collective agreement with the Government on 2 August 2012. In Annex I of the collective agreement, inter alia, they agreed that for civil servants, the Christmas bonus would not apply in 2012 and 2013; the holiday bonus and jubilee award would not apply in 2013; and travelling allowances would be reduced from HRK170 to HRK150 (the same was offered to the public service employees). Civil servants in this case were, in practice, discriminated against, since the material rights for both categories were ensured in the state budget. For that reason, the Government decided to regulate the rights contained in Annex I of the BCA equally for all, both civil servants and public service employees, under the Act on the suspension of payment of certain benefits to public service employees of 20 December 2012. On the basis of that Act, the right to a Christmas bonus in 2012 and 2013, and a holiday bonus in 2013, no longer applied. This decision was taken in order to urgently maintain the fiscal stability of the public service system under the deteriorating economic conditions and to achieve a balance in the rights of both categories of officials. In order to bring the branch collective agreements in line with the BCA, the Government entered into negotiations in 2013 with representative trade unions of each public service. In 2013, the collective agreement was concluded for the health-care sector. Collective agreements for the social welfare, culture and primary and secondary education sectors were all concluded in 2014. As yet, no branch collective agreement for science and higher education had been concluded.

With reference to the economic trends in 2013–14, the Government indicated that Croatia was facing a deep and prolonged recession for the sixth consecutive year. The share of the public debt in GDP had increased from 55.5 per cent in 2012 to 64 per cent at the end of 2013. Due to violations of both deficit and debt criteria, the excessive debt procedure within the framework of the European Union (EU) Stability and Growth Pact was initiated in 2014. It was another year of rising unemployment, especially youth unemployment. In the third quarter of 2013, the activity rate for the 15–64 year age group stood at 60.5 per cent, the lowest in the EU, while the employment rate was 50.2 per cent – the second lowest in the EU. The Act on the realization of the state budget of 1993 was no longer in force. With regard to the Act on the criteria for the participation in tripartite bodies and representativeness for collective bargaining, the Government indicated that it had initiated the drafting of the text of the new Act on representativeness in close cooperation with the social partners. After numerous consultations which took place with all representative social partners (representative trade union confederations and the Croatian Employers' Association), the Ministry of Labour and Pension System initiated the drafting of the new Act of 28 July 2012, which contained improvements. The drafting of this Act was in its final phase. The goal was to promote cooperation among trade unions and strengthen their bargaining positions.

Regarding the protection of workers against acts of anti-union discrimination (Article 1 of the Convention), a comprehensive process of judicial reform had been taking place in Croatia during the past few years, with a view to enhancing the efficiency of the judicial procedure in general and to reducing the backlog of cases. Many laws had been amended; the courts had been restructured and their territorial distribution modified; and information technology had been advancing. Various projects (so-called e-documents) had been implemented to provide the legal protection of the rights of the parties in general, as well as workers. According to statistical data, the number of unresolved cases had dropped considerably in the period from December 2011 to September 2013 – from 872,124 to 773,349 – which demonstrated progress in this field. As regards the strengthening of the capacity of labour inspection, the Labour Inspectorate Act had been adopted and entered into force on 20 February 2014. This Act provided a legal framework for the functioning of inspection bodies in the field of labour. Moreover, the Inspectorate Unit had been established as a separate unit within the Ministry of Labour and Pension System since 1 January 2014. The Labour Inspectorate Act provided a legal basis for the efficient and improved functions of labour inspection bodies. Comments were made by the Trade Union of State and Local Government Employees to the effect that the Local and Regional Self-Government Wage Act of 19 February 2010 restricted the right to organize and bargain collectively over wage fixing, especially in the case of employees of the local and regional self-government units (especially where aid from the state budget for their functioning exceeded 10 per cent of a particular unit's income). The basis for wage fixing for the calculation of pay of concerned employees was, pursuant to section 9 of the aforementioned Act, determined by collective agreement. Only in cases where the basis was not determined by collective agreement, it was established pursuant to a decision of the local authority official. Section 9 was thus also applicable to the wage-fixing basis in units where aid from the state budget for their functioning exceeded 10 per cent of that unit's income. However, there was a restriction in section 16 of the Act, which prescribed that in such units the basis for the wage fixing must not be higher than the one for the calculation of pay of civil servants. The solution, at the same time, ensured that local units which did not have sufficient income for their expenses and relied on aid from the state budget for the salaries of the employees, could not increase salaries unproportionally to their income. At the same time, employees were guaranteed protection equal to civil servants. The basis for wage fixing for the salaries of civil servants had been HRK5,108.84 gross, since 1 April 2009. Regarding that issue, the Constitutional Court stated the following: "Section 16 by no means affects

social rights and the right/freedom to organize and collective bargaining, nor does it prevent collective bargaining on the wage-fixing basis. The intention of the legislator was that the wage-fixing basis is primarily determined by collective bargaining, and subsequently by the decisions of competent authorities, which is in accordance with the Constitution."

In addition, before the Committee, **a Government representative** recalled the impact of the global economic and financial crisis and its negative impact on the economy of Croatia, which was reflected in a steady decline of the Gross Domestic Product (GDP), increased unemployment, reduced salaries and an increased public debt. Under these conditions, negotiations had been held with trade unions in the public service from 4 to 16 July 2012 with a view to amend the Basic Collective Agreement (BCA). Four trade unions had refused to sign the amendments, and had rejected the invitation by the Government to settle disputes through an arbitration procedure provided by the BCA, or through other means. The Government had subsequently cancelled the BCA for public service employees in September 2012, having taken into account all necessary procedures to ensure that the cancellation was legal. At the same time, the Government had, however, expressed its intention to open negotiations for a new BCA. While removing certain rights and bonuses, the new BCA had settled most outstanding issues. The new BCA had been signed in December 2012 by six out of 11 representative trade unions. The abovementioned procedure had been motivated by the necessity to preserve fiscal stability of the public service system while respecting the equality of treatment between public servants on the one hand, and public sector employees on the other. In 2013 the Government had concluded collective agreements in all but one branch. Regarding the issue of representativeness, the Government had submitted a detailed report to the ILO affirming that the Act defined the criteria for establishing representativeness of trade unions for the purposes of collective bargaining. The Government had started drafting the text of a new Act on representativeness, in close collaboration with the social partners, to counter the perceived shortcomings of the current Act, and to promote cooperation among trade unions and strengthen their bargaining positions.

The Worker members recalled that this was the second discussion on Croatia's application of the Convention and that a complaint was also being examined by the Committee on Freedom of Association. The Committee of Experts was not satisfied with the Government's responses to the four points it had raised in its observation. The first point concerned the protection of workers against acts of anti-union discrimination. There was an excessive delay in the courts dealing with these complaints and the labour inspectorate did not have the capacity to intervene effectively. Furthermore, the pilot mediation project that had been established had given good results but was not widely used. The second point referred to the process of wage fixing in a number of regional and local communities. When these communities received financial assistance corresponding to a percentage of their income, they had to align themselves with the agreements existing at national level. This legislation appeared contrary to the principle of the right to bargain freely on working conditions. The third critical point concerned the Government's possibility to amend the substance of a collective agreement in the public service for financial reasons. This contravened the principle that an agreement may not be amended unilaterally. In addition, there was a large body of jurisprudence or the issue of whether an economic crisis or the need to balance public finances justified the amendment of collective agreements by the authorities. The Committee of Experts had already made an observation on this point in 2010, on the basis of this jurisprudence. The fourth and last point related to the application in the public sector of the Act on the criteria for participation in tripartite bodies and the representativeness for collective bargaining (Representativeness Act of 2012). This Act raised concern among the trade union organizations because the procedure to determine this representativeness was complex and confusing and it did not provide the necessary guarantees of impartiality and objectivity required under the Convention. The trade union organizations felt that the bill at present under discussion was even more complex. The Government should confirm its commitment to embark upon an authentic social dialogue, which would involve re-establishing an independent Office for Social Partnership, guaranteeing the effective running of the Social and Economic Council, and creating an independent labour inspectorate. Moreover, it should cease state intervention and the unilateral resiliation of collective agreements and bring the legislation into conformity with the Convention.

The Employer members recalled that the Government would have taken a number of measures when preparing for its recent membership of the European Union. A comprehensive anti-discrimination Act, which included anti-union discrimination had been adopted in 2008. The comments of the Committee of Experts indicated that a comprehensive process of reform had been initiated by the Government to enhance the efficiency of the judicial procedure and reduce the backlog of cases. Moreover, a pilot project on mediation in courts had shown positive results. With regard to local and regional self-government units, Article 6 of the Convention made it clear that the Convention was not intended to apply to, or prejudice, the right of public servants engaged in the administration of the State, distinguishing such public servants from other types of public servants to whom the provisions of the Convention did apply. The Committee of Experts had clarified this distinction in paragraphs 171 and 172 of its 2012 General Survey. In this regard, the Committee of Experts had drawn a distinction between public servants who by their functions were directly employed in the administration of the State, and all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. In this regard, it was important to note that the central Government had the power to limit collective bargaining for local and regional self-government units, which indicated that these units were not autonomous institutions outside of the state administration, but were instead an integral part of the administration of the State. Therefore, employees in these self-government units were indeed civil servants engaged in the authority of the State, and the Government was not required under Article 6 of the Convention to engage in collective bargaining in these units. While noting the non-binding character of the comments made by the Committee of Experts, they invited the Government to consider the above elements in its reply to the Committee of Experts. Regarding the Representativeness Act of 2012, the process of tripartite national discussion was under way.

The Worker member of Croatia underlined the violation of the Convention by the Act on representativeness of 2012, which was adopted without the agreement of the social partners, and which restricted collective agreements to trade unions denominated as "representative" by section 26 of the Act, and possibly restricted the right to strike of other unions. The Act also established derogations in a number of sections of the Labour Code thus restricting the utilization of machinery for voluntary negotiation by unions. The Act established special, different and unjustifiable distinctions between different unions which constituted discrimination. It increased fragmenta-

tion of unions and undermined the industrial relations system. Other provisions of the Act undermined union independence and put into question the objectivity of labour authorities, allowing interference into trade union matters which disrupted collective bargaining. These legislative changes had a profound and negative impact on the social dialogue system in the country. Moreover, the BCA had been cancelled, the independent Office for Social Partnership abolished, the tripartite Economic and Social Committee was not functioning, and the once independent labour inspectorate had broken down. Technical assistance by the ILO was required to strengthen tripartism and to implement a genuine system of collective bargaining.

The Worker member of Germany, speaking also on behalf of the Worker member of Poland, underlined that the present laws and policies in Croatia, a Member State of the European Union, substantially violated Convention No. 98, one of the fundamental ILO Conventions that laid the foundation for the Committee's work: the right to organize. This principle had been under attack in recent years and continued to be under attack at the present Conference, a situation that was unacceptable. In Croatia, the protection of the right to organize was insufficient. Judicial proceedings on cases of anti-union discrimination were being protracted for years before ordinary courts as well as before the Constitutional Court, a situation that amounted to a violation of the right to organize through omission. He called for the acceleration of judicial proceedings and supported the appeal made by the Worker member of Croatia to establish more labour courts, since they were better equipped to consider cases of anti-union discrimination. On the other hand, the right to organize was also actively violated through the adoption of laws such as the Representativeness Act, which established arbitrary criteria for determining which organizations would be considered trade unions. Organizations failing to meet those criteria lost their core functions, namely the right to collective bargaining and the right to strike. The situation illustrated the inherent link between the right to organize and the right to strike and revealed why questioning the right to strike was unacceptable. With reference to the ongoing reform of this Act, the Worker member urged the Government to involve the trade unions in the preparation of the new draft. He also called for the amendment of the draft law on financial obligations for non-profit organizations, which required unions to publicly declare their finances, including their strike fund.

The Worker member of France stated that the Representativeness Act, ostensibly designed to update and reinforce the principle of collective bargaining, actually did the opposite. The Croatian trade unions saw the Act as undermining the credibility of their practices. As the Committee of Experts had recalled in 2010, a legal provision that allowed a party to modify a signed collective agreement unilaterally was contrary to the principles of collective bargaining. If, as it claimed, the Government wanted to "harmonize" the agreements it had signed and make them better reflect the country's economic situation, then it could not simply "not bother" to consult the social partners and use the economic crisis as an excuse for reducing them to their lowest common denominator and engaged in social dumping. Obliging the parties to renegotiate was contrary to the very principle of collective bargaining and, by extending the period for determining representativeness, the Act had the effect of interrupting or blocking the whole process. The number of complaints about the Act being used to violate collective agreements was steadily increasing, from 6,000 cases in 2011 to more than twice as many in 2012. The Government could not, for any reason whatsoever, simply substitute the Act for the agreements, and the State's unilateral interference in matters that were governed by collective agreements was tantamount to a breach of the provisions of Convention No. 98. It was important that an end be put to such violations of the Convention.

The Worker member of Hungary stated that there had been no real, meaningful dialogue on the Representativeness Act: it had been adopted despite the clear opposition of the social partners. Neither had the social partners been consulted with regard to the drafting of other important laws, including the Labour Act, the Occupational Safety and Health Act and the Act on financial obligations of non-profit organizations. In 2012, the Government had abolished the Office for Social Partnership without consulting the social partners, and reinvented it as the Autonomous Service for Social Partnership, under the Ministry of Labour and Pension System, thereby depriving it of its independence. The Office for Social Partnership had been formed to provide professional and logistical support to the Economic and Social Council, Croatia's principle institution for tripartite social dialogue. The Council had not been functioning for nearly a year. Since that change, trade unions and social dialogue had become marginalized; trade unions could only find out about laws and policies relating to employment via the media. The situation in Croatia with regard to social dialogue was not in conformity with the ILO's basic principle of tripartism. Effective social dialogue was a means to promote better wages and working conditions, peace and social justice. It fostered cooperation and strengthened economic performance. The ILO Global Jobs Pact stated that social dialogue was an invaluable mechanism for the design of policies that fit national priorities. It contributed to sustainable development, good quality jobs and the democratization of social and economic policies. Workers' voices had to be heard.

An observer representing Public Services International (PSI) expressed serious concern with regard to the actions of the Government in relation to collective bargaining in the public sector. Since the beginning of the financial crisis, the Government had refused to engage in collective bargaining and unilaterally changed conditions of pay and employment. The Government's austerity measures included outsourcing to companies that were not covered by collective bargaining agreements, privatization of public services and welfare cuts across the board. There was an alternative to such measures: quality public services and social protection floors were conducive to democracy. Countries including Belgium, Iceland, Uruguay and Argentina had demonstrated that collective bargaining and income distribution policies led to both economic recovery and social inclusion. She agreed with the Committee of Experts that a legal provision allowing unilateral modification of the content of signed collective agreements was contrary to the principles of collective bargaining. The Government's unilateral decision to withhold service bonuses from civil servants was a failure to comply with a relevant collective agreement, and with the agreed procedure for amending the agreement, as well as a contravention of Article 28 of the European Union's Charter of Fundamental Rights and Article 6 of the Council of Europe's European Social Charter. In addition, the 2013 General Survey, *Collective bargaining in the public service: A way forward* underlined the importance of collective bargaining for maintaining effective, professional public services, and the need to respect existing collective agreements in times of crisis. PSI was also concerned by the difficult working conditions in the national health-care system (excessive overtime, staff shortage, reductions in wages). Health-care unions had tried to negotiate a new collective agreement without any result to date. The Government had also intervened in the social dialogue of an electricity company; this had not only made it difficult for

unions and management to establish a collective agreement, but was a violation of ILO principles, the European Social Charter and the European Union's Charter of Fundamental Rights. She called on the Government to change direction and to build trust and dialogue, rather than exclusion and inequality.

The Government representative wished to draw the Committee's attention to three points. Firstly, regarding the Representativeness Act, the preparation of draft legislation establishing criteria for participation in tripartite bodies and criteria for determining representativeness for collective bargaining purposes, had already begun in 2008. The Government's attempts to create enabling conditions and encourage social partners to agree on the text of the Representativeness Act had been unsuccessful, for the following reasons. In June 2008, the trade union confederations had assumed the obligation to submit a proposed Act to the Government. In July 2009, in the absence of agreement on the content of the Act, the trade union confederations had proposed that the Government should itself prepare the draft Act, with any disagreements in connection with it to be settled by an arbitration body. However, after the Ministry had prepared two working documents, arbitration had been refused. In 2011, when the draft Act was to be prepared in consultation with the social partners by a group of experts proposed by employers and workers, most trade union confederations had failed to submit their proposals to the experts. The outcome produced by the experts had not been considered acceptable. Following several meetings and consultations with the social partners, the Representativeness Act had been adopted on 28 July 2012. Secondly, she reminded the Committee that the Office for Social Partnership had in fact been a government office, and that, although the Government had indeed abolished it, it had for the first time established a new Ministry of Labour and Pension System – previously labour issues had been dealt with by the Ministry of Economy, Labour and Entrepreneurship. Thirdly, concerning the comments that the Local and Regional Self-Government Wage Act restricted the right to bargain collectively over wage fixation (especially in units where aid from the state budget exceeded 10 per cent of a unit's income), she indicated that, according to the Act, the wage-fixing basis for the calculation of pay for the employees of all units was determined by collective agreement; only when this was not the case, was it established by the local authority official. However, there was a restriction prescribing that in units where aid from state budget exceeded 10 per cent of the income, the wage-fixing basis did not have to be higher than that for the calculation of pay of civil servants. The purpose was to prevent salaries from increasing disproportionally in units with insufficient income that relied on state aid. In conclusion, the Government representative highlighted that Croatia was in its sixth consecutive year of recession. Unemployment, particularly youth unemployment, lack of investment and fiscal consolidation remained major challenges, and the Government had had to undertake a range of structural reforms. However, it was aware of its responsibility to implement reforms in a socially responsible manner. All measures taken had been aimed at reducing government spending, and rights had been suspended minimally and temporarily. The Government recognized the importance of social dialogue and prioritized collective bargaining as a means of determining the employment conditions of civil servants and other public service employees. Collective agreement coverage in the public sector remained high, and since 2012 the Government had been engaged in ongoing negotiations with civil and public service trade unions, to try and find a balance between necessary measures to address the crisis and protection of workers' rights. To date, various collective agreements had been concluded: a collective agreement for civil servants, a BCA for public service employees and five agreements for the health care, primary and secondary education, social welfare and culture sectors. The Government would be open to negotiations on the extent of workers' rights as soon as the fiscal and economic situation improved.

The Worker members were surprised by the Employer members' renewed questioning of the established interpretations of Conventions in force and emphasized that the Committee of Experts had correctly applied the text of the Convention in the light of the General Survey to which the Employer members had been referring. It seemed that some distrust had developed between the Government and the representative organizations of public service employees and that there were major differences in their respective views. The question was therefore whether the economic and financial difficulties facing the country really justified the revision of granted benefits and, in particular, whether they justified an exemption from the principles laid down by international standards. The Worker members stated that they could only agree with the Government's objectives. However, there were serious doubts as to whether the latter could be achieved through the existing legislation or the proposed legislation. In order to settle the matter, a thorough examination of the issue should be carried out in order to establish the following: the circumstances which had led to the Government's withdrawal from the agreement; among other things, the real content and scope of the legislation on representativeness; and, in particular, the way to restore appropriate and substantial dialogue. Accordingly, the Worker members encouraged the Government to avail itself of the ILO's technical assistance.

The Employer members appreciated the detailed information provided by the Government. They considered it important to highlight that the Committee was examining compliance with the provisions of Convention No. 98 only, and that the European Social Charter was not being discussed by the present Committee. As regards the promotion of collective bargaining in the public sector, they indicated that they had already expressed their concerns about Article 6 and the views of the Committee of Experts. The Employer members believed that, in view of the exemption contained in Article 6 of the Convention, neither the Government of Croatia nor any government was under the obligation to promote collective bargaining in local and regional self-government units. Any restriction applying to those groups of public servants was not within the remit of the Convention. They requested that their views be reflected in the conclusions, so that it was clear why they questioned the observations of the Committee of Experts. Nonetheless, they expected the Government to fully comply with the requirements of the Convention, albeit it was a matter for the Government to decide whether to utilize the exemption in Article 6 of the Convention.

ECUADOR (ratification: 1959)

A Government representative said that Ecuador's commitment to respect and observe international labour standards dated back to when it joined the ILO in 1934. It had ratified 61 ILO Conventions, including Convention No. 98 and, most recently, the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Domestic Workers Convention, 2011 (No. 189). She emphasized that, with the adoption of the Constitution in 2008 by way of a majority vote by the people of Ecuador, a new set of social policies had been established based on the ancestral Andean philosophy of *Sumak Kawsay*, or living well, which were geared to ensuring basic needs and life in harmony with nature. From that perspective,

economic growth should be achieved taking into consideration a fair distribution of wealth. As such, priority had been given, not to the payment of foreign debt, but to the payment of social debt, and the 8 per cent fall in poverty between 2007 and 2011 had been achieved on the basis of the implementation of a national system for inclusion and social equity which respected diversity, prohibited discrimination of any kind and facilitated the full enjoyment of human rights, particularly the rights to work, food, health, housing and education. The progress made had enabled her country to be a benchmark for achievements in terms of plans for people with disabilities, action against child labour, and in particular, by its worst forms, environmental protection, reduction of extreme poverty and improved wealth distribution. In order to attain these objectives, a socio-economic inequalities atlas had been published, with the support of 12 bodies related to the United Nations. She added that the Constitution established the right to decent work and rights such as the workers' right to organize without prior authorization. Alongside the Constitution, specific measures had been adopted in the labour sphere, with the aim of overcoming disparities between workers who, although carrying out the same work for similar hours of work, were not entitled to the same remuneration or the same social benefits. A mandatory social security system had been introduced, as well as better wages with the change in the production model. Better training for workers had also been promoted with a view to enhancing their options for earning higher wages.

Efforts had been made to developing a new Labour Code that better reflected current realities and was more in line with the international Conventions ratified by Ecuador. The draft had been developed with the ILO's participation and had been submitted to the National Assembly on 1 May 2014. The articles had been structured along the lines of Convention No. 98, with the emphasis on the organization of workers and the establishment of trade unions, in the context of freedom of association. Its provisions included the following: prohibition of any act that obstructed workers in the formation of trade unions; prohibition for employers to terminate a contract of employment while the worker was on leave; prohibition of any type of act aimed at restricting or undermining workers' rights to organize, and also of interference in the establishment, administration or support of workers' organizations; and guarantee of collective contracts as a way to improve, inter alia, conditions of work in terms of wages, occupational safety and health, food and hours of work. The draft new Labour Code was progressive in establishing new types of unions and unionization by sector. Workers would be better represented and their rights would be more effectively guaranteed. Regarding the reinforcement of trade unionism, she said that the number of trade union registrations had significantly increased to 479, which represented a 300 per cent increase over the number established in the previous decade. The current Labour Code established the right to collective bargaining. However, collective bargaining agreements in certain public sector bodies contained clauses providing for excessive benefit, which created a privileged situation for the workers concerned amounting to a clearly unfair and discriminatory situation vis-à-vis other workers in similar conditions in the public sector. The magnitude of those benefits could be appreciated by referring to 363rd Report of the Committee on Freedom of Association on Case No. 2684, paragraph 555 of which indicated that one of the complainant organizations had alleged the unjustified dismissal of some 300 workers of a State enterprise, and paragraph 556 stated that those workers were claiming the compensation due to them (US$200 million), as well as compensation for the damages caused). She emphasized that with a view to overcoming such imbalances, the Constituent Assembly, responsible for the drafting of the Constitution in 2008, had promulgated Constituent Resolutions Nos 2, 4 and 8, which had absolute legitimacy, as they had been promulgated on the basis of the people's will expressed by means of several popular votes. Ministerial Orders Nos 00080 and 00155 did not restrict either collective bargaining or freedom of association. On the contrary, they contained standards, regulations and parameters for negotiation and above all they sought the full application of universal human rights principles, the upholding of equity and equality in the enjoyment of rights, and the application of the constitutional principle of equal pay for work of equal value. Lastly, she invited the ILO to send a technical cooperation mission, similar to the one received from 15 to 18 February 2011, details and objectives of which would be defined in due course.

The Employer members said that the present case relating to a fundamental Convention had been examined in 1987 and 1999. In 2013, the Committee of Experts had made several observations. In relation to Article 1 of the Convention on protection against acts of anti-union discrimination, it called for a specific provision guaranteeing such protection in the private sector. Regarding Article 4 on the promotion of collective bargaining, there was a need to amend section 229 of the Labour Code so as to allow minority trade union organizations, on their own or jointly, to submit draft collective agreements. The systemic nature of the Labour Code meant that any reform needed to involve meetings with tripartite bodies so as to ensure that reform was comprehensive. In the public sector, the new legislation did not provide for penalties for acts of anti-union discrimination or interference, and classified as public servants the great majority of workers in that sector, thereby denying them the right to collective bargaining. They referred to Decree No. 225 of 2010, which enabled the Ministry of Industrial Relations to unilaterally revise collective contracts applicable to workers in the public sector; the Basic Act on Higher Education (LOES) of 2010; and the Basic Act on Intercultural Education (LOEI) of 2011, which did not recognize the right of public employees in the education sector to engage in collective bargaining. They called on the Government, in consultation with the employers and workers, to take into account those observations aimed at amending legislation and to send a report on developments on this matter. They added that the Committee on Freedom of Association had referred to the Committee of Experts the examination of the legislative aspects of Case No. 2926 regarding allegations of many anti-union dismissals which were carried out in the public sector through the procedure known as the "compulsory purchase of redundancy", established under Executive Decree No. 813. The Employer members endorsed the recommendations of the Committee on Freedom of Association in paragraph 391 of the 370th Report and reproduced below:

(a) Emphasizing that the principle of adequate protection against acts of anti-union discrimination is fully applicable to public employees and workers, the Committee requests the Government to carry out an independent investigation, without delay, into the alleged anti-union character of the various dismissals and terminations specified in the complaint. If these allegations are found to be accurate, the Committee requests the Government to take the necessary steps to rectify the anti-union discrimination and to re-employ the victims. The Committee requests the Government to keep it informed of the measures taken in this respect, and of their outcome.

(b) The Committee requests the Government to ensure that the trade unions are consulted on the implementation of Executive Decree No. 813 with the view,

inter alia, of avoiding any non-compliance with provisions of collective agreements and preventing any occurrence of anti-union discrimination. In this respect, the Committee requests the Government to ensure that such consultations provide for the need to take measures, including legislative and regulatory measures if necessary, to introduce effective sanctions in the event of anti-union terminations and dismissals in the public sector.

(c) As regards the various judicial proceedings initiated against the adoption and implementation of Executive Decree No. 813, the Committee requests the Government to keep it informed of their outcome, and expects that the courts will pay due heed to the principle of protection against anti-union discrimination.

The Worker members recalled that the Committee of Experts had been commenting on the present case for over 20 years, without any tangible result. The present Committee had also examined the case in 1985, 1987 and 1999 and, in particular, it had focused on the issue of conformity of national legislation with Convention No. 98 and on anti-union practices that went against the promotion of voluntary and free collective bargaining. Despite the 2008 amendment to the Constitution, certain questions remained in suspense. Many trade unions had been closed down, union leaders had been dismissed and the collective representation of workers had been abolished. Certain practices had led to the destruction of the free union movement. Instead of workers' organizations, the Government had set up citizens' associations, such as the Citizens Labour Council, which had replaced the National Labour Council (a tripartite body), thereby denying the representativeness of workers' organizations and their specific competence regarding the defence of workers' rights. The new Constitution guaranteed workers the right to join a trade union without prior authorization and the freedom to carry out union activities. However, in practice, the exercise of those rights was hindered by many obstacles: in the private sector, a minimum of 30 workers was required in order to establish a trade union, which deprived a million workers of the possibility of exercising their rights since 60 per cent of enterprises employed fewer than 30 workers; and a trade union was only recognized if it gathered 30 signatures of founding members and submitted them to the employer. With regard to the public sector, the Constitution limited the right to establish trade unions and to negotiate in full freedom, by providing for the representation of workers by a single organization only, namely a single central committee composed of over 50 per cent of employees, which excluded minority unions. The Government had announced that the conditions of service of public sector employees would be standardized under one legal status under "administrative" law, which would indirectly put an end to the right to join a trade union or negotiate in the public sector. The majority of public sector workers would fall into the category of "public officials" and would thereby be denied the right to collective bargaining. It appeared that the new draft law had not been subject to consultation with the social partners. They recalled that since 2008 the main requests of the Committee of Experts covered: the amendments of several laws, of the chapter on labour of the Constitution and of certain ministerial agreements; the reinstatement of union leaders who had been removed from their functions; the need to conduct independent investigations into allegations of anti-union practices; and consultation with workers' organizations.

Regarding the education sector, they referred to several serious cases of anti-union discrimination which had resulted in the imprisonment of the persons concerned: Mery Zamora, former President of the National Confederation of Education Workers of Ecuador had been sentenced to eight years in prison for sabotage and terrorism for the mere act of carrying out her mandate as President of the union; Luis Chancay had been removed from his post as a teacher for having carried out his functions as President of the National Union of Educators in the Province of Guayas; Carlos Figueroa from the Ecuadorian Medical Federation had been sentenced to six months in prison for having allegedly insulted the Government of the day; Clever Jimenez, Sisa Pacari, Mariana Pallasco and many others had been arrested and detained arbitrarily. They insisted on the need for the Government to bring its legislation into conformity with the Convention. The refusal of the Government to consider the urgent need to restore freedom of association and the right to collective bargaining of workers in the private and public sectors undermined the image of the country in other organizations, such as the World Trade Organization and the Human Rights Council.

A Worker member of Ecuador, referring to the decisive contribution of the workers' movement in the history of Ecuador said that for the workers it was all about weakening an oppressive system and severing ties with those who undermined social cohesion, exploited workers, exacerbated unemployment and precarious employment and encouraged the unfair distribution of wealth. Ecuador had suffered repeated currency devaluations, constant increases in fuel prices and public utility rates, restrictions on public spending, wage adjustments, with their severe impact on the informal economy, the deterioration of the production system and the dismantling of the State and of the whole of the national regulations and control system. That in turn had led to millions of Ecuadorians having to leave the country, the collapse of the national currency and ultimately the banking crisis and the adoption of a rescue package, which had provoked the biggest political crisis in the country's history. He said that it was still difficult to speak of substantial changes in the country. However, the new Constitution continued to provide the workers with the means of establishing forums for dialogue in these uncertain times. While not a workers' government, the present Government did at least enjoy national legitimacy, and there had been significant progress in education, health, housing, infrastructure, fuel policy and tax reform. In labour matters, however, there was no clear strategy for a national policy with the involvement of the workers, and workers were seriously threatened by dismissal and by administrative measures. He added that the draft new Labour Code, which had been submitted to the National Assembly, did not correspond to the needs or interests of the workers, but rather to those of the employers. The Constitution and ILO Conventions emphasized that labour rights were irrevocable and intangible, but the present Government sought to eliminate such rights as collective bargaining, the right to strike and pensions financed by employers. The national trade union movement therefore called for the draft to be replaced by a text reflecting the workers' aspirations. It was essential for the underemployment rate to be significantly reduced, and for productivity and land distribution to be improved. In short, what was needed was to combat poverty, to support regional governments in their efforts to find new ways of combating injustice, social inequality and the imbalance between peoples and countries, and to eradicate hunger and poverty. A combined effort was needed to devise a new financial system and wage policies designed to introduce a fair minimum wage for each region. That should prevent workers from being exploited and employed on precarious contracts. Measures were required to eliminate all forms of child labour and exploitation and to enable young people and women to join trade unions. Trade union action in defence of agricultural workers and Ecuado-

rian communities abroad needed to be strengthened. Finally, given the abusive dismissal of workers in the public sector and elsewhere, and the fact that a new Labour Code was currently being drafted, he emphasized the need for the ILO to follow up the situation and make its observations on the spot, so that the complaints raised in the present Committee could be verified impartially.

Another Worker member of Ecuador observed that Ecuador's Constitution provided, among its fundamental precepts, that development should be based on the creation of dignified, and stable work. Development therefore needed to guarantee all workers employment, a fair wage, health and safety at work, stability and social security. Collective bargaining processes had suffered heavily since the fragmentation of the trade union movement. Eight trade union federations existed for fewer than half a million organized workers, and of the 4.5 million Ecuadorians who had the right to belong to trade unions, only 2 to 3 per cent were actually members, most of them in the public sector. Unionization hardly existed in the private sector, which meant that there was no collective bargaining. Various aspects of collective bargaining had been abolished by constituent resolutions and executive decrees. Collective contracts had been reviewed, and in the process the Government had proposed to treat public sector institutions in the same way, meaning that currently certain rights were no longer discussed individually, and wages were tied to inflation. Section 229(3), provided that "public sector workers shall be subject to the Labour Code", from which it could be clearly inferred that workers whom the Ministry of Industrial Relations classified as career public servants and who worked in public enterprises, were not covered by collective agreements and enjoyed hardly any of the rights that the Constitution considered to be inalienable and intangible. That created inequality before the law and seriously jeopardized the future of trade unions, as at least 60 per cent of unionized workers were subject to that system. He called on the Committee to recommend in its conclusions that the Government should fully respect the right to organize and the right to collective bargaining. On 1 May 2014, a new draft Labour Code had been submitted, which sought to establish a single labour system in the public sector, as a result of which all public sector workers would be excluded from labour legislation, thereby definitively eliminating unionization, collective bargaining and the right to strike for that sector. Finally, he requested the ILO's technical assistance to ensure that the new legislation would contain elements of social justice and equity for all workers, supervisory mechanisms to guarantee decent conditions of work, job stability and strict compliance with workers' rights, without any kind of discrimination.

The Employer member of Ecuador said that the request of Committee of Experts to amend section 229 of the Labour Code dealing with the submission of draft collective bargaining texts so that minority trade unions whose membership did not comprise more than 50 per cent of the workers covered by the Labour Code could negotiate on behalf of their own members only addressed part of the problem. The objective of the provision was that employers' and workers' organizations needed to be genuinely representative, since the submission of draft agreements could result in a situation where it was a non-representative minority of workers which instigated a collective dispute. If the Legislative Assembly were to agree to the Committee's suggestion, it would have to reform the whole system of collective bargaining so as to avoid trade unions competing against each other in public and private enterprises and discussing issues that were not of interest to the workers they represented. Neither Convention No. 87 nor Convention No. 98 specified a minimum number of workers for establishing trade unions, yet the ILO Constitution and other instruments referred to the "most representative organizations" as having a role to play in various situations. In its report, the Committee of Experts stated that Constituent Resolutions Nos 002 and 004 and Executive Decree No. 1406, by setting a ceiling on remuneration in the public sector and excluding a series of matters from collective bargaining, were incompatible with the Convention. The same applied to Resolution No. 8 and to other instruments, inasmuch as the prevention of certain abuses in the clauses of collective contracts signed by public bodies or enterprises was a matter not for the administrative authority, but for the judicial authority. Those who represented State institutions in negotiations on collective contracts had to be competent people who would handle the issue with the sense of responsibility and due care of those dealing with the money of others, especially when the resources belonged to the community as a whole. However, Employers agreed that the right way to go about things was to abide by the legislation in force, on a case-by-case basis. It was for the competent judicial authorities to prevent or correct excesses or to make sure that wage demands in public institutions that belonged to the nation as a whole were accepted. With regard to the hope expressed by the Committee of Experts that, in consultation with the most representative employers' and workers' organizations, the Government would amend the provisions in question, as well as revise the Labour Code as a whole, the employers agreed with the principle that legislative reforms should indeed be conducted in consultation with the most representative social partners, in accordance with the ILO Conventions that Ecuador had ratified. He therefore looked forward to the establishment of the institutions that the ILO had helped to design, such as the Labour Board, which had not yet been convened for its members to examine the draft Labour Code currently before the legislature. Employers were willing to join Workers and the Government in creating an environment in which they could reach solutions by consensus to provide the country with a set of modern standards for promoting employment.

The Government member of Costa Rica, speaking on behalf of Group of Latin American and Caribbean Countries (GRULAC), referred to the progress that had been made in several labour areas in Ecuador since the adoption of its Constitution in 2008, which as a whole, had benefited the workers and their families. The measures adopted were based on respect for human rights and the pursuit of equality and equity for citizens in the exercise their rights, including the right to equal pay for equal work. Regarding the application of Convention No. 98, through the Ministry of Industrial Relations, the Government had, since 2007, encouraged the development of a stronger trade union movement in both the public and private sectors. Some 479 labour organizations had been registered over the period, 300 per cent more than over the preceding decade. The Government had responded to the Committee of Experts' comments and observations and, where the Committee of Experts had identified outstanding issues, those would be covered by the new Labour Code which, according to information supplied by the Government, was currently being drafted with the assistance of the ILO and of the social partners along the lines set out in Convention No. 98. She trusted that the Government would continue to pursue labour policies that satisfied domestic labour standards and the principles embodied in the ILO Conventions in force.

An observer representing Public Services International (PSI) indicated that in 2009 a delegation of the National Coordinating Body of Public Trade Unions had lodged a complaint concerning regressive labour policies in the public sector. Five years had passed since then and the smear campaign of the public sector trade unions, their

leaders and their achievements was continuing. Evidence of that was in the statement made by the Ministry of Industrial Relations during an interview, indicating the fear that the corporate sector might have of the unionization of workers, which could be on account of the unions that existed previously. The trade union organizations of public sector workers no longer had much influence. Public sector workers were committed to social change, justice, equality, equity, democracy and the life of people. What had been considered in 2009 as "isolated facts", today appeared as part of the steadily regressive State policy which had deepened and affected the right of the population to public services of quality. He called for a high-level tripartite mission to be sent to the country to verify in situ the situation of trade union rights in the public sector and the potential risk of further regression in labour matters in the private sector, and to establish institutional, permanent and representative dialogue with technical assistance from the ILO to comply with the observations and recommendations of the Committee on Freedom of Association.

The Employer member of Mexico endorsed the fundamental importance, emphasized by the Committee of Experts, of proceeding in the context of the draft legislative reform, with the real and effective consultations with the most representative organizations of workers and employers. However, he did not support other observations of the Committee of Experts. The request of the Committee relating to the amendment of section 229 of the Labour Code concerning the submission of draft collective agreements did not consider that, in Ecuador, there were two forms of organizations: (1) work councils, composed of workers of the company who could conclude corresponding collective agreements with the employer; and (2) unions formed by diverse workers, including those working in the company in which they intended to conclude a collective agreement. In the latter case, majority representation was required. The opposite would mean the possibility of destroying the representation of workers, which would have negative effects and would complicate the administration of collective labour relations. The legislation in question did not impede the participation of more than one union and one employer in the conclusion of a collective agreement, but rather imposed order and protected the will of the workers so that they could choose the form of organization best suited to their interests. The opinion of the Committee could lead to a situation in which all workers would be subject to an agreement concluded by a minority and which could give rise to the formation of organizations that did not necessarily serve the interests of workers, but had the right to negotiate collective agreements, which would be contrary to Article 2(2) of Convention No. 98 and the principle of non-interference. Under those conditions, the conclusions of the Conference Committee should not support the recommendations of the report of the Committee of Experts. He also referred to the principles set forth by the Committee on Freedom of Association and, in particular: the distinction between representative unions and other unions; the entity of the "exclusive bargaining agent" with responsibility for negotiating of the collective agreement; and the rules on majority representation in collective bargaining.

An observer representing Education International indicated that teachers in Ecuador were covered by the Basic Act of the Public Service and the Basic Act of Intercultural Education, which did not include the right to organize and bargain collectively. Only 6.6 per cent of public employees were unionized and had the formal right to bargain collectively. Through new decrees, the Government was preventing unions from expressing their fundamental functions. The right to deduct union dues had been eliminated in August 2009 by ministerial decree. In September 2009, trade union leave had been abolished and the leaders were prohibited from admission into educational institutions. Executive Decree No. 16 of June 2013 intensified governmental interference in social and union organizations and imposed financial requirements which were impossible to attain. The Decree had been denounced as unconstitutional. In May 2014, the National Confederation of Education Workers (UNE) had been notified by the Ministry of Education that it would not continue to register the new union leadership until the requirements of the Decree were met. She referred to other cases of teachers sentenced to prison for their union activities and indicated that about 1,385 teachers had been dismissed.

The Employer member of the United Kingdom took note of the problems in the application of the Convention indicated in the observation of the Committee of Experts, including the list of public servants who were excluded from the right to collective bargaining which went beyond the exclusions allowed under Article 6 of the Convention. That Article, which needed clarification, provided that the Convention did not deal with the position of public servants engaged in the administration of the State or prejudice their rights or status in any way. Paragraph 172 of the 2012 General Survey concerning the fundamental Conventions referred to the need to distinguish between public servants who might be excluded from the scope of the Convention, and all other persons employed by the government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. Examination of the observation of the Committee of Experts revealed that there were different views on that distinction. It was a matter for the Government to decide, as the employer of public servants, whether to bargain collectively with public servants engaged in the administration of the State. Concerning the need for clarification, the Standards Review Mechanism should be implemented as a matter of urgency.

An observer representing the Confederation of University Workers in the Americas (CONTUA) indicated that, according to official statistics, some 185,000 public sector workers had been dismissed between June 2008 and June 2012, and that the figure was still rising. The dismissed workers included hundreds of union leaders and militants who, under various pretexts, had been denied their right to represent the workers and to engage in trade union activities. In fact, they had been dismissed simply for carrying out their union duties. Freedom of association was being systematically violated by repeated anti-union dismissals in the public sector. He cited specific examples of union leaders being dismissed, adding that, to do so, the Government had resorted to a legal device known as "compulsory resignation", a euphemism for their arbitrary dismissal. The situation was liable to deteriorate even further in the months ahead because the Government was planning to adopt a new Labour Code that had not been discussed with the trade unions. Moreover, some of the acquired rights of public servants had been removed recently, even though they had been passed into law. He called for urgent action in the form of a direct contacts mission to promote social dialogue, resolve industrial disputes in accordance with the law, halt the dismissal of union leaders and create machinery for resolving current and future disputes.

The Government member of the Plurinational State of Bolivia supported the statement made on behalf of GRULAC and welcomed the Government's efforts to support and strengthen the exercise of labour rights by workers and trade unions. The alignment of substantive labour standards with the new Constitution adopted in 2008 was a process which was accompanied by a series of social measures to benefit workers and society as a whole. It

was significant that the measures and actions carried out by the Government had contributed to the establishment of new trade unions in recent years. The request for ILO technical assistance regarding labour law reform was important in bringing national standards into line with workers' fundamental rights and promoting measures of equality and equity in full cooperation with the social partners.

The Worker member of the United States said that the regressive labour reform, which had begun in 2007 concerning public sector workers, now risked extending into the private sector, as was evidenced by the proposed new Labour Code. That proposal incorporated regressive legislation that had greatly reduced the collective bargaining rights, practices and coverage in the public sector over the last seven years, directly contradicting the overall observations and recommendations of the Committee on Freedom of Association and the Committee of Experts. Compared to the terms of Convention No. 98, the provisions of the draft law: (1) did not adequately safeguard and protect the exercise of freedom of association, the right to organize, bargain collectively and take collective action, such as strikes, and did not provide for sanctions against employers to prevent repeat offences; (2) failed to provide protection against acts of anti-union discrimination and to extend the right to collective bargaining to different classes of workers; (3) failed to penalize employers or public authorities which practiced or promoted acts of anti-union interference, although it equipped those who sought to interfere with union organization; (4) reduced union autonomy by setting lengthy and excessive financial and bureaucratic requirements to create and register unions and denied due process in legal status procedures; (5) eliminated the right to strike in the public sector and declared sympathy strikes to be illegal, while expressly precluding the right to voluntary negotiation; and (6) did not include the workers' input despite the Government's claim to have consulted the social partners pursuant to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). He requested ILO assistance in ensuring that civil society had the requisite time and expertise to evaluate those proposals.

The Worker member of Brazil said that the case of Ecuador before the Committee provided the opportunity for an international tripartite discussion. The classification of public servants as workers engaged in the administration of the State was an old definition which, in the case of Ecuador, removed them from the scope of labour law and placed them under administrative law. The legislation that governed public servants did not recognize their right to organize or to engage in collective bargaining. According to the ILO General Survey of 2013 on labour relations (public service) and collective bargaining in Ecuador, public employment accounted for 10 per cent of the workforce (nearly 600,000 workers). Of those, 125,000 were manual workers and only 40,000 belonged to a trade union. The other 475,000 were career public servants, organized in employees' associations, and public servants on casual service contracts and other forms of precarious employment, which implied that only career public servants were members of branch federations and confederations, and that most of those workers could not legally belong to another organization. The figures showed that barely 6.6 per cent of public workers to date were unionized and had a formal right to engage in collective bargaining. It also meant that already constituted organizations, whether unions or associations, had been prevented from fulfilling their mandate of defending the rights of their members. That policy was reflected in the adoption of provisions that ruled out the possibility in practice of establishing independent organizations, in arbitrary interference in the exercise of that right, in the promotion of the establishment of parallel workers' organizations, in the compulsory dissolution of certain workers' organizations, or in the indirect obstruction of organizations' activities, for example through changing check-off criteria or refusing to provide premises or authorize the participation of workers in meetings and other union activities during working hours. Executive Decree No. 16 of June 2013 issuing the regulations for the operation of a consolidated information system for social and citizens' organizations and Ministerial Order No. 130 of August 2013 issuing regulations for labour organizations denoted a tightening of government control in social organizations in general, and in workers' organizations, in particular. Hence, there was a need for a direct contacts mission and for the establishment of a standing dialogue forum for dialogue to ensure a fairer future and the full participation of all Ecuadorian workers.

The Worker member of the Bolivarian Republic of Venezuela emphasized that he supported the claims of the Ecuadorian workers who had been unjustly dismissed. Similarly, he offered the support of the Venezuelan workers in drafting the new Labour Code, which should be an instrument arising from social dialogue that acknowledged the aspirations of the Latin American working class. Finally, he stated his willingness to create bridges of communication with the Government.

The Government representative welcomed the support from Costa Rica as coordinator of the 34 countries that comprised GRULAC. She also thanked the delegations that had expressed their intention of sharing information on subjects related to Convention No. 98. The Government fully concurred with the Committee of Experts' statement in paragraph 31 of the introduction to its 2014 report to the effect that "its opinions and recommendations are non-binding, being intended to guide the actions of national authorities" as they held a "persuasive" value, and it recognized that the Committee's opinions did indeed provide valuable guidance even though they were non-binding. With regard to the comments she had heard, particularly from the Worker members, during the Constituent Assembly in charge of preparing the 2008 Constitution, the Ecuadorian people's objective in issuing Constituent Resolutions Nos 002, 004 and 008, which were at the root of the complaints against Ecuador, was not concerned with the trade union movement or with collective bargaining in the public sector, but was rather intended to prevent the continuation of the abusive practices of certain minority higher-level workers' organizations which were the source of inequality among the vast majority of Ecuadorian workers. Ecuador was engaged in full discussion of the new Labour Code, the first draft of which had been submitted to the National Assembly on 1 May 2014 in commemoration of Labour Day. The purpose of the new Code, which had been drafted in cooperation with the ILO, was above all to introduce labour standards that corresponded with present-day realities and in greater conformity with the international standards ratified by Ecuador. The desire of employer and worker representatives desire to be more directly involved in the discussion would be passed on to the country's labour authorities, which were open to dialogue. The Government had responded to the appeal by the social partners with a readiness to listen to what they had to say and felt strengthened by the discussion in the Conference Committee. It therefore did not consider that it had been the object of criticism, but rather that it had been party to the democratic exercise of tripartite dialogue. In keeping with the transparent approach that the country had adopted in the process of reform and in its efforts to improve its social policies, in general, and its labour policies, in particular, she invited a new ILO technical cooperation mission to visit Ecuador, as it had in 2011.

The Worker members thanked the Government representative and other speakers. The case was long-standing and serious, as evidenced by the violence against trade unionists and by the growing trend to criminalize the exercise of trade union rights. This year again, the Committee of Experts had noted multiple cases of violations of trade union rights in Ecuador, in both the private and public sectors: many unions had been eliminated, union leaders dismissed, collective representation cancelled and measures were practiced which tended, in fact, to destroy the free and pluralistic trade union movement. It was urgent to oppose the new draft Labour Code which, if passed as it was, would eliminate trade union action and the right to collective bargaining. The Government needed to stop continuing on that path and engage in a constructive dialogue with those concerned, in particular with trade unions, whose rights and freedoms in training, operation and administration were re-established. It was essential that technical assistance from the Office, as it had requested it. In this regard, the Worker members agreed with the suggestion of the Employer members to propose a direct contacts mission. Time was pressing since the adoption of the new Labour Code was scheduled for the end of August 2014.

The Employer members made the following observations: (a) protection against acts of discrimination required specific legislation; (b) the legislation did not provide for penalties for acts of discrimination or interference in the public sector; (c) Decree No. 1406 established wage ceilings in the public sector and excluded certain issues, which went beyond the provisions of ILO Conventions; and (d) within the framework of Ministerial Order No. 0080 and Order No. 1551, the determination of the abusive nature of clauses in collective agreements in the public sector should be carried out by the judicial authorities. Those issues required legislative reforms, which should be undertaken adopting an integrated and systematic approach, on a tripartite basis, in consultation with the most representative workers' and employers' organizations and in compliance with ILO Conventions. The new Labour Code should specify the requirement to hold consultations with the most representative groups of employers and workers, especially for amendment of the legislation. Those consultations should be real and effective, and merely communicating the bill to the organizations was not enough. The Employer members did not share the Committee of Experts' opinions with respect to the following points: (a) the restrictive interpretation of Article 6 of Convention No. 98 which, according to the Employer members, allowed governments to exempt specific public officials from the application of the Convention; and (b) section 229 of the Labour Code respecting the submission of draft collective agreements by minority trade unions should not be amended, as the provisions of Conventions Nos 87 and 98 did not set thresholds in that respect. They thanked the Government for accepting a direct contacts mission to address issues related to Convention No. 98 and emphasized the need to amend the corresponding legal provisions comprehensively and systematically in tripartite consultations with the most representative workers' and employers' organizations in order to respond to the observations of the Committee of Experts on compliance with Convention No. 98. The Government was also asked to provide information on progress made to the next meeting of the Committee.

Social Security (Minimum Standards) Convention, 1952 (No. 102)

GREECE (ratification: 1955)

A Government representative wished to clarify certain issues relating to social security minimum standards raised by the Committee of Experts, which should be seen in the context of the recession and austerity policies adopted in the last four years in order to ensure the sustainability of the economy in general, and of the social security system in particular. Recent policies and legislative reforms sought to achieve the latter goal by granting and securing adequate benefits for the insured population, as well as maintaining the beneficiaries and their families "in health and decency", as referred to by Article 67 of Convention No. 102 and the European Code of Social Security. While emphasizing the Government's efforts to shield low-income pensioners from further reductions, it should be noted that the rate of social security benefits was determined according to a scale fixed by the competent public authorities in conformity with the rules prescribed in the Convention. Therefore, while there was no question of a lack of conformity from a legal point of view which would fall within the scope of competence of the Committee of Experts, he wished to share certain information on the social policy measures taken along with the austerity measures since 2010 in order to guarantee an adequate level of benefits in line with the Convention and the Greek Constitution. He recalled that the Greek social security system had been designed to provide social protection to all citizens, and especially to vulnerable groups. Over time, however, undeclared work and contribution evasion had negatively affected the sustainability of the social security system. Thus, having as a main objective the viability of the system, and in accordance with the terms of the economic adjustment programme set by the "Troika" (that is, the European Commission, the European Central Bank and the International Monetary Fund), the Government had decided to elaborate the necessary political measures and apply them aimed at the rationalization and sustainability of the system. It was absolutely necessary in the current economic environment for the system to remain sustainable and for the State to fulfil its obligations towards its citizens and its international obligations.

He observed that the pensions granted to all workers were above the rates provided for in Articles 65–67 of Convention No. 102. Since 1 January 2013, no further reductions had been imposed on pensions up to €1,000. Reductions had been imposed on higher pensions and the reduction was scalable, distributed according to the income of pensioners. Socially vulnerable groups, such as persons with disabilities, were excluded from these reductions. Furthermore, the viability of the system was ensured through actuarial studies conducted by the National Actuarial Authority every three years for the entire social security system. These studies were submitted to the Ageing Working Group of the European Commission of the Directorate General for Economic and Financial Affairs, when so required by national law or memoranda commitments. The National Actuarial Authority applied the models set by an ILO group of experts to conduct actuarial studies, with ILO technical assistance since 2008. Following the same model, the second actuarial study would be conducted in 2014. The Government had successfully cooperated with international organizations and received their assistance with a view to addressing critical situations, taking into account the possible financial implications of such cooperation. Furthermore, in order to preserve the viability and the long-term sustainability of the insurance system, the competent public authorities had developed and applied IT systems to avert abuses against

the social protection system, which was extremely important for the financial sustainability of the system without any further reduction of benefits. As a result of the establishment of IT systems such as "Ergani", "Arianne" and "Helios", the percentage of uninsured labour had fallen within a year from an estimated 38.50 per cent to 23.61 per cent; valid "snapshots" of demographic and personal changes in the status of beneficiaries were immediately updated; and control and monitoring of payments was secured, so that pensions and welfare benefits were safeguarded, while averting any abuse or fraud. At the same time, efforts were made to further improve the sustainability of the social security system by collecting contributions through a new unified mechanism, the Social Security Contributions Collection Centre (KEAO), as well as by establishing an Insurance Fund for Generations Solidarity (AKAGE).

Regarding the reference to the impoverishment of the population, he observed that, according to the Committee of Experts, the Government had included in its report data from a study by the Small Enterprises Institute of the Hellenic Confederation of Professionals, Craftsmen and Merchants (IME GSEVEE). However, this was not accurate, since the statistical data used by the competent authorities of Greece, and considered valid by the European Union (EU) and internationally, were only those produced by Eurostat, the National Statistics Authority and the National Actuarial Authority. The prevention of poverty was one of the top priorities for the Government, which was aware of the social consequences associated with the increasing rates of poverty in Greece. Special efforts had been made in the design and application of policies within the financial capabilities of the country aimed at the prevention of poverty. Firstly, the Ministry of Finance had taken the decision to dispose of a part of the primary surplus of the general government budget in 2013, equal to €450 million, for the payment of a "social dividend" as a support for families and individuals based on income criteria, which was paid as a lump sum, tax-free and subject to no deduction, or confiscation, or offset by any debts to the State or credit institutions, and would not be included in the income criteria for the payment of the Social Solidarity Allowance (EKAS) or any other social or welfare benefit. Moreover, actions or policies associated with services for providing housing, food and social support for the homeless were funded through the same budget. In an effort to shield low-income pensioners from poverty, an exemption from monthly pension cuts for those receiving low main pensions, as well as certain cases of invalidity pensioners or family members, had also been provided for. In addition, income tax reductions for low incomes and for specific categories of disabled or war victims, as well as tax exemptions for certain categories of salaries, pensions and allowances, had been provided for. Secondly, a guaranteed minimum income had been established in collaboration with the World Bank. The programme was addressed to individuals and families living in conditions of extreme poverty, providing beneficiaries with income support in combination with social reintegration policies and policies to combat poverty and social exclusion when applied when necessary. It was a pilot programme applied in two regions of the country with social and financial criteria in 2014, the results of which would be taken into account so as to expand it throughout the country within the following year. To this end, a working group had been established with the participation of officials from the Ministry of Labour, the Ministry of Finance, the Council of Economic Advisers, the European Commission Task Force for Greece and the World Bank. The pilot implementation of the programme would be launched in the last quarter of 2014. The budget for the programme was set at €20 million. Thirdly, a long-term unemployment benefit had been established for persons aged between 45–66 years who had already exhausted their right to the regular unemployment benefit. In conclusion, he said that the Ministry of Labour, Social Security and Welfare had established three national targets in October 2010 which were incorporated in the National Reform Programme 2011–14: (i) reduction in the number of persons at risk of poverty and/or social exclusion by 450,000 by 2020, which meant a reduction of the relevant rate from 28 per cent in 2008 to 24 per cent in 2020; (ii) reduction in the number of children at risk of poverty by 100,000 by 2020, which meant a reduction of the relevant rate from 23 per cent in 2008 to 18 per cent in 2020; and (iii) development of a "social safety net" against social exclusion, including access to basic services, such as medical care, housing and education, which represented a non-quantified objective highlighting the need and willingness of the State to increase access to basic services in the framework of the third pillar of the active inclusion policy. He emphasized once again that, despite the dire economic crisis and the loan agreements commitments, the Government was taking every necessary action to maintain decent living standards for the entire Greek population.

The Employer members said that the present case resembled the case concerning the Greek Government's implementation of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which had been examined by the Conference Committee in 2013, as both cases focused on the economic and social situation in the country and involved extensive discussions on austerity measures and the influence of the Troika. Although the observations under both Conventions should have addressed compliance with international labour standards, that was overshadowed by a discussion on the general economic and social situation of the country. The policy discussion was overwhelming and did not note the Convention's provisions with which the Government had not complied. The Committee was not intended to deal with issues of political economy and the Employer members were concerned with the nature of the observation. The opinions of the Committee of Experts had a certain amount of authority as they were written by a neutral and impartial body of labour law experts and were generally very helpful to the Conference Committee. However, the present observation was persuasive rather than objective. Firstly, certain terminology, such as the term "austerity policy", was not as objective as the term "fiscal consolidation", which had been used in the ILO's 2013 tripartite Oslo Declaration "Restoring Confidence in Jobs and Growth". Secondly, the observation was unnecessarily exaggerative, such as referring to the term "programmed impoverishment of the population", which was not objective and not related to the Government's compliance with Convention No. 102. Finally, the observation called on both the Government and the Troika to prevent the collapse of the social security system, but only governments were bound by ILO Conventions, and therefore asking the Troika to deal with the observation seemed to be a fundamental misunderstanding of the process.

The observation analysed three broad areas: (1) protection of the social security system against continuous austerity; (2) stopping the increasing impoverishment of the population; and (3) establishing a national social protection floor. Concerning the first area, the observation implied strongly that matters could have continued unchanged without the Troika's involvement, which was not accurate. The Government was experiencing a tremendous economic crisis based on structural causes, which was not only an economic cycle. The Government had an enormous budget deficit which was not sustainable and required unprecedented fiscal measures. The observation failed to note that the social security system had been

facing pressure even before the crisis, as had been illustrated in the 2007 ILO actuarial study on the prospects for Greece's main social security and pension funds which had demonstrated significant financial gaps at that time. Nevertheless, the Committee of Experts had not made an observation during the critical years from 2000 to 2010. Concerning the second area, the Committee of Experts had criticized the reduction of monthly pensions. The Employer members understood that this was a temporary measure that affected only one-third of pensions, and the goal of that temporary reduction was to stabilize the system so that it did not collapse. That was not prohibited by Convention No. 102. The observation was also not clear when it called for the Government to prepare "the necessary policy corrections", as the term was vague in that context. If the term meant that the Government should correct the pension system through structural reform, the Employer members could agree, since the Government seemed to be taking steps in that respect. If, however, it meant that the Government should return to the past, the Employer members did not agree. Concerning the third point, while the establishment of a social protection floor was generally desirable, the ratified parts of the Convention did not require that and the observation did not note any provisions with which the Government was not in compliance. The Government did have forms of social protection, including free health care, so it was unclear how that issue under Convention No. 102 deserved a double footnote. The Employer members were willing to consider discussion on the matter.

The Worker members considered that the case of Greece provided an opportunity for considering the principles and values that had to be respected when a country was in the grip of the economic crisis. That country was a member of the EU and the Eurozone. As a result, it was under the supervision of three institutions, the Troika, of which two, the European Commission and the Central European Bank, were EU institutions. As pointed out by the Committee of Experts, the issues raised did not fall uniquely under the responsibility of Greece, but also concerned the principles and methods of the EU. The observation of the Committee of Experts noted that drastic measures on pensions accounted for half of its budgetary savings in 2013. It also noted that because of the financial difficulties of enterprises, the collection of contributions had almost ceased, further compromising the viability of the system. It was clearly the principle of austerity itself that was at stake. According to the observation, some retirees now only had pensions well below the poverty threshold, and even the subsistence threshold, all in the absence of a minimum safety net to address the shortcomings of social security. The restrictions also affected the health sector, which was a significant item of expenditure for older members of the population. The supervisory bodies of the Council of Europe endorsed the criticisms of the Committee of Experts. In December 2012, the European Committee of Social Rights had noted violations of the European Social Charter following complaints from retirees' associations. The Committee of Experts endorsed the recommendations of the Committee of Ministers of the Council of Europe on the application by Greece of the European Code of Social Security. The Committee of Ministers considered that those who were better off should bear a larger share of the burden, but that the opposite was happening in Greece. It noted that Greece gave greater importance to its financial responsibility to its creditors than to its social responsibility towards its people. The European Commission, which was a member of the Troika, seemed to have taken into account the calls from the Council of Europe and the ILO for socially responsible measures for structural adjustment. It was to be hoped that this would soon be reflected in practice, with the support of other institutions and the EU Member States.

The Worker members fully agreed with the three recommendations of the Committee of Experts. First, the Committee of Experts called on the Government to adopt instruments allowing it to assess the impact of the measures taken on the application of international standards and on the sustainability of the social security system. Second, it recommended the introduction, in a supplementary capacity, of a basic social security scheme for those who were no longer entitled to social security benefits. In supporting this recommendation, the Worker members were not proposing that social security be replaced by social assistance, which would be an unacceptable backwards step. However, as recalled by the Social Protection Floors Recommendation, 2012 (No. 202), social protection should be universal, with social security being supplemented, if necessary, by a social assistance component. Finally, the Committee of Experts recommended to the Troika and Greece's partners within the EU to take these social security concerns into account more fully. In that respect, it should be recalled that, under the Oslo Declaration, the tripartite constituents had considered that the measures contained in the Global Jobs Pact were relevant and should be effectively implemented. They had also agreed to promote employment, as well as adequate and sustainable social security systems, and called upon the Office to promote synergies and policy coherence with international and regional organizations and institutions, particularly the IMF, OECD, the World Bank, and the EU, on macroeconomic, labour market, employment and social protection issues. The Oslo Declaration might inspire the conclusions of the Conference Committee.

The Worker member of Greece indicated that the report of the Committee of Experts had exposed the real circumstances of non-compliance of the Convention by the Government of Greece, which was paradoxical. When the crisis had dramatically increased the demand for social protection, the adjustment programme had not only reduced its supply, but also state resources for that purpose. While the Government assured that the social protection system was viable, that monthly pensions up to €1,000 were maintained, and that the pensions of persons with low incomes were shielded, the minimum standards of the Convention were not being observed. The regular and sustainable provision of benefits, the enhancement of confidence by the insured in the national social security administration and a socially responsible system, which were required under the Convention, did not exist in Greece. The country's universal social protection system was rapidly being transformed into an individualized and privatized system through the identification of the social protection system as one of the targets for structural adjustment under the loan agreement, along with wages. The reduction in social protection expenditure was entrenched in the state budget and the Midterm Fiscal Strategy Framework (MTFS) 2015–18. The reduction included pension, maternity and child benefits. These measures would take effect in 2014. The Bank of Greece had indicated in its monetary policy report of 2013 that, based on an assumption that the State's financial capacity would be reduced, the main benefits would be significantly reduced after 2020 by up to 50 per cent, leaving as the only certainty the basic pension of €360 a month, which was below subsistence level and contrary to the Convention.

The impact of the adjustment programme on the social protection system and on the economy was extreme. The Labour Institute of the General Confederation of Greek Workers (INE/GSEE) estimated that, after 2015, the social protection system would urgently require new resources due to falling contributions, rising unemployment

and the reduction in State funding for the system. It was estimated that it would take two decades for unemployment to revert to the 2009 level and for revenue to be generated for the social security system, provided that the economy grew at 3.5 to 4 per cent annually, which was not very likely. Some 1.1 million workers were suffering wage arrears ranging from three to 12 months. According to the labour inspectorate, one out of two employers was not paying workers on time. Those workers were invisible to the social security system in terms of unemployment benefits and contributions, and were at risk of losing access to health care. Moreover, the so-called "zero deficit clause", agreed between the Government and the Troika for social security funds, scheduled to take effect as from 1 July 2014, would affect some 4 million people with their auxiliary pensions being reduced by 25 per cent. The abolition of many taxes would deprive the social security system of €1.7 billion. In that connection, she noted that pensions constituted the main source of income for 48.6 per cent of households. One in two households were supported by pensions as retired parents increasingly supported their jobless children and their families, according to a study by the Small and Medium Sized Enterprises' Institute of the IME GSEVEE. With regard to the governance of the social protection system, the Government had failed to address contribution evasion and the need to increase the resources of the system. The social security system owed the main public health-care provider €421.4 million in contributions which it had collected but had failed to distribute. Alternative anti-crisis measures could have allowed Greece to pursue difficult reforms, while preventing social devastation. There was no inherent contradiction between social and economic efficiency. Social security was not only a basic human right, but also an economic necessity that provided income security and enhanced productivity, employability and growth. It could effectively mitigate the economic and social impact of downturns, and speed up inclusive recovery. In conclusion, she called on the Committee to deliver a strong message that the rights and social objectives enshrined in the Convention were inextricably linked to economic objectives and were a requirement for effective recovery. The Committee should urge the Government to comply with the Convention in order to combat poverty, ensure effective recovery and guarantee the financial viability of the social security system, based on frank and effective social dialogue.

The Employer member of Greece recalled that the Federation of Greek Industries had stated, well before the crisis, that the Greek pension system was not viable, mainly owing to high levels of benefits and generous conditions for granting them, the ageing population and tax evasion fostered by the absence of computerized systems and an inefficient administration. Unfortunately, it had not been heeded and the crisis had taken the country by surprise. The measures taken, which were necessarily brutal, were aimed primarily at the organization of a viable system: computerization, elimination of fraud and undeclared work, adjustment of the age of retirement to life expectancy and strict actuarial oversight. Deferred for too long, those measures were not temporary, but aimed to guarantee the viability of the system and the Government should be congratulated for them. Furthermore, temporary measures responded to immediate budgetary priorities, such as the reduction in pensions above €1,000 which, as it did not affect the 67.5 per cent of pensions below that level, should not entail "impoverishment". That amount was higher than the commitments made by the Government under both Convention No. 102 and Article 12, paragraph 2, of the European Social Charter. In that regard, the European Committee of Social Rights had rejected the appeal of the Federation of Employed Pensioners of Greece (IKA–ETAM) and had found that the reduction measures did not contravene the applicable provision in the Charter, while the European Court of Human Rights had ruled, in its decisions of 7 May 2013, that the reduction of pensions was not disproportional to the general interest objective. Those measures had not entailed "impoverishment" since, through the reductions or exemptions of tax on the lowest incomes, it was principally high or medium-level pensions which had been reduced. With regard to the consequences of austerity on the capacity of social assistance to protect the population from poverty (an issue which did not fall directly under Convention No. 102), it should be noted that, already before the crisis, the Greek social protection system was not efficient. With the prolonged recession and increasing unemployment, the demand for social benefits had risen as part of the population approached the poverty threshold. Although the level of spending appeared comparatively weak, the following facts should be taken into account: the guarantee by the national health system of access to hospital and outpatient care; the high proportion of home owners; a guaranteed pension of €360; unemployment insurance of 12 months combined with specific benefits for young people and long-term unemployed persons; the allocation of a large part of the 2013 primary surplus to social measures; and the replacement of various family allowances with a one-off allowance subject to family income. The above non-exhaustive list illustrated that, despite the absence of a guaranteed minimum income, poverty reduction measures had been strengthened, particularly through income-related benefits. Social protection was, nevertheless, related to economic development and prospects for recovery from the crisis, through support measures for enterprises and productivity. The solution to the issue of poverty could not be based solely on benefits. It also implied a development policy, reasonable taxation and a capacity to pay tax. Greece was depending on the technical assistance of the EU and the ILO to that end.

The Worker member of Spain said that the adjustment policies of Greece constituted a major attack on the country's citizens and on Convention No. 102. The unfair and disproportionate reduction (30 per cent from 2009 to 2013) in the amounts of pensions had driven thousands of pensioners into poverty. The State had shirked its responsibility for the social security of its citizens and had confiscated resources designed for pensioners to reduce the public debt. Moreover, owing to the conditions of the Troika, which had imposed drastic cuts in pensions, the future viability of the Greek public pension system had been seriously compromised. The cuts affected people who, because of their age or disability, were not in a position to remake their lives or return to the labour market. Nevertheless, the Government was unwilling to restore the standard of living which retirees had lost. On the contrary, from 2015, it would not even be guaranteeing an acceptable minimum level, and everything suggested that it was seeking to turn the system based on contributions into one increasingly dependent on assistance. The conditions imposed by the Troika in the areas of labour and pensions had increased unemployment, reduced wages and pensions and made precarious and undeclared employment more widespread. Together with the ageing population, such deplorable conditions were the real problem for the Greek pension system. In addition, the raising of the retirement age, when living and working conditions were worse for older workers, was reducing expectations in relation to pensions even more. In 2012, the financial situation of the public pension system had worsened even further, since it had been decided that the cost of eliminating the Greek debt would basically be borne by the Greek pension funds. As a result, it was necessary, firstly, to guarantee a minimum pension to provide a decent stand-

ard of living. Secondly, the amounts of pensions that had been excessively reduced should be restored to the pensioners concerned. Thirdly, for pensions to be adequate, secure and predictable, they should not be subject to constant revision, and the pension system should not be used in connection with issues unrelated to its purpose.

The Government member of the Russian Federation recalled that the Declaration of Philadelphia provided that "Poverty anywhere constitutes a danger to prosperity everywhere". In that respect, the situation in Greece could not be ignored. It was characterized by a contraction of GDP by 25 per cent, an unemployment rate of 27 per cent, more than 1 million people without jobs or income, lower pension levels, an increase in the retirement age, and the curtailment of social protection to meet the demands of international creditors. Similar circumstances in Spain and Portugal in recent years had led to a surge in the number of representations under article 24 of the ILO Constitution. The ILO paid great attention to the fate of the Eurozone because, as pointed out by the Director-General, massive youth unemployment created the risk of a lost generation who would never know decent work. The Government should be guided by the Oslo Declaration and Recommendation No. 202. It should take the concrete step of seeking technical assistance from the Office.

The Worker member of France wished to draw attention to the dramatic consequences of the structural adjustment policies in Greece. Poverty affected the middle class, homelessness was growing and crime was increasing. The suicide rate was following the level of long-term unemployment. Children were particularly affected by the withdrawal of the State from its social responsibilities. Infant and perinatal mortality was increasing. A recent UNICEF report indicated that one in three children in Greece was at risk of poverty and social exclusion. Malnutrition was now affecting school children. There was a resurgence of the abandonment of children by families who had fallen into extreme poverty. The abandonment of the fundamental right to social security was a result of the choice to give priority to economic freedoms over human rights. That choice was unacceptable.

The Worker member of the Netherlands considered, referring to the Declaration of Philadelphia, which set out the fundamental objective of the ILO and its responsibility to examine international policies in light of that objective, that it was appropriate for the Committee of Experts to assess the social impact of the economic and fiscal austerity policies in light of Convention No. 102, without expressing its view on the austerity measures as such. The result of this assessment revealed that the country was no longer in compliance with the Convention. For example, while the unemployment rate was very high, particularly among youth, the number and percentage of those receiving unemployment benefits had decreased to only 10 per cent of the registered unemployed due to the stricter eligibility criteria and to the short duration of protection. This situation amounted to non-conformity with Article 21 of the Convention concerning the composition of the persons who must be protected. Even persons who were seriously ill and pregnant women could no longer count on the health-care benefits provided for under Articles 8 and 10 of the Convention. For those reasons, the austerity measures had been implemented without sufficient consideration to their impact on the country's social security system, which had been reduced to a level far below the protection required under the Convention. She therefore urged the Government and the Troika to assess the policies and to take measures with a view to preventing the collapse of the social security system and to bring it in line with the Convention.

The Worker member of the United Kingdom agreed with the concern of the Committee of Experts that the Greek social security system had been undermined and could not achieve the objectives set out in Convention No. 102. Social protection was at the heart of the ILO's mission, was set out in the Preamble to the ILO Constitution, and was required under the international minimum standards set out in the Convention. In recent years, Greece had reduced and withdrawn its social security provision. Under the conditions imposed by the Economic Adjustment Programme of the Troika and the MTFS since 2010, the health service had suffered crippling cuts, benefits and pensions had been slashed, and many benefits had fallen below the poverty threshold. The statement by the Government representative seemed to indicate that the Troika's requirements were given higher priority than the obligation to meet the social security needs of citizens. Further cuts under the MTFS were having the cumulative effect of increasing unemployment and a deepening recession. The number of people who had access to social security was falling as changes either removed protections wholesale, or made the conditions so stringent that few remained eligible to qualify for assistance. Citing the statistics concerning Greek small and medium-sized enterprises, as well as reports concerning the number of entrepreneurs and self-employed workers who claimed to have no hope of recovery, she indicated that a majority of small businesses expected that they would not be able to meet social security and tax obligations, and expected to dismiss staff and close down. Contrary to what some had indicated in the Conference Committee, the matter extended far beyond economic policy and was both properly and essentially before the Committee, because the requirements of the Convention were not being met. The social protection envisaged under Convention No. 102 was being transformed into a financial transaction of limited benefit to a narrowing range of individuals. There was an urgent necessity for provision for old age, protection of the young, protection against sickness and prevention of hardship. The Government was in breach of its obligations under Convention No. 102 and further urgent action was required.

An observer representing Public Services International indicated that so-called "rescue" packages were presented as an extreme remedy to save the Government from bankruptcy without taking into account critical issues of social cohesion and protection. Pensions were severely affected by those measures. Both the Committee of Experts and the European Committee of Social Rights had pointed to the Government's repeated and continuous violations of core principles and binding obligations enshrined in the European Social Charter, the European Code of Social Security and Convention No. 102. As a result, the responsibility of the State, namely universal access to health-care services, was no longer met, social insertion or re-insertion was no longer provided and the principles of equality of treatment and solidarity were not being complied with. The Government was also in full violation of the right to social security enshrined in Article 22 of the Universal Declaration of Human Rights. Any changes to a social security system should maintain in place the pre-existing level and ensure growth towards a sufficiently extensive system of compulsory social security. Any such change should not exclude entire categories of workers from the social protection provided by this system, especially if those categories had been covered previously. Yet, the public health system had become increasingly inaccessible, in particular for poor citizens and marginalized groups, due to increased fees, co-payment and the closure of hospitals and health-care centres. An increasing number of people were losing public health insurance coverage, mainly due to unemployment. The Troika had

pressured the Government since February 2012 to cut 150,000 public sector jobs by 2015. Cuts in wages and pensions were pushing young medical staff out of Greece, which was likely to have an impact on the Greek health-care system for decades to come. In conclusion, in view of the upcoming measures and cuts stipulated in the MTFS 2015–18, measures should be adopted to: (a) effectively prevent and reverse the collapse of the social security system in Greece; (b) maintain the social functioning of the State to at least the level to ensure the population was "in health and decency", in line with Article 67(c) of the Convention; and (c) establish a basic social income security scheme, in line with the Convention and Recommendation No. 202.

The Government representative expressed appreciation of the comments made and said that the Government would take serious note of all the remarks. There was no question of lack of conformity from a legal point of view, that would fall within the scope of competence of the Committee of Experts with regard to Convention No. 102 or the non-binding guidelines set out in Recommendation No. 202. Concerning the points that had been raised, times were extremely difficult and the Government had been repeatedly called upon to ensure the necessary balance between meeting the commitments assumed within the framework of loan agreements and taking measures that would drastically restructure the institutional framework of the national social security system, while at the same time ensuring social protection standards. The effectiveness and scope of the Government's efforts had been limited due to the impact of the crisis and social budget limitations. Well-designed adequate income support schemes could be powerful tools to reduce poverty and increase labour market participation and, therefore contributed to achieving the European objective of reducing the number of people in poverty and social exclusion by at least 20 per cent by 2020. The Government, within the limits set by the implementation of the economic adjustment programme, was taking serious measures to relieve vulnerable population groups so that they were exempted from, or burdened as little as possible, by the current austerity measures. In addition, he placed emphasis on the following measures: (1) the granting of the EKAS to pensioners provided that they received a low pension and they fulfilled specific income criteria. The same applied to persons suffering 80 per cent invalidity regardless of their age and orphan children who were eligible to the pension of their deceased parents; (2) the granting of old-age pension of €360 to uninsured persons (at the age of 67) who fulfilled certain criteria. That was a purely non-contributory benefit, granted to persons who did not receive any other pension, and was financed from the State budget. Beneficiaries were granted free medical coverage, and that was not related to the minimum pensions provided for in section 3(3), of Act No. 3863/2010; (3) the payment of family allowance; (4) the granting to families residing in mountainous or disadvantaged areas, including single-parent families, of an annual payment of up to €600 per family, depending on their annual income; (5) the granting to families with children in compulsory education, with an annual income of €3,000, including single-parent families, of an annual payment of €300 for each child; (6) favourable adjustments for the payment of the special property tax (reduction or exemption) for vulnerable groups, including people living in poverty or threatened by poverty, families with many children, disabled persons, the long-term unemployed and unemployed persons receiving regular subsidies; (7) reductions in income tax for persons with low incomes and a decrease of €200 of the amount of tax for specific categories of persons with disabilities or war victims; and (8) tax exemptions in specific cases for wages, pensions and benefits, such as pensions of persons with disabilities and war victims, salaries and pensions of totally blind persons, non-institutional allowances and the EKAS solidarity benefits, etc. Finally, concerning IKA, the main social security fund, he said that out of 1.2 million IKA pensioners, some 200,000 received pensions under €400, but the majority of the low pensions concerned persons receiving two pensions, or who were co-beneficiaries of the same survivors' pension. That was in line with the European Code and Convention No. 102, as well as national law. The Government had reviewed, particularly since 2010, specific social assistance schemes to ensure that the established minimum amounts remained in all cases above the physical subsistence level for different age groups of the population.

The Worker members thanked the Government for its explanations. They recalled that governments had a duty to maintain their social security systems, including by adjusting it in the event of economic and financial crisis, provided that the measures taken for that purpose were proportionate and conformed to international standards. As had already been emphasized, those standards were not only the cornerstone of social justice, but also encouraged economic recovery. Unfortunately, the explanations provided had not refuted the conclusions of the Committee of Experts and other authorities regarding the Government's disregard for its international commitments, particularly with respect to Convention No. 102. In her statement, which was rather ambiguous, the Employer member of Greece had stated that the Council of Europe had exonerated Greece from any shortcomings, which was not exactly true. The European Committee of Social Rights had made a similar statement to that of the Committee of Experts which, in turn, the Conference Committee should endorse. It should also support the call by the Committee of Experts for a statistical tool to measure the impact of policies in relation to the aims of the Convention. For the rest, effect should be given to the Oslo Declaration and the missions it had assigned to the Office. In particular, the Conference Committee should request the Government to make use of technical assistance from the Office to ensure the implementation of a social policy, taking into account the Convention and the observations of the Committee of Experts. It was also the responsibility of the Office to enter into contact with the IMF, the European Commission and the European Central Bank, as called for by the Oslo Declaration, on the issues of social policy and, more generally, employment policies. It was hoped that these initiatives would encourage the discussion of alternative measures, this time in line with Convention No. 102 and defined, as advocated in Recommendation No. 202, with "tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned". Due to the urgency and significance of the case, it should be placed in a special paragraph of the Committee's report.

The Employer members expressed appreciation of the comments, which they had considered carefully, but noted, firstly, that aside from one additional intervention by a Government representative of the Russian Federation, the Government members had remained silent. Secondly, while the Declaration of Philadelphia should always be borne in mind, research had shown that this was the first case which had been based on its principles, and not on a Convention. The present case should be supervised under the provisions of Convention No. 102, which had still not been discussed and, because the case had been double footnoted, it had not been subject to negotiation between the social partners.

Conclusions

The Committee noted the statement by the Government representative and the discussion that followed.

The Committee noted that the Government representative stressed that times were indeed extremely difficult and the Government had repeatedly been called upon to maintain the necessary balance between providing for social protection standards under Convention No. 102 and meeting the commitments assumed within the framework of the Memorandum of Understanding agreed with the "Troika" (i.e. the European Commission, European Central Bank and the International Monetary Fund) and drastically restructuring the institutional framework of the Greek social security system. The viability of the system was ensured through actuarial studies elaborated by the National Actuarial Authority every three years for the entire social security system based on the ILO model, the development and application of the necessary IT systems, improved collection of contributions through a new unified Social Security Contributions Collection Centre (KEAO), and establishment of an Insurance Fund for Generations Solidarity (AKAGE). The Committee noted the Government's statement that the effectiveness and scope of those efforts were limited due to the impact of the crisis and social budget limitations incurred by the implementation of the economic adjustment programme. Nevertheless, pensions granted to the entire working population were above the rates provided for in Articles 65–67 of the Convention, while specific social assistance schemes were reviewed in order to ensure that the established minimum amounts remained in all cases above the physical subsistence level for different age groups of the population. Special effort had been made for the design and application of anti-poverty policies for the most vulnerable, which included payment of a "social dividend", the establishment of the benefit for the long-term unemployed, setting of the minimum guaranteed income in collaboration with the World Bank, and the inclusion of precise targets for poverty reduction until 2020 into the National Reform Programme 2011–14.

With respect to the impact of the economic crisis on the social security system in Greece, the Committee recalled that the principle of the general responsibility of the State for the sustainable financing and management of its social security system expressed in Articles 71 and 72 of the Convention required the Government to establish a sound financial and institutional architecture of the social security system and "take all measures required for this purpose", including in particular the following: maintain the system in financial equilibrium, ensure proper collection of contributions and taxes taking into account the economic situation in the country and of the classes of persons protected, carry out the necessary actuarial and financial studies to assess impact of any change in benefits, taxes or contributions, ensure the due provision of the benefits guaranteed by the Convention, and prevent hardship to persons of small means. The Committee further recalled that the Oslo Declaration of the Ninth European Regional Meeting called upon the ILO to promote adequate and sustainable social protection systems as well as "synergies and policy coherence with the international and regional organizations and institutions … on macroeconomic, labour market, employment, and social protection issues". Acknowledging the unprecedented financial and management challenges of steering the Greek social security system through the crisis, the Committee requested the Office to give guidance to the Government on reforming its social security system in accord with the guidance in the Oslo Declaration.

The Committee observed that the continuous contraction of the social security system in terms of coverage and benefits had affected all branches of social security and in some instances resulted in reducing the overall level of protection below the levels laid down in Articles 65–67 of the Convention. In this context, the Committee invited the Government to continue to keep the functioning of the social security system under review and to adjust it, as necessary, making full use of ILO technical assistance to support the quantitative analysis of those options. The Committee recalled in that respect that the Oslo Declaration pointed out that "due to its tripartite structure and its mandate, the ILO is ideally placed to assist constituents to address social and economic crises and to help design sound and equitable reform policies". In view of the gravity of the social crisis in Greece, the Committee urged the Government to give effect to the above recommendations and to provide full information to the Committee of Experts to ensure the appropriate follow-up to that case.

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

DOMINICAN REPUBLIC (ratification: 1964)

A Government representative emphasized that her country had established the legal foundations to ensure full equality for all persons, upholding the human rights of citizens, whether or not they were Dominicans. Article 38 of the Constitution and Principle VII of the Labour Code established the equality of persons. Moreover, Principle IV of the Labour Code provided that labour laws were of a territorial nature and applied without distinction to Dominicans and foreign nationals, and the migratory situation of workers was therefore irrelevant. Dominican case law and legislation had been constant in reaffirming equality between Dominicans and non-Dominicans. Mention could be made here of the Supreme Court ruling of 2 June 2002 and Act No. 135-11 of 7 June 2011 penalties applicable in cases of discrimination against persons living with HIV and AIDS. The measures taken by the Government included the following: the establishment of the Department of Equal Opportunities and Non-Discrimination with an independent budget coordinated by the Minister of Labour; the signature of memoranda on the dissemination of labour rights; the organization of workshops on labour discrimination, including the themes of gender, equal opportunities and non-discrimination; the provision of technical assistance to workers living with HIV and AIDS; the publication of a handbook concerning equal opportunities and non-discrimination; distribution of more than 8,000 pamphlets translated into Creole to provide information on free services provided by the Department of Judicial Assistance of the Ministry of Labour, which had catered for 748 migrants; the establishment of a gender equality label as certification for enterprises making organizational changes with a view to closing the gender gap; and training for enterprises that were committed to implementing anti-discrimination policies. The supervisory measures that had been taken included: 263 visits to enterprises by the Technical Unit for Comprehensive Care (UTELAIN) for the provision of training on HIV-related issues; ten follow-up meetings in enterprises export processing zones with the participation of the Safety and Health Directorate at the Ministry of Labour, various trade union organizations, the ILO and the Dominican Association of Export Processing Zones (ADOZONA); and 81,319 inspections conducted during the previous 12 months. In collaboration with the ILO, the Government had held workshops on the HIV and AIDS policy in the workplace for the export processing sector in the Dominican Republic with the coordination of the ILO Subregional Office and had implemented the Decent Work Agenda in the 16 most important commercial and tourist municipalities, with the inclusion of the themes of equality and non-discrimination. Regarding the ruling of the Constitutional Court of September 2013 interpreting the constitu-

tional provisions on nationality, Parliament had adopted Act No. 169-14 of 16 May 2014 which established a special regime for persons born on the national territory whose registration in the Dominican civil register had been irregular, and which also dealt with naturalization. The Act envisaged a definitive decision for persons covered by this ruling. Her Government prohibited, condemned and rejected any act of discrimination or inequality. She asked the ILO to continue providing technical assistance with a view to strengthening the institutions responsible for applying and monitoring the policies planned for combating discrimination. The Government undertook to maintain the exchange of information with the ILO with regard to any measures adopted for strengthening institutions and the application of the Convention and to address the subject of discrimination in the Advisory Labour Committee.

The Worker members recalled that the Committee had closely examined this case in 2013, 2008 and 2004, and that for more than ten years the report of the Committee of Experts had contained comments on the same points as those raised today. These recurring issues related to discrimination in employment and occupation against Haitians and dark-skinned Dominicans, discrimination based on sex, including mandatory pregnancy testing and sexual harassment, and discrimination in the form of mandatory testing to establish HIV status. As in 2008 and 2013, the key issue was not the content of the legislation itself, but its application in practice and the means of redress available to the workers, as well as the interpretation of the law by the courts, in particular the Constitutional Court, which constituted an additional problem. In 2013, the Committee's conclusions, which had been nuanced and paid attention to the various initiatives taken by the Government, had focused on three main areas: the taking of firm steps to ensure that workers were protected against discrimination in practice; the continuation of efforts to raise awareness among the population on these issues; and the guarantee of the efficacy and accessibility to all workers of monitoring and enforcement to combat discrimination. Nevertheless, the Government, which had requested technical assistance from the Office, had not provided the Committee of Experts in 2013 with the report demanded on the three above points. Given the number of years this case had been examined, the failure to submit a report was inexcusable. The Worker members added that since then, the Government was reported to have submitted a Bill to the Chamber of Deputies "establishing a special regime for persons born on the territory of the Dominican Republic incorrectly entered in the civil register and on naturalization". According to the Government, the Bill was the outcome of a long process of consultation and attempts to reach a consensus with different sectors of society. However, the trade unions had not been included in these consultations, although the ongoing procedure with the Committee fully warranted this, and they regretted that they were not aware of the content of the Bill. Furthermore, in a long reply to the direct request made by the Committee in 2013, the Government had committed itself to transposing the provisions of the Convention into domestic legislation to the best of its ability. Nonetheless, this initiative did not respond adequately to the situation that had been criticized for many years, which primarily involved the implementation of the law in practice, particularly in relation to discrimination based on sex, compulsory pregnancy testing, violence against the women at the workplace, a person's origin and skin colour, and HIV status. Tolerance and laxity in the face of discrimination at work constituted a violation of human rights. In addition, discrimination constituted a waste of human resources, undermining both enterprises and social cohesion.

Given a situation in which legislation existed but was not applied and in which the perpetuation of discriminatory attitudes was the product of history and the failure of education systems, it was of prime importance to provide the workers who were victims of discrimination with support so that they could finally enjoy the protection provided under the Convention. Furthermore, various ILO instruments might be useful in this respect, such as the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which called for a continuous dialogue with the social partners, which had not yet occurred and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as that the social partners were in the best position to understand the strong cultural component characterizing discriminatory behaviour because they were the closest to the actual realities of the working world. The Government should also undertake to set up a standing committee on all forms of discrimination in occupation and employment, within the Ministry of Labour, which would not only propose improvements in the application of the legislation, but would also provide specific support in proceedings launched by the workers, who were victims of discrimination, and would take part in educational and cultural awareness-raising campaigns in this area. The Worker members denounced the illegal nature of the ruling of the Constitutional Court issued in September 2013, which had been referred to by the Committee of Experts. This ruling concerning the retroactive application of the law denying Dominican nationality to a person born in the country of parents of foreign migrants (Haitians) considered to be in transit or transitionally resident was contrary to the principles of the Convention ratified in 1964 by the Dominican Republic. The Government should follow the recommendations of the Committee of Experts and take all the specific measures needed to guarantee that full effect was given to the existing legislation.

The Employer members recalled that the case had been on the Committee's agenda since 1990 and thanked the Government for supplying information that showed the progress made in terms of legislation and in the functioning of the country's institutions. They were however deeply concerned at the lack of any information that might enable them to assess the extent of the problem. The Government had not provided all the information that had been requested by the Committee of Experts on discrimination in employment and occupation, to which Haitians and dark-skinned Dominicans in particular were subjected, on discrimination between men and women, on discrimination based on HIV status and on compulsory pregnancy tests. Consequently, it was difficult to assess the extent of the issue and to determine whether it concerned just a few exceptional cases, or whether the problem was widespread. Since the Constitution and legislation, including the Labour Code, contained provisions relating to equality and non-discrimination, the problem was not one of legislation, but rather of application of national laws and regulations.

The Employer members emphasized that the law adopted in May 2014, to which the Government representative had referred, was designed to resolve the problem of whether the children of Haitian workers in an irregular situation should be granted or denied Dominican nationality. It should provide a satisfactory response to the consequences of the ruling of the Constitutional Court of September 2013 on Haitians living in the Dominican Republic (between 700,000 and 1.2 million persons). Discrimination was a cultural phenomenon, the Worker members had observed laws existed and they needed to be applied, and the focus should be on training and education to correct discriminatory practices. Labour inspectors, who had a role to play in terms of prevention, should also receive

appropriate training. The Government had adopted a series of measures, but it still needed to do more to give full effect to the national legislation and to begin to change cultural attitudes.

A Worker member of the Dominican Republic emphasized that the national trade union movement condemned any kind of discrimination that affected the fundamental rights of any person, whether or not they were Dominican Nationals. The Dominican Republic had constitutional and legal provisions that explicitly recognized protection against discrimination, but regrettably there was a strong culture of non-compliance with the legislation and a very weak justice system. Furthermore, the Domestic Workers Convention, 2011 (No. 189), had been ratified in 2013, but for reasons that were unclear, the official instrument of ratification had not been communicated to the ILO and was still in the hands of the Ministry of External Affairs. Consequently, for both his country and the ILO, it was as if the Convention had not been ratified. The report of the Committee of Experts' highlighted discrimination against Haitian workers and the violation of the fundamental rights of Dominicans of Haitian origin. The United Nations Committee on the Elimination of All Forms of Racial Discrimination had concluded in March 2013 that there was structural discrimination against persons of African origin, who suffered clear exclusion and whose fundamental rights and opportunities for development were restricted. Several calls had been made for a mechanism for the protection of vulnerable workers, in the present case migrant workers who were excluded from the scope of Act No. 87-01 establishing the Dominican social security system. The country's three trade union confederations, and the trade union movement in general, had strongly condemned the ruling of the Constitutional Court, which had opened up the possibility of retroactively denying Dominican nationality to persons born in the Dominican Republic whose parents were foreign migrants in an irregular situation, a problem that particularly affected workers of Haitian origin. The ruling was morally unjust and legally incompatible with the international human rights treaties signed by the Dominican Republic. The ruling of the Constitutional Court affected more than three generations, who would be deprived of the acquired right of nationality without any valid reason. That violated a number of constitutional principles, including the right of the child to identity and nationality, the principle of non-retroactivity of laws, the binding nature of the decisions of the Inter-American Court of Human Rights, and the principle of equality. In early 1952, the Governments of the Dominican Republic and Haiti had signed an agreement to regularize the temporary immigration en masse of Haitian daily labourers working in the sugar cane harvest. Haitian labour had become indispensable to the booming Dominican sugar industry. It was unjust that people who had been born in the country should be deprived of the nationality of the Dominican Republic, that they were exposed to labour exploitation and were without social protection. With the aim of tackling that situation, the Government had recently adopted a national plan for the regularization of foreign nationals in an irregular migratory situation and also a law on naturalization. Consultations on that law had been held with various civil society organizations, but the trade unions had been excluded from the consultations. It was not just a problem of legislation or of adoption of new provisions to address the situation, but it was a problem of efficacy and control by the part of the State. The systems of inspection and control had failed to adopt specific measures for the elimination of discrimination. Discrimination affected various sections of the population, particularly the most vulnerable, such as migrants, young people, persons over the age of 35, women and workers in export processing zones. The practice of gender-based discrimination, particularly sexual harassment against women workers and mandatory pregnancy testing to fund employment was widespread, and effect was not given to the protective legislation. Discrimination against persons living with HIV and AIDS also persisted, and was one of the most serious problems facing the country. In conclusion, he called for the setting up of a special committee to reinforce the technical committee, the establishment of which had been decided at the 102nd Session of the Conference, which would have the function of following up on practical compliance with the legislation relating to discrimination. The participation in this committee of the representatives of the workers from Haiti and the Dominican Republic would have a very positive impact on the dialogue.

Another Worker member of the Dominican Republic added that the national trade union movement should work with the Haitian trade union confederations, and therefore called for the technical committee to be strengthened with the participation of the Haitian trade union confederations. This was the only way to ensure that the Haitian migrant workers would not be subject to discrimination, or have their rights undermined. Strengthening the working relationship between the trade unions from the Dominican Republic and Haiti would give more impetus to the call for the inclusion in the Social Security Act of all types of work carried out by Haitian workers in agriculture, domestic work and construction and in the informal economy. Haitian workers needed to be adequately protected, without encouraging exploitation by businesses and human traffickers in forced labour, which would have a downward effect on the wages of national workers. Finally, he indicated that the demands of the trade union movements of the Dominican Republic and Haiti must be addressed both to the countries of origin and of destination. Effective measures should also be adopted to prevent the trafficking of persons for profit by civilians and by the military in both countries. He therefore requested ILO support for the creation of a special committee to provide follow up for the fulfilment of commitments in this area.

The Employer member of the Dominican Republic said that the employers in his country rejected all acts of discrimination and supported and respected the national legislation. Article 39 of the Constitution covered the right to equality. All people were born free and equal before the law, received the same protection and treatment from institutions, authorities and other persons, and enjoyed the same rights, freedoms and opportunities without any discrimination on the basis of gender, colour, age, disability, nationality, family relations, language, religion, public or philosophical opinion, or social or personal status. Equality and equity therefore existed for men and women in the exercise of the right to work, and also equality in access to employment. The Dominican Republic recognized the international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. Act No. 135-11 concerning HIV/AIDS, guaranteed the dignity of people living with HIV and AIDS. Section 6 of the Act provided that human beings were born free and equal in dignity and rights and were therefore entitled to equal protection against discrimination or incitement to discrimination. As a result, mandatory testing for HIV and its antibodies for people to secure or retain employment was prohibited. In the same spirit of justice, acts of discrimination or exclusion were prohibited. Moreover, all persons were guaranteed access to the judicial system. Efforts had also been made to strengthen labour inspection by increasing the number of labour in-

spectors. It was planned to recruit a further 75 labour inspection officials in the near future. A national policy on HIV and AIDS would also be developed in export processing zones. Around 25,500 workers had received training related to the elimination of the stigma of HIV in the workplace. The second phase of the project was expected to start this year. In September 2014, the Ministry of Labour would carry out awareness-raising workshops on gender and equal opportunities. He then expressed his perplexity at the term "dark-skinned Dominicans". Eighty-five per cent of Dominicans were black and mixed race, and he therefore considered the term "dark-skinned" to be discriminatory. Employers in the Dominican Republic advocated a zero-tolerance policy towards discrimination and wished to play an active part in all aspects relating to the implementation of Convention No. 111.

The Government member of Costa Rica, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), said that GRULAC had duly noted the measures adopted by the Government in relation to Convention No. 111 with a view to ensuring protection against discrimination of workers of foreign origin, dark-skinned Dominicans, migrant workers in an irregular situation, women and persons living with HIV and AIDS. GRULAC wished to highlight certain measures taken by the Government, such as the Migration Regulations adopted under the Migration Act, the continued functioning of the Labour Migration Unit of the Ministry of Labour and the Committee on the Promotion of Equal Opportunities and the Prevention of Discrimination at Work, with the aim of guaranteeing compliance with migrants' rights through inspection procedures, which allowed for the monitoring of compliance with labour laws applicable to foreign nationals, as well as the dissemination of information and awareness raising on their rights. GRULAC noted with interest the recently approved Act No. 169-14 of 23 May 2014 establishing a special regime for persons born on national territory and irregularly registered in the civil registry and concerning naturalization. The objective of this Act was to address the problems arising from the September 2013 ruling of the Constitutional Court for persons born in the country who were children of migrants in an irregular situation, which demonstrated the Government's commitment on the subject. GRULAC reaffirmed its commitment to the protection and promotion of equality of opportunity, non-discrimination at work and the defence of fundamental human rights, which must be guaranteed and protected without any type of restriction whatsoever. GRULAC appreciated the efforts undertaken by the Government and encouraged it to pursue the measures initiated so as to achieve full compliance with Convention No. 111.

The Worker member of Uruguay emphasized the ruling of the Constitutional Court which denied Dominican nationality to a person born in the country who was the child of Haitian migrants who had been long-term residents in the Dominican Republic, and which ordered the retroactive re-examination of the Dominican nationality granted to children of Haitian immigrants between 1929 and the date of the ruling. The ruling had caused "deep concern" as it represented a clear case of discrimination against a section of the Dominican population (migrant workers, dark-skinned persons and persons of Haitian origin). It was a denial by the Dominican Republic of the essential rights of every person (the rights to identity, personality and nationality), and was a grave violation of the principle of non-discrimination enshrined in universally applicable legal instruments. It should be recalled that member States of the ILO, by the very fact of their membership, had an obligation to respect, to promote and to realize the fundamental principles and rights at work set out in the ILO Constitution and fundamental Conventions, in particular the elimination of discrimination. In the present case, the Constitutional Court, in addition to ignoring fundamental principles of international law on the rank of domestic law, such as the principles of *pacta sunt servanda*, which provided that international law prevailed over domestic law, and *pro homine*, under which international and national standards must be interpreted and applied in the manner most advantageous to the human being, failed to recognize essential human rights-related obligations assumed by the Dominican Republic. The Constitution had been amended on 3 January 2010, introducing the principle of parenthood, or *jus sanguinis;* for the granting of nationality, instead of *jus soli,* or the granting of nationality to those born on the national territory, the principle that had applied under the previous constitutions, from 1929 to 1966. On 23 May 2014, Act No. 169 had been adopted, which established special rules for children born on Dominican soil to foreign "non-residents" during the period between the adoption of the 1929 Constitution and that of the Constitution of 28 April 2007. The new rules were based on the ruling of the Constitutional Court, reflecting a passage that referred to "deficiencies in migratory policy and in the working of the civil register" that dated from the period immediately after the adoption of the 1929 Constitution. Although Act No. 169 acknowledged that the "Dominican State had been responsible" for the supposed irregularities in civil registration, it virtually obliged those born on Dominican territory and not entered in the civil register, to register within a short time period as "foreign nationals", thereby abruptly and retroactively divesting them of their acquired rights to nationality, which the 1966 Constitution had granted. Accordingly, persons born in the Dominican Republic had been stateless, by the law, and were condemned to apply, within a very short 60-day period, to be registered as "foreign immigrants in an irregular situation".

The Government member of the United States expressed concern about the Constitutional Court and its consequences for persons born to "in transit" parents in the Dominican Republic, including the difficulty of accessing social security benefits and services, risks involved in reporting violations of national labour law and a potential financial burden entailed in applying for resident status under the Government's regularization plan for foreigners in an irregular situation. She looked forward to the publication of the enabling regulations under the Naturalization Act and the processes it would establish, which should ensure its transparent, accessible and comprehensive implementation. She endorsed the request by the Committee of Experts' for the Government to ensure that court rulings and Government policies did not increase discrimination against workers of Haitian origin, dark-skinned Dominicans or migrant workers in an irregular situation. The Government must ensure that such workers were not subject to exploitative labour practices due to their precarious status. Limited education significantly increased children's vulnerability to labour exploitation, and the Government should therefore also guarantee that all children received the identity documentation necessary to attend school. The Constitution of the Dominican Republic, as amended in 2010, expressed commitment to the fundamental rights and human dignity of every person, and to the elimination of all kinds of discrimination. The Government must make that commitment a reality for all workers. It should continue to seek and to use technical assistance to address discrimination, as well as to specifically address discrimination based on sex and real or perceived HIV status.

The Worker member of the United States said that the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), to which the Dominican Republic was a party, required it to comply both with its

own national laws and with ILO standards (including Convention No. 111). Nevertheless, the Government had long delayed promised actions to address workplace discrimination faced by women. For example, there was no effective Government policy to combat economic discrimination against women, who received approximately 44 per cent less pay than men for comparable jobs requiring equal skills. Women workers were the first to lose their jobs when the economy slowed and female unemployment was double male unemployment in the Dominican Republic. Women were discriminated against even when looking for work, and for instance it was common for advertisements to state that employers were only looking for women below a certain age and who looked a certain way. Such discrimination illustrated the serious need for the Government to develop effective policies to promote women's place in the workforce as being equal to that of men. Women continued to report that pregnancy tests comprised part of mandatory medical examinations, the results of which were sent to potential employers. While discrimination based on such tests was illegal on paper, employers often did not hire pregnant women, and often fired women already working for them who became pregnant. Women in certain sectors, such as domestic work, were particularly vulnerable to discrimination. Following pressure from labour unions, a bill that would have extended social security benefits to domestic workers had been introduced in Congress, but had failed to pass. Substantial evidence supported the argument that an increase in employment and incomes of women workers impacted very positively on social and economic development. The Government should therefore strengthen its commitment and capacity to eliminate discrimination against women.

The Worker member of Chile expressed support for the denunciation by the Worker members of the Dominican Republic concerning the persistent sexual harassment to which thousands of workers were prey. Sexual harassment was one of the worst forms of discrimination against women and was a form of extreme violence against women in the workplace. It was a violation of the fundamental human right to mental well-being, limited women's opportunities of progress and personal development and excluded them from political and social life. Sexual harassment was an abuse of power that occurred most when employment relationships were unequal, and when workers, individually and collectively, lacked the protection that should enable them to work in safe conditions, because employers did not fulfil their responsibility to intervene and outlaw such discrimination. The serious threat that sexual harassment represented to workers' integrity was one of the most difficult scourges to eliminate, and not only in the Dominican Republic, given that it was rooted in macho cultural stereotypes. It was an aggression faced daily by thousands of women workers, especially in export processing zones. An unfavourable cultural environment, the back of a functional justice system and inefficient state mechanisms left women feeling unprotected and unlikely to log complaints, as doing so led to them being dual victims: they suffered not only institutional violence, and were likely to be victims of domestic violence, as they were frequently blamed for having initiated or provoked the harassment. She proposed: the establishment of a tripartite committee on gender equality; the establishment of a justice system better equipped to address discrimination, with more severe sanctions for sexual harassment; more campaigns against sexual harassment in businesses and workplaces; permanent and preferably tripartite cooperation against sexual harassment and discrimination; training for judicial personnel and all the actors who influenced or were involved in handling sexual discrimination, particularly those who interacted directly with victims; more thorough information on harassment at work, explaining how it affected women both at work and at home; workplace campaigns on women's reproductive and gender-based rights; and a greater voice for migrant women in the country.

The Worker member of Spain, focusing on the issue of HIV and AIDS, considered it vital to adopt a gender perspective to the labour and social discrimination suffered by people living with HIV, as 49 per cent of the people infected with HIV throughout the world were women. HIV and AIDS did not affect women in the same way as men. Women were vulnerable to sexual harassment at work, and more generally to gender-based violence for a number of reason; they were in the majority in the informal economy, where they worked for low wages, without rights or benefits; poverty clearly increased vulnerability to AIDS; they were normally the ones who cared for the sick; and they were exposed to unprotected sex work. The situation in the Dominican Republic regarding HIV and AIDS and the world of work revealed the stigma and discrimination against people living with HIV that limited their employment prospects. A social pact on the issue should be negotiated rapidly between the Government, the social partners and social organizations, with the establishment of action plans, and efforts should be multiplied and resources increased with a view to taking concrete action. Lastly, she expressed the hope that the demands and proposals of the trade unions of the Dominican Republic would be well received and that women workers in the country would soon have the protection and security to which they were entitled so that they could benefit from decent work.

The Government representative stated that, following the discussion in the Committee, he would return to his country with optimism and willingness to continue to move forward towards increased inclusiveness and equality for all workers in the Dominican Republic, including migrant workers. He reaffirmed his Government's commitment to continue to implement labour policies seeking to achieve compliance with provisions relating to equality and non-discrimination. The Government had declared decent work as a priority goal and was currently taking specific measures at national level with the assistance of the ILO Regional Office in all ILO subject areas, including non-discrimination. A programme of preventive labour inspection had recently been launched in the agricultural sector, where there was a significant presence of foreign workers. The Ministry of Labour, with the support of the ILO and the International Organization for Migration (IOM), had lately developed an electronic database to register labour contracts of migrant workers to render transparent all information normally compiled within a labour relationship (such as hours of work, wages, etc.), with a view to facilitating the compilation of accurate statistics and improving the monitoring of working conditions of migrant workers. This tool was supplemented by the electronic system of labour registration under which employers were required to register their workers with the Ministry of Labour, and which also validated the registration of migrant workers without requiring the types of visa envisaged by the Migration Act. As part of the Ministry of Labour's plan of action to combat discrimination and equality of opportunity, 14 new labour inspectors had been recruited the previous month, and 60 more inspectors would soon be recruited, which would result in better monitoring of compliance in the area of non-discrimination. With regard to the ruling of the Constitutional Court, he regretted the mistaken direction taken by the discussion in the Committee, emphasizing that both prior to and following the decision, all workers (both men and women), irrespective of nationality and migration status, were guaranteed their labour rights without discrimination. He also referred to

the establishment of the Tripartite Committee to Promote Equal Opportunities and Prevent Discrimination at Work under the Ministry of Labour. The national debate triggered by the ruling had resulted in the adoption of Act No. 169-14, which had been the outcome of a broad consensus at national level involving the social partners and civil society, and had been welcomed by the Prime Minister of Haiti. The Act sought to ensure that all workers affected by the ruling would benefit from more participatory and fair measures. The Government had also sought to resolve the problems affecting Dominicans lacking identity documents. To this end, a tripartite committee had recently been set up which had encouraged the various sectors to reach agreement with the social partners so as to ensure that workers without identity documents would be able to benefit from social security. In conclusion, he emphasized that the national labour legislation applied to all workers. A clear distinction therefore needed to be made between two issues, namely, the legal provisions which he assured were fully applied and, on the other hand, the issues related to migrants, which the Government was strived to address in full respect of the human rights of the persons concerned.

The Worker members noted that the present issue concerned the effective implementation of the law, the solution to which depended on the adoption of concrete measures in the three following areas: strengthening penalties against acts of discrimination; guaranteeing free and easy access to dispute settlement mechanisms, particularly labour inspection services and the courts; and act on to combat sexual harassment, mandatory pregnancy tests for recruitment and discrimination on the grounds of HIV and AIDS status. Government agencies, judges, labour inspectors and society as a whole also needed to be made aware of the unacceptable nature of discrimination. They encouraged the Government to establish, in cooperation with the social partners, a standing commission in the Ministry of Labour to deal with questions of discrimination, particularly against workers of Haitian origin. The commission's functions would be to: monitor and improve the application of the law in practice to eliminate all forms of discrimination in employment and occupation; provide workers who were victims of discrimination, in cooperation with the workers' organizations, free assistance to institute and complete legal proceedings and ensure enforcement of the final decision; and participate in awareness-raising and education campaigns against discrimination in employment and training. The social partners should also be encouraged to provide tangible and practical solutions through collective bargaining. They recalled that in 2013 the Government had requested ILO technical assistance and they proposed, in order to support that request, the sending of a direct contacts mission, the objectives of which would be to ascertain the conformity of the law and practice with the provisions of the Convention and to carry out, with the Government and the social partners, including representatives of the Haitian workers concerned, any training, awareness-raising and promotion activities necessary with a view to eliminating discrimination.

The Employer members once again welcomed the efforts made by the Government, especially for its handling of the legal consequences arising out of the ruling of the Constitutional Court concerning the granting or refusal of Dominican nationality to the children of Haitian nationals living in the country. Particular mention should also be made of the efforts made to give a tripartite dimension to the institutional solutions identified to deal with the problems of the application of the legislation in practice. This was an important issue. However, it was still difficult to gauge the extent of the problem, in view of the lack of adequate data. The Employer members requested the Government to provide all the information requested since 2013, as well as statistics, broken down by gender and occupation, which would make it possible to carry out an objective evaluation of discrimination in the country, measure women's difficulties of access to employment and assess the measures adopted in the context of the policy of equality between men and women. These data were indispensable to measure the extent of the problem and assess any progress made in these areas. They called upon the Government to adopt, in accordance with Article 2 of the Convention, a national policy designed to promote equality of opportunity and treatment with a view to eliminating all discrimination in employment and occupation. To ensure its full application, this policy should be the outcome of a social dialogue covering not only the world of work, but also education, with a view to addressing social and cultural stereotypes encountered by children at a very young age. Furthermore, labour inspection needed to be strengthened and inspectors should be able to benefit from appropriate training. They also hoped that the Government's request for ILO assistance would be granted in order to implement the legislation and eliminate all forms of discrimination.

Conclusions

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

The Committee recalled that it had examined this case in 2008 and 2013, and that it raised issues with respect to discrimination in employment and occupation against Haitians and dark-skinned Dominicans, discrimination based on sex, including sexual harassment, mandatory pregnancy testing and also mandatory testing to establish HIV status. It also recalled that, in its last observation, the Committee of Experts had noted with deep concern Constitutional Court ruling No. TC/0168/13 of 23 September 2013 which retroactively denied Dominican nationality to foreigners and children of foreigners, particularly affecting Haitians and Dominicans of Haitian origin.

The Committee noted the information provided by the Government in relation to the legislative and practical measures taken to address discrimination and promote equality in employment and occupation, including Decree No. 327-13 of 20 November 2013, which established the National Plan for the regularization of foreign nationals and Act No. 169-14 of 23 May 2014, which aimed at resolving the situation of Dominicans of Haitian origin. The Committee also noted the information on legal assistance available to migrant workers; the training for judges and awareness-raising activities in enterprises relating to non-discrimination and gender equality; as well as the Government's commitment to address the issue of discrimination in the tripartite Advisory Labour Council.

While welcoming the information on the recent legislative steps taken, the Committee stressed the importance of their effective application in practice highlighting the important role of labour inspection in this respect. The Committee therefore urged the Government to strengthen its efforts, in full cooperation with the social partners, to effectively implement the existing legislation addressing discrimination, to reinforce penalties and to ensure that existing complaints procedures were effective and accessible to all workers, including workers of Haitian origin, migrant workers and workers in export processing zones. In this context, the Committee urged the Government to take specific steps, including through educational programmes, to address existing social and cultural stereotypes contributing to discrimination in the country. The Committee also urged the Government to take the necessary measures to ensure the effective application of the legislation that prohibits mandatory pregnancy and HIV testing to gain access and to keep a job,

and to adopt appropriate provisions prohibiting sexual harassment in the workplace. With a view to assessing the full nature and extent of discrimination in the country, the Committee requested the Government to provide statistical information, disaggregated by sex, origin and age, on access to employment and occupation and vocational training. Emphasizing the importance of tripartite consultations, the Committee encouraged the Government to establish a standing tripartite committee to address all matters relating to equality and non-discrimination, including those relating to workers of Haitian origin. The Government was also encouraged to develop awareness-raising campaigns on equality issues.

The Committee invited the Government to avail itself of ILO technical assistance with a view to ensuring the effective application and monitoring of anti-discrimination law and policy. The Committee requested the Government to provide a report to the Committee of Experts, including detailed information regarding all the issues raised by the Committee and the Committee of Experts, for examination at its next meeting.

KAZAKHSTAN (ratification: 1999)

The Government communicated the following written information.

With regard to the prohibition of discrimination, in accordance with section 7 of the Labour Code of the Republic of Kazakhstan, everyone has equal opportunities for the exercise of his or her rights and freedoms in respect of employment. In the exercise of labour rights, nobody may be subjected to any discrimination on the grounds of sex, age, physical disability, race, nationality, language, material or social situation, public position, place of residence, attitude to religion, political beliefs, tribe or social stratum or membership of public associations. This provision fully reflects the Constitution of the Republic of Kazakhstan (article 14.2 of which provides that nobody may be subjected to discrimination of any kind on grounds of origin, social, public or material status, sex, race, nationality, language, attitude to religion, beliefs, place of residence, or on any other grounds). The concept of "race" is generally understood as being inseparable from "skin colour". However, in practice there have been no problems with this issue. Nevertheless, in order to resolve the question of including skin colour as a basis of discrimination, further consultations will be held with representatives of the central State authorities and with employers' and workers' organizations at the national level. The findings of over 200 special spot investigations in 2013 by state labour inspectors, together with prosecuting authorities, of organizations recruiting foreign labour, revealed 123 instances of wage discrimination between national and foreign workers. The state inspectors responded by issuing 65 orders to employers to eliminate these violations, and imposed 96 administrative fines, amounting to 4.6 million Kazakhstan tenge (KZT). In the first four months of 2014, checks at over 2,000 organizations in the country did not reveal any instances of wage discrimination. To ensure that employers comply with the requirements of labour law concerning workers of pre-retirement age and the prohibition of discrimination against them, supplementary provisions were added in 2013 to the Law of the Republic of Kazakhstan of 23 July 1999 to prohibit the mass media from disseminating information about employment vacancies containing employment requirements of a discriminatory nature. However, the state labour inspectorate has not received any complaints from citizens alleging violations of their employment rights.

With reference to the exclusion of women from certain occupations, section 186 of the Labour Code of the Republic of Kazakhstan specifies the types of work in which the employment of women is prohibited: (1) it is prohibited to employ women in heavy work, work in harmful (especially harmful) and (or) hazardous conditions, in accordance with a list of the categories of work in which the employment of women is prohibited; (2) the manual lifting and moving by women of loads exceeding the weight limits set for them is prohibited. In order to implement this provision of the Labour Code, Resolution No. 1220 of 28 October 2011, of the Government of the Republic of Kazakhstan, adopted a list of the categories of work in which the employment of women is prohibited and setting out the weight limits for manual lifting and moving by women (hereinafter, the list). Over the past 20 years this list has been revised and updated four times (in 1994, 2004, 2007 and 2011) in the light of the current risks to women's health. Section 186 and the list itself do not restrict the employment of women, but serve to protect motherhood and women's health. It should be pointed out that the level of automation in manufacturing in Kazakhstan is below the European level. At present, the country has over 8,500 occupational categories, which include work in harmful working conditions and arduous labour, which is considerably higher than in the European Union. The list was attached but has not been reproduced.

In respect of equality for men and women in employment and occupation, according to figures from the Kazakhstan Statistics Agency for the first quarter of 2014, women's participation was 31 per cent in industrial production, 26 per cent in construction, 47 per cent in agriculture, forestry and fishing, 60 per cent in finance and insurance, 50 per cent in the professional, scientific and technical sectors and 74 per cent in education. The employed population as a whole numbered 8,587,071 persons, including 4,167,245 women, or 48.5 per cent. Employment relations in respect of equal treatment and equal opportunities for men and women workers, and workers with family responsibilities, are governed by Chapter 17 of the Labour Code of the Republic of Kazakhstan, "Aspects of the regulation of the employment of women and other persons with family responsibilities". Law No. 566-IV of 17 February 2012, of the Republic of Kazakhstan on amending and supplementing the Labour Code of the Republic of Kazakhstan for the purpose of combining employment with family responsibilities introduced amendments to section 189 of the Code, making it possible, with mutual consent, for one of the parents (the father) to work part time. In addition, by Law No. 50-V of 16 November 2012, the Republic of Kazakhstan ratified the Workers with Family Responsibilities Convention, 1981 (No. 156). The legislation of the Republic of Kazakhstan corresponds to the provisions of Convention No. 156. According to figures as at 31 December 2013, the number of employed workers making use of the right to child-care leave (in accordance with section 195 of the Labour Code) was 287,311, including 135 men and 287,176 women. The number of employed workers making use of the right to leave to adopt a child (in accordance with section 194 of the Labour Code) was 218, including one man and 217 women. With regard to amendments to sections 187–189 of the Labour Code, resolving this question requires further study with representatives of the central State authorities and of the national employers' and workers' associations.

Women have a priority right to take part in the programme "the roadmap for employment to 2020" (hereinafter, the programme). The programme includes mechanisms to respond to and combat the crisis and to improve effective regulation of the labour market, including labour market forecasting and monitoring, and the engagement of the disadvantaged, unemployed and self-employed members of the population in active employment creation measures. The proportion of women taking part in the programme since its inception is 48.6 per cent (144,600).

With regard to the representation of women in the civil service, it should be noted that of the actual number of civil servants (90,220), there were 49,527 women, or 54.9 per cent (as of the fourth quarter of 2013). It should also be noted that in 2013 Kazakhstan occupied a high position, at No. 26, for the indicator, "women in the labour force, ratio to men" in the Global Competitiveness Index of the World Economic Forum. In the context of implementing the general agreement between the Government of the Republic of Kazakhstan and the national workers' and employers' associations for 2012-14, provisions have been included in sectoral and regional agreements and in collective agreements to promote employment, save jobs, create decent working conditions for workers over the age of 50, and adopt programmes to improve the qualifications and mobility of those over 50. Monitoring is carried out in compliance with the requirements of labour law for the prevention of discrimination against persons over the age of 50 in recruitment and during employment. It is prohibited to disseminate job vacancies containing requirements of a discriminatory nature in reference to employment. An active employment policy is now being conducted in Kazakhstan in the framework of the programme. It provides for the creation of permanent jobs, the encouragement of entrepreneurial activity, the creation of social jobs, the organization of entry-level work for young people, and an increase in the occupational and territorial mobility of labour resources. In the first quarter of 2014, the economically active population numbered 9.1 million people, of whom 4.4 million, or 48.4 per cent, were women. Women account for 48.8 per cent of those in employment (4.2 million). In the first quarter of 2014, there were 464,000 unemployed people, the number having fallen by 10,500, or 2.2 per cent, in comparison with the same period in 2013. The unemployment level was 5.1 per cent (5.3 per cent in the first quarter of 2013). The female unemployment level was 5.9 per cent. The proportion of unemployed men in the first quarter of 2014 was 43.8 per cent (203,000), and the figure for women was 56.2 per cent (261,000). No figures are kept on the labour market situation of men and women belonging to ethnic and religious minorities. A general agreement has been concluded for 2012–14 between the Government and the national workers' and employers' associations. The agreement sets out the obligations of the parties to secure the necessary conditions for decent work, to introduce standards for the quality of life and to bring about growth in labour productivity and stable employment. The draft general agreement for 2015–17 is under preparation. Moreover, state labour inspectors regularly undergo training courses to improve their qualifications, including courses on the law relating to the prevention of discrimination.

In addition, before the Committee, **a Government representative** referred to the general agreement that had been concluded for 2012–14 and stated that provisions had been included in sectoral and regional agreements and collective agreements to promote employment and create decent working conditions for workers over the age of 50, and adopt programmes to improve the qualifications of persons over 50. Monitoring was carried out in compliance with the labour law. Moreover, an active employment policy was carried out in Kazakhstan in the framework of the programme "Roadmap for Employment 2020". In response to the issues raised by the Committee of Experts with respect to the implementation of section 7(2) of the Labour Code, including information on any activities undertaken to disseminate the legislation and information on the number, nature and outcome of discrimination cases dealt with by the courts or the labour inspectorate, the Government representative stated that section 7 of the Labour Code provided that everyone had equal opportunities to enjoy their rights and freedoms at work, and no one could be subjected to discrimination. Race was directly linked to the ground of colour and, in practice, there had been no problems with this particular provision. Consultations would be held at the national level with employers' and workers' organizations to discuss this particular issue. With respect to the list referred to in section 186 of the Labour Code, the Government representative indicated that section 186 provided for areas where the work of women was prohibited. Work was prohibited in harmful and hazardous conditions. Manual lifting of loads exceeding a specific weight limit was also prohibited. Resolution No. 1220 of 28 October 2011 contained a list of categories of work where employment of women was prohibited. Over the last 20 years, this list had been revised and updated. These restrictions did not limit the employment of women but existed to protect maternity and women's health.

The Worker members recalled that Convention No. 111 was one of the fundamental Conventions because discrimination at work constituted a violation of a human right that threatened social cohesion and solidarity, and had an impact on the productivity of enterprises. To achieve equality at work, statutory measures should be supplemented by the implementation of employment policies and education to combat stereotyping, as well as the involvement of state officials at all levels of power, including the judiciary. It should also be guaranteed that the social partners were involved, so that they might participate in negotiations on economic and social issues. As mentioned by the Committee of Experts, attention should be paid to the implementation in practice of the legislation. Despite the employment programmes announced in Kazakhstan and the funds allocated to active labour market policies, the Government had not been able to eliminate certain forms of discrimination affecting women, ethnic or religious minorities and persons who were not ethnic Kazakhs. The Worker members stressed moreover the positive role of the social partners in the area of non-discrimination and the trade union organizations in this area. In order to make equality a reality, independent trade unions were required to relay the complaints of workers who were unfairly disadvantaged. A bill on trade unions was threatening workers' organizations in Kazakhstan. The Office had voiced reservations on the compliance of this bill with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Worker members pointed out that the fundamental and governance Conventions were closely linked and the application of Convention No. 111 could not be guaranteed without the involvement of the workers' and employers' representative organizations. They recalled the Committee of Experts' comments on the notion of "colour", which was not considered a ground of discrimination in the Labour Code, whereas this matter constituted a prohibited ground of discrimination under Convention No. 111. According to the Government, this concept was considered inseparable from that of "race" and was adequately covered, but it committed to hold consultations with the workers on the subject. The Worker members expressed the hope that the bill being drafted on trade unions would allow for these consultations referred to in the written information submitted by the Government. The Worker members underlined that the Government discriminated in favour of Kazakhs who constituted a majority in higher state positions; ethnic minorities were the victims of hostility, insults and discrimination in employment. In March 2014, the United Nations Committee on the Elimination of Racial Discrimination reiterated its concern that Kazakhstan had not adopted comprehensive legislation to prevent and combat discrimination in all areas. On the basis of this, and the comments made by the

Committee of Experts, the Worker members were of the opinion that the Kazakh legislation as a whole was not in conformity with the Convention, and that the 2013 amendment of the Act of 23 July 1999 had not attained its objective. As regards the exclusion of women from certain occupations, it was impossible to check the list of occupations under section 186 of the Labour Code, as this list was not included in the written information provided by the Government. With respect to equality of men and women in employment, this written information contained figures that the Worker members had not been able to verify. Without wishing to question their accuracy, they referred to the report of the United Nations Committee on the Elimination of Discrimination against Women of 10 March 2014. Although this Committee had noted positive developments, it remained concerned by a number of facts: (i) the concept of gender-based discrimination existed but did not incorporate the issues of direct or indirect discriminations, as required under Convention No. 111; (ii) women who were victims of violence or harassment did not have adequate access to justice and encountered social stigma and negative stereotyping in the world of work and in their daily life; (iii) women and girls encountered difficulties of access to education on grounds of nationality, which was a factor that exacerbated discrimination; and (iv) the wage gap between men and women still existed. On this subject, the situation had somewhat improved with a 6 per cent drop in the wage differentials between men and women, but the average monthly nominal wages for women workers only increased to 67.6 per cent of that of men in 2011. The average monthly wages of men were higher in all areas of activity, including in traditionally "female" occupations such as education and health care. The trend in the reduction of the relative competitiveness of women in the labour market compared to men started during pregnancy and continued during child care. The Worker members concluded that the Government should urgently provide the information requested by the Committee of Experts, while noting the information on the component of the active employment policy concerning the elimination of discrimination, and stressed the need for the optimal functioning of freedom of association.

The Employer members recalled that the Committee of Experts had noted that section 7(2) of the Labour Code covered all of the prohibited grounds set out in *Article 1(1)(a)* of the Convention, except for colour and it had requested the Government to amend the Code in this regard. The Government had indicated that further consultations would be undertaken on this matter between the Government and the workers' and employers' organizations. The Government was urged to conduct such consultations, including with the social partners, with a view to ensuring that the Labour Code prohibited all of the grounds articulated in the Convention. Regarding the list of occupations for which it is prohibited to engage women and the maximum weights for women to lift and move manually, pursuant to section 186(1) and (2) of the Labour Code, the Government had indicated that this list was meant to protect women's health. However, protective measures applicable to women's employment that were based on stereotypes regarding women's professional and physical abilities, as well as stereotypes concerning their role in society, violated the principle of equality of opportunity and treatment between men and women in employment. Therefore, such a list was troubling in light of the obligations of the Convention. The adoption of the Law of 2009 on State Guarantees on Equal Rights and Equal Opportunities of Men and Women, which provided for gender equality in labour relations as well as in education and training, appeared to be one area of progress in the case. With regard to sections 187, 188 and 189 of the Labour Code, it was problematic when legislation reinforced and prolonged stereotypes regarding the roles of men and women related to family responsibilities, including the stereotype that caring for a child was the primary role of women. If legislation included measures aimed at facilitating the quality of remuneration of work and the reconciliation between work and family responsibilities, they must be applied on an equal basis to both men and women. Sections 187 to 189 of the Labour Code should therefore be amended to grant entitlements related to family responsibilities to men and women on an equal footing. More information should be provided, without delay, regarding Law No. 566-IV of 17 February 2012, which the Government indicated had introduced an amendment to section 189 of the Labour Code. In addition, the information provided by the Government partially responded to the request of the Committee of Experts regarding measures taken to promote and ensure equality of opportunity and treatment for women and men in employment, including in the public sector. Furthermore, the Committee of Experts had expressed its concern related to discrimination against minority groups, particularly non-ethnic Kazakhs, with regard to employment opportunities in state bodies and public services. The Government was encouraged to provide information in this regard, without further delay. The Government was also encouraged to work with the ILO in order to provide such information, including information on progress made in applying the Convention in both law and practice.

The Worker member of the Russian Federation noted that it was important to place the discussion of the case in the context of the recent signing between the Russian Federation, Belarus and Kazakhstan of an agreement establishing a single economic zone. Discrimination, despite being prohibited by the Constitution and national legislation, remained a serious unaddressed issue. To give effect to the law, effective implementation, the involvement of the social partners, and an independent specially trained judiciary were necessary. Discrimination due to trade union membership was very widespread and deep-rooted, and there were many cases in both the private and public sectors of dismissal or intimidation aimed at forcing members to leave unions. In such conditions, the activities of independent trade unions were seriously compromised. Furthermore, there was no independent body to deal with cases of discrimination and the isolated interventions from the labour inspectorate were insufficient given the extent of the phenomenon. The lack of adequate and dissuasive sanctions in cases of violation of the legislation was another problem. In addition, the situation was liable to deteriorate following current significant amendments to labour legislation, which could have the effect of preventing the independent organizations from accessing the collective mechanisms for the defence of workers' rights. The Government should, in that context, request the ILO to provide extended technical assistance.

The Government representative of Denmark, speaking also on behalf of Finland, Iceland, Norway and Sweden. She recalled that the promotion of gender equality and equal opportunity was one of the central objectives of the ILO and the United Nations. Gender equality was important for the development of successful societies which could only be achieved using the talents of the whole society, both men and women. Gender equality was hence a condition for democracy, economic growth, and welfare. In Nordic countries, where the idea of equal opportunities was an overriding principle, women played a decisive role in the establishment and maintenance of the welfare state. In this respect, she stressed that the role of women in the labour market should not be determined by assumptions and stereotypes and reflected in a legal framework that created obstacles to the equal participation of woman and

men in the labour market. She further recalled that the aim of legislation regarding occupational safety and health was to protect all workers irrespective of their gender against risks inherent in their work. Therefore, the Government needed to eliminate all legislation that violated the principle of equality of opportunity and treatment for men and women in employment and occupation. To this end, it was further necessary to amend the legislation reflecting the assumption that the main responsibility for family care lay with women, as well as the legislation which excluded men from certain rights and benefits.

The Worker member of Norway referred to section 186 of the Labour Code and to the list in accordance to which the employment of women was prohibited in 299 occupations. The objective of this prohibition was to protect women from hazardous or difficult work and to avoid health problems. However, provisions relating to the protection of persons working under these conditions should be aimed at protecting the health and safety of both men and women at work. The speaker indicated that in the Nordic countries women could choose their occupation and that protective measures applicable to women's employment which were based on stereotypes regarding women's professional abilities and role in society, violated the principle of equality of opportunity and treatment between men and women in employment and occupation. She urged the Government to abolish this list of prohibited occupations and to adopt stricter measures for the protection of occupational health and safety of both men and women.

The Government member of the Russian Federation expressed his appreciation for the significant efforts deployed by the Government in order to achieve conformity with the Convention, particularly by undertaking monitoring and inspections, and where required, imposing administrative sanctions. The discussion had established that the national legislation was not in full compliance with the Convention with regard to the list of hazardous and difficult jobs for which it is prohibited to engage women. This could give the impression of a limitation on the principle of equality between the sexes, but it in fact had the objective of protecting the health of women, who were otherwise well represented in the workforce. The Government should therefore continue to work in the constructive spirit it had demonstrated during the discussion of the case. In conclusion, the speaker underlined that the discussion should focus only on the Convention under examination.

The Government representative stated that the Government would provide due follow-up, together with the ILO, on the grounds of the debate to ensure the full implementation of the Convention. Turning to the intervention of the Worker members, which gave rise to the impression that the Government had not supplied the list of occupations in which women could not be employed, he recalled that information on this list could be found in the written information submitted by the Government to the Committee. In this respect, he considered that the use of many technical terms related to the area of metallurgy had possibly provoked this confusion. In this context, he stressed that the jobs on this list were not tantamount to an indication that women were not qualified or competent to do these jobs. The jobs which appeared on the list were inaccessible for women due to their hazardous nature or difficult conditions. In conclusion, he reiterated that the Government would consider the recommendations of this Committee to ensure full implementation of the Convention.

The Employer members, noting the Government's indication that the purpose of the list of jobs for which it is prohibited to engage women was for the protection of these persons, reiterated their concern that protective measures based on stereotypes with regard to professional abilities and roles in society violated the principle of equality of opportunity and treatment between men and women in employment and occupation. They supported the comment of the Worker member of Norway that, rather than excluding women from performing some professional roles, it was important to assure that work was safe for both men and women equally. The conclusions should include the areas regarding which the Government was requested to provide further information, as well as information on the progress made with respect to the required changes to the Labour Code. The Government's indication that it hoped to work on resolving these issues, in order to achieve full compliance with the Convention in both law and practice, was encouraging.

The Worker members emphasized the importance of the question of non-discrimination and the equality of treatment of workers, without the possibility to exclude or giving preference on the grounds of race, colour or sex. It was undeniable that the Government had made important efforts on the subject, but beyond the existence of legislation, its effective application was necessary and there still remained a lot of work on this issue in order to ensure that discrimination on the grounds of colour or race was no longer a reality in the country. The concepts of direct and indirect discrimination were also incorrectly defined which risked cancelling out the measures taken to combat discrimination. Discrimination against women with respect to access to certain professions, concerning acts of violence or harassment at the workplace as well as the level of remuneration remained problems on which the Government had not given a completely satisfactory reply. In the light of these objectives, it was necessary to evaluate the results obtained in the implementation of the Roadmap for Employment 2020 and the general agreement concluded between the Government and the national workers' and employers' organizations for the period 2012–14. The consultations to be carried out to this effect implied moreover the full respect of Conventions Nos 87 and 98 and should take place with independent trade unions respecting pluralism. The Government should therefore request technical assistance from the ILO and provide information to the Committee of Experts in time for its session in 2014 concerning the list of occupations from which women were excluded, statistical data on the salary gap between men and women, as well as statistical data on the employment situation of men and women who were not ethnic Kazakhs.

REPUBLIC OF KOREA (ratification: 1998)

The Government provided the following written information.

With regard to the protection of migrant workers, the Government of the Republic of Korea aims to set best practice in the management of labour migration. A transparent selection system is in place to help prevent workers under the Employment Permit System ("EPS workers") from being taken advantage of. After entering the Republic of Korea, EPS workers are provided with detailed information on their rights under all relevant labour laws, including the Labour Standards Act, occupational safety education and detailed instructions on the means and procedures for filing a complaint when their rights have been infringed. The education costs are fully borne by their employers. Labour laws, including the Industrial Accident Compensation Act, the Minimum Wage Act and the Labour Standards Act, are also applied to both migrant workers and Korean nationals. The 47 local labour offices across the country are responsible for dealing with complaints of the violation of rights under labour laws. After providing guidance and conducting inspections of 3,048 workplaces in 2013, the Government found a total of 5,662 cases of violations (in 1,992 businesses) and issued

correction orders, imposed fines and notified relevant agencies, including the Ministry of Justice, of the violations. Most cases involved violations of administrative duties or procedures, such as migrant workers or employers not joining insurance schemes and employment changes not being reported. Sixty-four job centres under the Ministry of Employment and Labour across the country deal with various employment-related matters for migrant workers, including the extension of employment periods, and provide counselling services regarding legal matters. A total of 37 support centres and one call centre for migrant workers are in operation. These provide various services free of charge, such as counselling services on labour law language and cultural awareness training, medical check-ups and shelters. Five more support centres will be established in 2014, to improve services for migrant workers and better protect their rights. Free interpretation services are also provided. In 2013, the Government, in cooperation with the embassies in the Republic of Korea of countries of origin, organized 11 cultural events for migrant workers. A national cultural event called the "Korean Cultural Festival with Migrant Workers" was also held. In 2013, 5,826 migrant workers completed fully funded vocational training in various areas, such as computer literacy, operation of heavy construction equipment and car repair. An insurance system designed exclusively for EPS workers is in operation. The Government requires employers to join the "guarantee insurance" for overdue wages and the "departure guarantee insurance" to protect migrant workers from the risk of overdue wages or severance pay. Under the returnee support programme, information sessions are held to inform the workers on how to prepare for their return to their home countries. For instance, instructions are provided on how to collect unpaid wages and receive insurance benefits. In 2013, 68 information sessions were held and attended by 6,465 EPS workers. After the departure of EPS workers, the Government supports migrant workers to build returnee community networks in their home countries, provides job placement services for returnees and ensures that migrant workers who left the Republic of Korea without receiving the insurance compensation of the "departure guarantee insurance" or the return cost insurance, receive such insurance compensation. In 2013, 270 million Korean won (KRW) (approximately US$265,000) were paid for 249 cases under "departure guarantee insurance", and KRW500 million (approximately $490,000) were paid for 1,208 cases under the return cost insurance. If the returnees decide to come back to the Republic of Korea and find work in the Republic of Korea, they are provided with an opportunity for re-entry and employment.

With reference to equality of opportunity and treatment for women and men, the economic activity rate and employment rate of women in the Republic of Korea were on a continued rise (53.9 per cent of female activity rate and 52.2 per cent of women in employment in 2009 and 55.6 per cent of female activity rate and 53.9 per cent of women in employment in 2013). The percentage of women workers and managers has risen steadily in workplaces which are subject to the Government's affirmative action scheme, with 36 per cent of women workers and 17 per cent of women managers in 2013. The proportion of women workers in the public sector has also increased, with 42.7 per cent of women public officials and 27.7 per cent of women appointed in central agencies in 2013. Moreover, the use of paid maternity leave (up to 90 days) and childcare leave available to those with a child under the age of 6 has increased. In this respect 90,507 women took maternity leave in 2013 and 69,616 workers took childcare leave in 2013.

Respecting the supervisory activities of labour inspectors concerning discrimination against non-regular workers, in 2013, the Government inspected a total of 1,112 workplaces which employ a large number of non-regular workers, such as fixed-term, dispatched and in-house subcontracted workers: 991 were found to have committed 4,468 violations of labour laws, 54 cases were sent to the prosecutor's office; fines were imposed in nine cases; and administrative action was taken in 123 cases. Most cases involved violations of the Labour Standards Act or the Minimum Wage Act, and other cases included 589 violations of the Act on the Protection of Dispatched Workers and there were 213 violations of the Act on the Protection of Fixed-term and Part time Employees.

In addition, before the Committee, **a Government representative** said that the Government had been making every effort to respect, promote and implement the principles and rights enshrined in the Convention and highlighted the Korean Government's legal amendments and policy measures to eliminate discrimination in employment and occupation. The Act on the Protection of Fixed-Term and Part-Time Employees and the Act on the Protection of Dispatched Workers had been revised in March 2013 and March 2014 to ensure that the working conditions and fringe benefits of fixed-term and part-time workers were guaranteed against discrimination and to establish a punitive monetary compensation system to address repeated or wilful discrimination. In December 2013, the Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation had been amended and the minimum proportion of women employees and managers which was used as the criterion to impose affirmative action obligations had been raised from 60 per cent of the average number of women workers for the same industry to 70 per cent. Under the revised Act on Equal Employment and Support for Work-Family Reconciliation in January 2014, a list of employers failing to comply with affirmative action obligations would be made public beginning in 2015. In February 2014, the Government had announced a plan to help working women, who were married or had children, maintain their careers. Under the plan, it had become possible for people entitled to childcare leave to ask instead for a reduction of their working hours. Moreover, the Act on the Employment of Foreign Workers had been amended in 2013 to require "departure guarantee insurance" benefits to be paid to foreign workers within 14 days after the date of departure. With regard to equality of opportunity and treatment between men and women, the Government supported the vocational skills development of women through a vocational voucher system to enhance women's employability, and to help them return to work. Furthermore, the Government had announced Support Measures for Working Women's Career Continuation at Every Stage of Life on 4 February 2014, aiming to reduce the childcare burden of women, increase men's participation in childcare, and create a working environment that engendered a healthy work–family balance. The Government, all public institutions and businesses with 500 employees or more, were taking affirmative action to tackle discrimination against women. Since an affirmative action programme had been introduced in 2006, the employment rate of women had increased from 30.8 per cent in 2006 to 36 per cent in 2013, and the percentage of women managers had increased from 10.2 per cent in 2006 to 17 per cent in 2013.

The Government representative indicated that, since the adoption of the Measures for Non-regular Workers in the Public Sector in November 2011, 22,069 non-regular workers engaged in permanent and continuous work in the public sector had become workers with open-ended contracts by 2012, increasing to 31,782 in 2013. The

Government had revised the Act on the Protection of Dispatched Workers in August 2012 to require employers to directly and immediately hire illegally dispatched workers identified by the labour inspection. As a result, 2,489 people in 2012 and 3,800 people in 2013 had been directly hired in accordance with government orders. The Government had also made it mandatory for companies with more than 300 employees to announce their current status of employment types starting from 2014 to encourage companies to convert non-regular workers into regular status. The Government planned to introduce the Guideline for Non-regular Workers' Employment Security and Conversion into Regular Status in 2014. With regard to migrant workers, EPS workers were allowed to change workplaces if certain criteria provided for in the law were met. Every year, the Government inspected approximately 5,000 workplaces which employed migrant workers, issued corrective orders and imposed sanctions against violations of labour laws to protect the rights of migrant workers. With regard to discrimination based on political opinion, he recalled that in 2012 the Constitutional Court had ruled that the prohibition and restrictions on political activities of public officials, including school teachers, was constitutional. In conclusion, the policy measures of the Government were designed to eliminate discrimination in a way that was most appropriate within the framework of the national context and practices of the Republic of Korea, in accordance with Article 3 of the Convention. He added that the Government would continue to move forward in consultation with various sectors, including the tripartite constituents, for sustainable growth and social development.

The Employer members recalled that this case was being examined for the third time since 2009. In 2013, the Committee had concluded that the Republic of Korea should take steps in three areas to prevent or bring discriminatory practices to an end with respect to migrant workers, women, and primary and secondary school teachers. With respect to the EPS, migrant workers were allowed to change jobs when they were subject to unfair treatment. Foreign workers could file a complaint with the National Human Rights Commission (NHRC) and submit the outcome of the decision to their respective job centre, which could authorize the migrant worker concerned to change employment or carry out an enquiry into the grounds of discrimination. Only six cases had been brought before the NCRC, and five had been dismissed. As stated by the Employer members in 2013, these figures confirmed the difficulties of migrant workers to assert their rights for reasons linked to linguistic and cultural differences. They encouraged the Government to continue its efforts to ensure that migrant workers had access to the information and assistance needed to handle impartially discrimination cases that were based on nationality, religion, gender or disability, as provided for under the legislation. Furthermore, they were of the opinion that the arrangements in place worked well because the Government had provided specific data on the number of workplaces inspected, the number of violations and the steps taken to make migrant workers aware of the applicable legislation and procedures of redress for both foreign and national workers.

With regard to discrimination against women, an increasing number of enterprises were changing the status of irregular workers to regular workers, and labour inspections had been carried out on a regular basis since 2012. The Government had therefore taken a number of measures to curb irregular employment. The fact that these measures mostly affected women, who accounted for a large share of irregular employment, did not mean that they could systematically be qualified as discrimination. However, as requested by the Committee of Experts, more specific information on this matter would be relevant to be able to assess the impact of the measures taken on women's employment. With regard to equality of opportunity and treatment, the Employer members noted that a number of positive action mechanisms were operating in the Republic of Korea, such as the obligation for enterprises employing more than 500 workers to publish information on the number of women employed and women managers. The system of honorary equal employment inspectors also operated. Although additional measures could be taken, the current ones were developing in the right direction with a view to increasing the activity rate of women and putting a stop to all forms of discrimination towards them. They encouraged the Government to continue with this course of action. Referring to a ruling by the Supreme Court on the participation of teachers in political activity (2012), the Employer members felt that the political neutrality of teachers in primary and secondary schools was justified when this principle applied in the education sector. When the principle of political neutrality was applied outside this sector, it should be justified on the basis of specific criteria and objectives linked to the requirements of a particular job, because it was likely to constitute discrimination based on political opinion. In 2013, the Employer members had asked the Government to provide information on the matter. They therefore called on the Government to ensure that the principle of neutrality was thus defined and that the requirement of teachers' political neutrality was justified on the basis of specific and objective criteria in accordance with Article 1(2) of the Convention. They also asked the Government to take the necessary steps to protect teachers against discrimination based on political opinion.

The Worker members deeply regretted that serious violations of the Convention had continued in the Republic of Korea. They protested against the arrest of the General Secretary of the Korean Confederation of Trade Unions (KCTU) following his participation in a march calling on the Government to take responsibility for the recent ferry disaster. His arrest undermined the ability of the KCTU to carry out its important work as a national centre and to participate fully in the work of the ILO. The Government had been urged in 2013 to avail itself of ILO technical assistance, which it had not done, in order to bring its laws and practice into line with the Convention. Migrant work was regulated under the EPS. Concerns had been expressed about the system and steps should be taken to address them. Referring to the comments of the previous the year, the Government was once again urged to take steps, in collaboration with employers' and workers' organizations, to protect migrant workers from discrimination. The EPS legislation did not expressly prohibit changes of workplace; however various restrictions made the process difficult in practice. Migrant workers were only allowed to change their job a total of three times in a three-year period. In addition, their employer had to agree to the change by signing a release document and, where permission was not granted, migrant workers who left their jobs lost their regular migration status. The job centre had the authority to deal with cases without release papers. In such instances, however, the burden of proving discrimination fell entirely on the migrant worker. Although a Ministry of Labour directive covered such cases, the Committee of Experts had noted that it was still not entirely clear how jobcentres "objectively recognized" a victim of discrimination. Korean labour law imposed a ban on political expression by civil servants and certain teachers, which had been denounced by the ILO on several occasions. They once again urged the Government to take steps to ensure effective protection against discrimination based on political opinion, in particular for pre-

school, primary and secondary school teachers. The Korean Constitutional Court had ruled in March 2014 against the Korean Government Employees Union (KGEU) and the Korean Teachers and Education Workers' Union (KTU), two public sector unions that had filed a complaint to strike down the ban on political expression. In November 2013, the Government had used the excuse of an alleged lack of political neutrality to obtain warrants to search and seize the servers of the KGEU and KTU. The prosecutor's office had conducted a second search on another server and had inspected personal telephone records. A third search had been conducted on another seven servers, which was not included in the warrant. It was clear that the seizure had had no other purpose than to harass and intimidate KGEU leaders and members. The KTU had been deregistered because the union allowed dismissed and retired workers to be members, even though the ILO had repeatedly reaffirmed that such workers were entitled to be union members. A final decision on this case was expected in June 2014. The KGEU had never been registered for the same reason.

Over a third of the workforce was in some form of precarious work. This had created a two-tier labour market with little mobility between the two tiers. Precarious workers earned roughly 40 per cent less than regular workers doing the same or similar work. Women workers were disproportionately affected. The seriousness of the problem had been noted by the international community, including the International Monetary Fund (IMF). Women's participation in the labour force was the lowest in the Organisation for Economic Co-operation and Development (OECD), at about 60 per cent, which was 23 per cent below Korean men. The gender earnings gap was also the highest in the OECD. Indeed, the Committee of Experts had observed many times that the concentration of women in precarious forms of employment violated the country's obligations under the Convention. The Worker members urged the Government to take the necessary measures to protect fixed-term, part-time and dispatched workers against discrimination, and particularly women, and to provide information on the impact on precarious employment of the measures adopted in 2011, including the measures to convert non-regular employment into regular employment and measures for the protection of subcontracted workers. The trade unions had yet to see any progress on the regularization of workers engaged under precarious work conditions.

The Employer member of the Republic of Korea explained that, under the EPS, foreign workers were allowed to change workplace up to three times during their stay in the Republic of Korea (and two more times in the case of re-employment). However, there was no limit to workplace changes when they were not due to the behaviour of the migrant worker. For example, in the case of the closure or suspension of a business, or of unfair treatment. Findings had shown that the number of foreign workers applying for a change of workplace had been increasing, often for the purpose of obtaining a wage increase. Under the circumstances, if foreign workers were to be fully allowed to change workplaces, they would be tempted to do so even for a minor difference in wage levels. The frequent movement of migrants would make it difficult for employers to manage their workforce and increase their financial burden. Regarding discrimination based on sex and employment status, the relevant laws had been amended to prohibit discrimination and workers could request corrective measures. Employers in the Republic of Korea were concerned about increased labour market regulation. In this regard, she drew attention to the rule that, if a fixed-term or part-time worker had been working for longer than two years at one workplace, the workers' employment contract had to be converted and the worker was considered to be directly employed. Increased labour market regulation had made the labour market more rigid, which had led employers to hire more non-regular workers to adapt to the changing business environment. Regarding equality of opportunity between men and women, she agreed that women's economic participation rate was low. In order to increase their participation, it was necessary to take into account a large spectrum of different types of employment. By doing so, work–life balance could be achieved. It should also be taken into account that some women had voluntarily opted to become non-regular workers for reasons of maintaining a work–life balance. In general, women's wages were lower than men's, but that was a result of many factors, rather than just discrimination. For example, many women preferred to work part time because of childcare responsibilities, and in this case their working hours and work experience would be less than that of men. Moreover, the law already required certain companies to apply affirmative action and the Republic of Korea was the only country in Asia which required companies to do so. The level of regulation was also higher than that of other advanced nations. Lastly, regarding discrimination on the basis of political opinion, she reiterated that in the Republic of Korea civil servants and teachers were asked to remain politically neutral. This, however, did not mean that they had to give up political freedom. Rather they were requested not to show their political views when performing their profession.

A Worker member of the Republic of Korea indicated that, despite the conclusions adopted by this Committee in 2009 and 2013, no tangible improvements could be noted. Precarious workers, the majority of whom were women, accounted for 50 per cent of the total workforce and 78 per cent of the workforce in those workplaces with fewer than five employees. Women non-regular workers earned 35.5 per cent of men's wages. While 84 to 99 per cent of regular workers were covered by social security, only 33 to 39 per cent of non-regular workers were covered by such schemes. Similar situations existed with respect to severance pay, bonuses and overtime pay. This important wage gap between regular and non-regular workers was the consequence of serious flaws in the existing legislation. It was also extremely difficult for precarious workers to seek redress as they feared retaliation by employers. Employers generally terminated employment contracts before the completion of a statutory period that would allow fixed-term workers to be considered as regular workers. Furthermore, workers in various special employment arrangements were not covered by the legislation, and were thus denied appropriate working conditions and social protection. The Government should take all necessary steps to bring the relevant law and practice into line with the Convention, in particular with respect to effective access of these workers to remedies. The Labour Standards Act should provide for direct employment by the user company and all workers should be covered by industrial accidents insurance and provided with equal training opportunities. In this regard, it should be noted that in the recent ferry disaster, which had claimed 300 lives, more than two-thirds of the crew members were contract workers.

Another Worker member of the Republic of Korea expressed deep regret at the lack of improvement in the implementation of the Convention. Indeed, the situation had been exacerbated. The EPS still did not provide migrant workers with adequate flexibility to change employer. In addition, on 29 July 2014, the amended provision regarding severance pay of the Act on Foreign Workers' Employment would enter into effect. After this, migrant workers would only be paid severance pay "within 14 days after the departure date", whereas up to now they

had received the payment within three days of leaving their job, regardless of whether they left the country. Turning to the situation of non-regular workers, she indicated that discrimination and exploitation of indirectly employed workers had become an issue of national importance when a subcontracted worker had committed self-immolation in October 2013. Companies, especially major conglomerates, were increasingly turning to this type of employment in order to circumvent labour regulations, and this practice was increasing the number of precarious workers. Workers in indirect employment were discriminated against despite the fact that they were doing the same work as regular workers. This year, the Government had strengthened the penalties and introduced punitive damages against employers who discriminated against precarious workers. While the Government considered this to be an improvement, in reality penalties and punitive damages were imposed only in cases in which the Labour Relations Commission found discrimination following a complaint by an individual worker. Since trade unions were still not allowed to represent individual precarious workers, those workers had no access to effective remedies. She also drew attention to the very high number of fatal industrial accidents incurred by indirectly employed or subcontracted workers, and regretted the death of eight subcontracting workers during work in the past two months. Under the Occupational Safety and Health Act, subcontracted workers were not equally protected against industrial accidents, even when doing the same job at the same workplace. In practice, subcontracted workers did not have safety equipment and could not participate on an equal footing with other workers in the council or investigation body on occupational safety and health. In order to end the increase in the death toll of precarious and especially subcontracted workers, all workers should be protected under the same system without discrimination. The Committee's conclusions the previous year had not been implemented and the Government was in violation of many other ILO standards, which had required an urgent ILO intervention four times within a year. A direct contacts mission was therefore inevitable to end this indifference towards international labour standards.

An observer representing Education International addressed two issues affecting teachers and the KTU. The first concerned the fact that teachers did not enjoy civil and political rights, unlike lecturers in higher education and other citizens. In that regard, the Committee of Experts had urged the Government to take immediate measures to ensure that elementary, primary and secondary school teachers were protected against discrimination based on political opinion, as provided for in the Convention. In March 2014, the Constitutional Court had issued a contrasting verdict on the status of the KTU, in which a narrow majority of the judges (five out of nine) had decided that the discrimination was reasonable owing to the different nature of the work, thus ruling against the recommendations made by the Committee in 2013 that the Government should bring its legislation into conformity with the Convention. The second issue concerned the fact that retired and dismissed teachers were not entitled to join a trade union. That situation had led the authorities to annul the legal status of the teachers' unions. The law provided that only employed teachers could join a union and the Committee on Freedom of Association had repeatedly urged the Government to repeal the provisions prohibiting dismissed and unemployed workers from keeping their union membership. Until now the KTU, of which nine members had been dismissed, had reformed its legal status, but on 19 June 2014 the decision on the legal status of the union would be issued. Regarding the KGEU, the decision of the Supreme Court to support the Government's refusal to register the union was a matter of concern. In March 2014, the Committee on Freedom of Association had urged the Government to take necessary measures to ensure the certification of the KTU without delay and to facilitate the registration of the KGEU. Education International was especially concerned about the avalanche of judicial decisions that undermined respect for ILO Conventions and narrowed the scope of union activities in the Republic of Korea. The Government should once again be asked to respect international labour standards by giving all teachers civil and political rights.

An observer representing Public Services International (PSI) raised the issue of deeply entrenched discrimination against precarious workers in the public sector, where a 70 per cent employment rate was envisaged through deregulation, cost cutting and efficiency maximization. These measures were part of a plan to expand part-time jobs, targeted at 3 per cent of newly hired civil servants in 2014. These lower paid, lower status jobs predominantly targeted women workers. This policy deepened discrimination between men and women, and had a negative impact on the quality of public services. Since the election of the new President of the Republic, short-term contracts for directly employed public sector workers had been converted into permanent contracts after the completion of two years of continuous employment. This measure however only targeted one third of the total of one million precarious workers in the public sector, and did not eliminate wage discrimination against these workers or enhance their job security. The measure had also resulted in an artificial reduction of the duration of short-term contracts with the aim of avoiding completion of two years' of continuous employment. She referred to the Sewol ferry tragedy of 16 April 2014, which had its origins in deregulation, outsourcing and privatization policies, and the expanded use of precarious workers. To genuinely address discrimination against precarious workers, she called on the Government to develop a plan for the gradual direct employment of subcontracted workers with permanent jobs. She called for an ILO direct contacts mission to achieve real progress, based on the application of the relevant ILO Conventions, which had become more relevant given the export of the Korean model of precarious work to other countries by large Korean companies.

The Worker member of Nepal said that under the EPS, introduced in 2004, an employer had complete control over migrant workers. Migrant workers could not change employers, and this restriction increased the risk of exploitation and abuse in the workplace. The Government had also suppressed the trade union rights of migrant workers, and since 2005, most leaders of migrant trade unions had been deported. Following an intervention of the courts, the migrant workers' trade union had been registered, but the attitude by the Government remained suppressive. Despite having passed a Korean language test in order to enter the labour market, migrant workers were not treated as qualified workers. These workers faced discrimination in overtime and were forced to work long hours and to engage in unpaid work. The forthcoming legislation regarding severance pay would also result in discrimination against migrant workers. In addition, the exclusion of the agricultural sector, where most migrant workers were engaged through the EPS, contributed to discrimination against these workers. The recent publication by the EPS office of a list of migrant workers in an irregular situation constituted a violation of workers' privacy. The EPS needed to be improved so that migrant workers were treated equally in terms of wages, social security, severance pay, working hours and union activity. The labour law should be enforced equally in workplaces where migrant workers were engaged and their trade union rights should be respected.

The Government representative said that, although the labour legislation applied equally in principle to Korean workers and migrant workers covered under the EPS, it nonetheless allowed for a certain flexibility given the varying characteristics of these workers. Both the 1958 Report prepared with the view to the adoption of Convention No. 111 and the 1996 Special Survey on equality in employment and occupation noted that the concept of national extraction in the Convention did not refer to the distinctions that might be made between the citizens of a given country and persons of another nationality. Furthermore, the direct comparison between the severance pay of Korean nationals and the departure guarantee insurance provided for under the EPS was not appropriate. Although the departure guarantee insurance constituted a way of ensuring severance pay for foreign workers, it also set out to prevent any delays in payment and to secure a livelihood for these workers once they had left the country. The burden of proof did not lie solely with the workers. If a worker under the EPS submitted evidence, the local job centre made a judgement primarily on the basis of that evidence. However, in the event of no or insufficient evidence, the job centre itself tried to gather together the facts to deal with the case. In addition, the Government was implementing various measures to facilitate the entry of non-regular workers into regular employment. In this respect, enterprises with over 300 employees were now bound to provide statistics on the various work contracts applicable to their staff. This year, the Government was planning to establish guidelines to help non-regular workers enter regular employment and to encourage those workers to accept the guidelines voluntarily. It also intended establishing its role as a model employer. As stated in the 1996 Special Survey of the Committee of Experts, the Convention did not contain any specific provision concerning the right to establish trade unions, thereby avoiding any overlap with Convention No. 87. There was therefore no need to go into detail on the issues related to the so-called KGEU and the KTU. It should nonetheless be noted that the measures taken by the Government with respect to the KGEU and the KTU were both lawful and legitimate. In conclusion, he hoped that the Committee of Experts would continue to support the effective implementation of the Convention within the specific scope of the instrument and recalled the Government's firm commitment to eliminate all forms of discrimination in employment.

The Employer members considered that problems remained in the application of the Convention, even though it should be recognized that steps had been taken by the Government with regard to discrimination likely to affect migrant workers, workers in precarious employment, women and also public sector teachers. Before any proposal was made to send a direct contacts mission, the Government needed to step up its efforts and its cooperation with the ILO to take account of the observations of the Committee of Experts concerning the various situations that might generate discrimination, including discrimination concerning access to legal remedies for migrant workers and discrimination on the basis of political opinion affecting teachers in the public education system.

The Worker members recalled that the Government and Employer members had provided information on the measures taken to address discrimination in the country, while several Worker members had indicated that important steps still needed to be taken. Migrant workers still faced discrimination in the country, and many public sector workers were prohibited from expressing their political opinion, in violation of the Convention. The Government was not relieved of its obligations under the Convention, even if the decision by the Constitutional Court was inconsistent with the Convention. Even with the amendments made to the legislation on dispatch workers and fixed-term workers, a large portion of the Korean workforce continued to be trapped in low-paid insecure jobs. They urged the Government to respect the civil and political rights of all teachers, to reinstate teachers dismissed for exercising freedom of speech and to allow dismissed and retired workers to be members of a union. They also urged the Government to take the necessary measures to ensure the re-registration of the KTU and to facilitate the registration of the KGEU. Moreover, they called on the Government to ensure that migrant workers were able, in practice, to change workplaces when subject to violations of the anti-discrimination legislation, that the legislation protecting migrant workers from discrimination was fully implemented and enforced and that migrant workers had access, in practice, to speedy complaints procedures and effective dispute resolution mechanisms. They also urged the Government to extend the scope of the labour law to the agricultural sector, where the majority of migrant workers employed under the EPS were working. They also urged the Government to take immediate measures to regularize the employment of non-regular workers, so as to eliminate employment discrimination against fixed-term, part-time, subcontracted and dispatched workers. This discrimination had a serious and lasting impact on workers' wages, employment security and social protection, particularly for women workers. Lastly, they urged the Government to accept a direct contacts mission to ensure that the observations and conclusions of the supervisory system, which had been reiterated on repeated occasions, were adequately addressed, and that the offer of technical assistance was re-extended, if necessary.

Employment Policy Convention, 1964 (No. 122)

MAURITANIA (ratification: 1971)

A Government representative recalled that Mauritania had been an ILO Member since 1961 and had ratified some 40 international labour Conventions, including the fundamental Conventions and a number of priority Conventions, including Convention No. 122 in 1971. In response to the observations made by the General Confederation of Workers of Mauritania (CGTM) in September 2013 concerning the lack of consultations with trade unions, he indicated that the claims made by the trade unions to the Labour Department on 1 May 2014 had been communicated to the Council of Ministers and that the commencement of negotiations was imminent. Given the absence of a national employment policy as referred to by the CGTM, the Government was stepping up its policy to further reduce poverty and to promote employment by means of important sectoral programmes, which had already had a positive impact on reducing unemployment to 10.1 per cent, down from 31 per cent in 2008, according to the employment survey that had just been conducted by the National Statistics Office with ILO technical support. From the viewpoint of strategic guidelines, the Ministry of Employment, Vocational Training, Information Technologies and Communication (MEFTC) intended henceforth to play a more active role with a view to organizing, monitoring and helping other actors involved in employment promotion in order to avoid a duplication of efforts. Focal points appointed in each ministry would be entrusted, in close cooperation with the Employment Directorate, with providing input to the database administered by this Directorate in order to establish a global and integrated information system on employment and vocational training. A short-, medium- and long-term action plan had been prepared by the MEFTC and adopted by the Council of Ministers. It envisaged the following actions and

measures: the updating and adoption of the national employment promotion strategy and its operational implementation plan; the establishment of a National Council of Employment, Technical and Vocational Training to guide policies and ensure their implementation; the establishment of a coordinating mechanism with the various departments to integrate the "employment dimension" in sectoral strategies and action plans, paying particular attention to sectors that were potentially job-generating (construction and public works, stockbreeding, agriculture, fishing, mining, tourism, etc.); the launching of the national information system that would make it possible to initiate, follow up and evaluate employment and vocational training policies and their implementation; the introduction of an agreement establishing a partnership framework between the MEFTC and the employers; and the setting up of a mechanism for dialogue, the sharing of experiences, and participation of the social partners in the design and validation of strategies and action plans. The Government was also including small and micro-enterprises (SMEs) in a strategy in which they played a priority role in developing of self-employment, to structuring informal production units and providing an appropriate framework for clients of microfinance. In order to promote SMEs, the Government had taken the following measures: the setting up of a service entrusted with promoting SMEs within the MEFTC; the agreed updating of the national promotion strategy of SMEs for the 2014–18 period and its endorsement by all the public, private, technical and financial partners concerned; the reorganization of the institutional framework of the National Programme for Insertion and Support to the SMEs, with the inclusion in the steering committee of representatives of the State, those of the private sector (the employers and the Chamber of Commerce); and the registration of priority activities for setting up 1,000 SMEs.

With regard to the promotion of labour-intensive employment, a package of measures had been taken to incorporate an "employment objective" in all development programmes, to implement a number of specific programmes for integrating unemployed persons with qualifications into the agricultural, construction, fishing and environmental sectors, and to introduce a public service to improve assistance for jobseekers. Measures had also been taken to transform the project to promote stone-cutting into a sustainable public enterprise, and to give priority to labour-intensive methods in the construction of roads and buildings, and the installation of water and electricity networks. In order to introduce a high-quality system of technical and vocational training (FTP), training and professional development centres had been rehabilitated and their equipment upgraded. In addition, 54 teachers and 50 temporary trainers had been recruited, 34 study programmes had been established, and training courses had been diversified, especially by introducing short-term training programmes leading to certificates which had already benefited 1,500 young people. Two new multi-skill training schools had been established and grants had been disbursed, of which 70 were for training abroad. Although these measures had doubled the capacity (5,200 trainees in 2013, compared with 2,280 in 2008, excluding short-term skills training courses) and had improved, to a lesser extent, the quality of the service, they had not adequately met employment market and social demands. The main objective was to achieve by 2020 an upgrading of the FTP both from the qualitative and quantitative standpoint in order to achieve an appropriate capacity (15,000 places in training leading to diplomas and 35,000 places in short-term training programmes). The objectives would be revised in the light of the labour market survey and an in-depth appraisal of needs and potential of growth sectors. While waiting for the strategy to be updated, a short- and medium-term action plan had been proposed to deal with constraints linked to implementation, human resources, infrastructure, equipment, training programmes, financing and public-private partnerships. The Government was currently in discussions with the International Labour Office with a view to benefiting from strengthened technical assistance to establish an employment policy that would respond to the country's objectives.

The Worker members recalled that Convention No. 122 expressed the will of member States to achieve full, productive and freely chosen employment and required ratifying States to formally adopt a specific employment policy. The approach set out by the Government representative did not give full effect to the Convention. In its observation, the Committee of Experts referred to the comments of the CGTM which regretted the absence of a national employment policy and of consultations with the social partners. The CGTM also deplored the removal of employment and placement offices and the freeze on recruitment in the public service (except to replace retirees). Although Mauritania was a poor country, it had a mining sector, agricultural resources and a significant fishing zone. According to the country's trade unions, the greatest resources were exploited by multinational enterprises, and the economic benefits were not equally distributed among the population, which did not make it possible to create quality jobs. In that context, the Government could draw on the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration).

The Employer members recalled that the ILO Declaration on Social Justice for a Fair Globalization identified Convention No. 122 among the standards that were the most significant from the viewpoint of governance. In light of the wording of the requirements contained in Article 1 of the Convention, they considered that, while this promotional instrument required ratifying member States to adopt an employment policy, it did not specify the concrete contents of such a policy. This was appropriate, since the objective of full employment required broad and complex policy achievements in terms of economic policy (an adequate economic, political, social and legal environment, low inflation, low interest rates, guaranteed human rights, the enforcement of contracts and the security of property rights, etc.) and in terms of employment growth (employment-friendly social protection systems, a well-functioning labour market, etc.), which were factors that mostly lay outside the sphere of competence of the ILO. Moreover, the policy mix and the appropriate type of employment policy depended on national conditions. Therefore, in the view of the Employer members, the role of the Committee of Experts and the present Committee was to examine compliance with the provisions of Convention No. 122, that is to verify that there was an express intention on the part of the State to ensure full and productive employment, that there were measures and institutions in place to seek to realize that intention, and that the social partners were being consulted on those policies and measures that fell within their sphere of influence. The Committee of Experts was not competent to judge the validity, efficiency or justification of the policies adopted and measures taken, nor to propose the policies to be adopted or the measures to be taken. In the context of the observations of the CGTM on the absence of any employment policy, and on multinational companies exploiting the mining, fishing and agricultural resources of the country without adopting policies to promote employment, the Committee of Experts had made reference to its 2010 General Survey on the employment instruments and had requested the Government to provide information on the measures taken to reinforce the institutions necessary

for the achievement of full employment. However, the relevant General Survey was much broader than the scope of Convention No. 122, as it also covered the Human Resources Development Convention, 1975 (No. 142), the Employment Service Convention, 1948 (No. 88), the Private Employment Agencies Convention, 1997 (No. 181), and the related Recommendations. The Employer members believed that the current case should maintain its focus on Convention No. 122. They were also surprised to see a specific reference by the Committee of Experts to the MNE Declaration. While fully supporting the promotion of the MNE Declaration and its follow-up, the Employer members considered that these matters fell within the remit of the Governing Body. The Committee should therefore confine itself to examining the application of Convention No. 122, as it was not within the mandate of the Committee of Experts nor of the present Committee to discuss the MNE Declaration. They therefore requested the Committee to respect its own mandate, as well as the mandates of other ILO constitutional bodies. Reiterating that Convention No. 122 required governments to pursue an employment policy, consult the social partners and provide appropriate mechanisms for its review, the Employer members duly noted the concrete and exhaustive information provided by the Government representative. Should the information be confirmed, they considered that the action taken by the Government satisfied its obligations under the Convention. The Committee should therefore invite the Government to submit the above information in writing, substantiating it with concrete facts and figures.

The Worker member of Mauritania emphasized that Convention No. 122 underlined the need for dialogue on employment policy. With regard to the issue of multinational enterprises, which had a strong link with employment, he deplored the fact that those enterprises, with disregard for the laws of the country, enforced 12-hour working days in mines. Moreover, the country only received 4 per cent of the profits of the multinationals, whereas redistribution averaged 37 per cent at the global level. Although there could not be full employment without growth, there could well be growth that did not benefit employment. Action was required to redistribute the benefits of growth. With its vast territory, small population, rich mineral deposits and long coastline, Mauritania had significant potential. However, the Government's policies on mining and fishing were catastrophic for the country. Fishing licences granted to, among others, the European Union, the Russian Federation and China had led to the plundering of resources. Of the thousands of new jobs in the industrial fishing sector, only 2,000 had been created in the country. Moreover, the agricultural potential was not being exploited, and stockbreeding continued to be marginalized. In 1994, a National Employment Strategy based on consensus had been developed, with ILO technical assistance and in consultation with workers' and employers' organizations and civil society organizations. In 1995, many had protested at the imbalance between employment policy and training policy. Despite being approved in 1996, the employment policy had been put aside. In 2004, during the revision of the Labour Code, the state authorities had abolished employment offices without consulting the National Labour Council, thereby causing the loss of statistics on jobseekers. There was no consensus on the 10 per cent unemployment rate to which the Government had referred and it did not correspond to the economic data. National growth was driven by the mining sector, which generated 75 per cent of the balance of payments, but only provided 3 per cent of employment in the country. Following the terrible drought in 2012, agro-pastoral activities had dwindled significantly. A genuine employment policy required the participation of all the actors concerned, with clear objectives. It should be subject to consultation during its formulation, execution and evaluation. In that respect, technical assistance from the ILO would be welcome.

The Worker member of France recalled that Mauritania was classified as a low-income country in terms of GDP. Although poverty affected all of the population, it was more pronounced in rural areas, and particularly among women, who worked predominantly in the informal economy, and who therefore had little security and protection. The employment situation continued to be of concern: levels of unemployment were high, informal employment was predominant, the social protection system was weak, high population growth, low prospects of economic growth, the weak link between growth and employment, and the lack of any employment strategy. According to the five-year employment programme (2010–14), the situation derived from a profound change in the structure of the economy and the labour market dating from the 1990s, reflected particularly in the decline of the primary sector, the limited development of the secondary sector, that was dominated by large industrial units that depended on export demand, and the expansion of the tertiary sector, which mainly benefited foreign workers. Gaining access to information on job vacancies was also very difficult, while recruitment in the public service had dropped significantly because of a deliberate attempt to reduce employment and restore public finances by means of programmes backed by the International Monetary Fund and the World Bank. She called on the Government to establish an integrated system of labour statistics, by date and region, which could provide an objective basis for public decent work policies. The implementation of these policies would serve to promote social dialogue. A concerted and consensual national employment strategy, deriving its legitimacy from social dialogue, was urgently needed to defend the country against the blackmail practiced by multinational enterprises by imposing an unacceptable system of overtime that undermined the labour market and exhausted the workers. Training should also be a priority, so that those who were most vulnerable in terms of unemployment, especially women and young people, could acquire the skills they needed to find employment.

The Government representative stated that the Government was committed to consultation and social dialogue and that, in line with the requests made by the Employer and Worker members, the information that he had provided in his opening statement would be sent in writing to the ILO and included in the report on the application of the Convention. Regarding the situation of employment in the country, it should be recalled first of all that the 10 per cent unemployment rate disputed by the Worker members had been established by a recent study carried out by the National Statistics Office, in collaboration with the ILO Office in Dakar. Moreover, to create jobs, investment was necessary and, to attract investment, the rights of foreign investors, as well as those of workers, had to be guaranteed. Foreign workers and national workers were treated in the same way. Foreign workers possessed qualifications that were not found among the national workforce but, in the context of the policy of the "Mauritanization" of employment, they were obliged to train Mauritanian workers for the posts that they occupied. In 1994, an employment strategy had indeed been adopted, but it had been based on an inadequate training strategy. The decision had therefore been taken to separate training and employment. Training policy now focused on vocational training with a view to meeting the needs of the labour market. Regarding recruitment to the public service, more than 8,000 jobs had been created since 2008.

The Employer members said that Convention No. 122 dealt with development issues. The Convention stated that members "shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment". For that to be achieved, certain conditions first had to be in place, such as the necessary legal framework, infrastructure and a training framework that corresponded to the needs of the labour market. They looked forward to receiving concrete information from the Government in order to evaluate the progress that had been achieved, bearing in mind that there was always room for improvement. The Employer members were ready and willing to discuss with the Worker members any problems that might arise, but that discussion should take place in the appropriate forum. A discussion of multinational enterprises in Mauritania belonged in the Governing Body in the context of the MNE Declaration and its follow-up. The current discussion was not, and should not be turned into a legal discussion on the application of the Convention.

The Worker members thanked the Government representative for the information provided on the employment measures which had been adopted, noting that it would be included in the report to be examined by the Committee of Experts. Returning to the statement made by the Employer members, the Worker members emphasized that it was clear that there was no confusion between the role and competencies of the Governing Body and those of the present Committee. In referring to the MNE Declaration, the Worker members were not seeking to take the place of the Governing Body. For them, the present Committee had two functions: to analyse and to supply information, inter alia, information from trade unions. That was the context in which the reference to the MNE Declaration had been made. Regarding multinational enterprises in the mining, agriculture and fishing sectors in Mauritania, the issue was the redistribution of profits to the population, particularly in terms of job creation. It should be noted that the issue had been mentioned by the Government representative himself. The Worker members supported the Government's request for technical assistance and emphasized the importance of government decisions being converted into specific actions in order to develop a genuine employment policy that was based on dialogue and had an impact on people's day-to-day lives.

PORTUGAL (ratification: 1981)

A Government representative stated that his Government had adopted active policies to reform the labour market as part of the Economic and Financial Adjustment Programme established to revive sustainable employment and consequently reduce unemployment, where a positive trend had been emerging since the end of the first quarter of 2013. According to the data provided by the National Statistics Office, the employment rate in the first quarter of 2013 was 48.8 per cent and of 50.2 per cent in the fourth quarter. In 2013, between the end of the first and fourth quarter, a total of 114,000 jobs had been created. In the first quarter of 2014, the employment rate was 49.8 per cent and 72,300 jobs had been created in comparison with the first quarter of 2013. The rate of full-time employment had increased in comparison with that of part-time employment, and the number of contracts of indefinite duration had risen by 3.5 per cent in comparison with the first quarter of 2013. There was also a clear downward trend in unemployment, which had continued for four consecutive quarters. The unemployment rate, which had stood at 17.5 per cent in the first quarter of 2013, had fallen to 15.1 per cent in the first quarter of 2014, which meant a 138,700 drop in the jobless total in one year. According to EUROSTAT data, that trend was holding in 2014. In April 2014, with the unemployment rate standing at 14.6 per cent, Portugal was recording the second largest drop in unemployment in the European Union. The youth unemployment rate had fallen by 4.2 percentage points since the first quarter of 2013 and in April 2014 it had stood at 36.3 per cent, which corresponded to a reduction of 16,000 in the number of unemployed young persons in one year. The Government's action in the sphere of employment policy followed the specific guidelines and measures contained in the agreement entitled "Commitment to growth, competitiveness and employment", concluded between the Government and the social partners in January 2012. The "Programme for the relaunching of the public employment service" was an example of the measures adopted under the agreement and provided for a comprehensive rationalization of active employment measures in collaboration with the social partners to give better support to unemployed persons and active workers. The public employment service was tripartite and played a key role in combating unemployment and in job creation, employment promotion and vocational training. The Government referred to the establishment in March 2012 of an integrated, cross-cutting strategy with the prime goal of ensuring that the adjustment was more efficient and effective in the public employment service, and the application of the "Programme for the relaunching of the public employment service" by means of the "adjustment intervention model", which sought to improve the categorization of unemployed persons by taking account of their needs in order to facilitate their return to the job market. Those changes allowed the employment service to attract a greater number of job offers and an improvement in the capacity of the public employment service to place people in jobs. By comparison with 2012, there had been a 49 per cent rise in job vacancies and an increase of 43.5 per cent in job placements in 2013. Between January and April 2014, employment rose above 52.4 per cent and job placements increased by 49.4 per cent. The Government also referred to two specific training measures, both taken with a view to avoiding long-term unemployment, which applied to 235,000 unemployed persons in 2013 and to 101,000 persons in January–April 2014.

Regarding youth unemployment, specific programmes adopted since 2012 had benefited 100,000 young persons via internships, recruitment support, enterprise development and vocational training. A total of 35 per cent of young people who had undertaken training and 70 per cent of those who had embarked on internships subsequently managed to find jobs. The "National youth guarantee implementation plan" was currently under way. Measures to improve the business climate included financial support for self-employment and enterprise creation for the unemployed through enterprise creation support measures and the National Micro-Credit Programme, which had resulted in the creation of 1,090 jobs and the advance payment of unemployment benefits to finance self-employment, which had catered to 2,643 persons. In 2013, the number of new enterprises had increased by 15 per cent and the number of enterprises that had gone into liquidation had fallen by 30 per cent in comparison with 2012. The Government representative added that training needs at national, regional, local and sectoral levels were taken into account in planning the provision of training, following the analysis of training needs with the participation of the social partners.

The Employer members said that this was a difficult case in a number of respects. It was difficult for the Government, as it was required to respond to an economic and financial crisis in a manner that both stabilized its finances and raised productivity. For the social partners the challenge lay in their role in employment creation policies as well as the role of small and medium-sized enterprises. The case was also difficult for the Committee of Experts

as this body was composed of lawyers who lacked the specific expertise of a labour economist or public policy expert. Therefore, the Committee of Experts rightly limited itself to asking questions and raising issues rather than providing dogmatic positions. As to the measures taken, the Government had not acted in a unilateral manner, as the majority of the social partners had agreed on the modifications introduced to the Labour Code as well as on a number of economic and employment adjustment programmes on the grounds of dialogue carried out at the national and regional levels. Although there had been some progress, it remained a case of concern due to the high level of unemployment. However, there existed a number of different policy paths available to meet the obligations of the Convention, which consisted in the proper functioning of the labour market with both high levels of employment and good quality occupations. In this regard, the 2013 Declaration of Oslo entitled "Restoring confidence in jobs and growth" correctly reflected the spirit of the Convention when it called for the need to establish policy coherence between social and economic measures in order to overcome the negative economic, social and political effects of the crisis. With regard to employment and the obligations under the Convention, the concerns of the Employer members were with regard to the creation of jobs that covered the basic rights and standards, and not to an assessment of whether these jobs provided the best employment conditions, skills or career opportunities. A country coming out of an economic and financial crisis had to focus on the creation of sustainable jobs in a strengthened labour market. The requirement of an active employment policy, set forth under the Convention, was not tantamount to a policy that was created, conducted or financed by the State. There was no magic formula regarding active labour market policies and several elements could play a role in this respect, such as the promotion of self-employment and the financial stability of the markets. Turning to the issue of youth employment, they considered that some Government measures designed to create youth employment through public spending in training could result in discontent and loss of confidence in the training and skills system if it did not lead to real jobs. There was a need for a viable economic base suited to the creation of employment. In this respect, the creation of sustainable employment depended on the existence of enterprises that were subject to a policy that created a favourable environment for entrepreneurship. Turning to the creation of jobs in small and medium-sized enterprises raised by the Committee of Experts, these enterprises had the potential to increase the labour market capacity and policies to support such enterprises would act as a supplement to labour market policies in meeting the goals of the Convention.

The Worker members stressed that this case raised the issue of the compatibility of austerity measures with ILO standards. In this respect, reference should be made to Article 1 of the Convention, which was inspired by the basic values of the ILO, and to the Declaration of Philadelphia. The purpose of the Convention was not to grant individual or collective rights to workers, but to serve as a pragmatic instrument, recalling that the ultimate aim of the economy was to serve the cause of all human beings and not to enrich only a few. Contrary to what had been said, the issue was not about economic and social policy but, remaining within the legal context, about examining whether the policies being conducted complied with the principles of the Convention, which did not prevent the adjustment of social policy to meet economic needs. These principles allowed for an examination of the extent to which certain elements of social policy might be justified by these economic needs, especially in the event of cuts in pre-existing levels of protection, but also allowed for a discussion on their proportionality or the existence of alternatives. These were legal criteria, to which national and international jurisdictions had recourse on the basis of the principle of "non-regression" established by international and constitutional social standards. The current situation in Portugal raised the question as to whether the policy of cutting labour costs and labour rights was, in the end, favourable to employment. It was not evident that the Worker members' position on this matter could serve as a basis for consensus for the drafting of conclusions. In addressing the highly complex issues under consideration, which are fully documented by the excellent report of the ILO's interdepartmental team on the crisis in the European States, it might be worth searching for a compromise and the conclusions should refer to the Oslo Declaration of 2013 and to the mandate it gave to the ILO.

A Worker member of Portugal recalled that Article 1 of the Convention was in direct conflict with the policies leading to recession imposed by the Troïka and by the Government of Portugal, which had led to the deterioration of the quality of employment, the devaluation of trades and careers, widespread job insecurity, unemployment (particularly in manufacturing), a succession of wage cuts and the reform of pensions. The official unemployment rate had reached 15.1–24 per cent if one included the underemployed, two-thirds of whom received no benefits whatsoever. Between 2011 and 2013 some 300,000 people emigrated, most of them young professionals. The determination to cut the budget deficit at all costs meant a decline in public investment and in the resources allocated to public services, health, social security and public education. The labour legislation had been amended to facilitate dismissals and make them less costly, to reduce the payment of overtime and to extend the length of fixed-term contracts. Social dialogue and collective bargaining were at a complete standstill and the Government had presented new proposals that undermined collective bargaining and encouraged further wage cuts. Labour was therefore devalued and underpaid and workers' rights and freedom were at issue; two-thirds of job vacancies were for precarious jobs paying 580 euros a month. Meanwhile, tens of thousands of unemployed people were being recruited on integration contracts in the public administration where they were entitled only to unemployment benefits, which undermined decent work in the public service where wage cuts could be as much as 20 per cent. The minimum wage was still 485 euros and should be immediately reviewed. The austerity measures that had been taken should be vigorously condemned by international institutions, and the ILO should devise measures to promote employment-generating policies in a spirit of social justice.

Another Worker member of Portugal observed that her country was going through one of the most difficult periods of its history, particularly from the perspective of employment promotion. The sole concern of Government policy was to reduce budget costs, and that had a devastating effect on the economy and the labour market. Austerity policies only made the situation worse in a country that was currently facing low economic growth, limited economic flexibility, rising unemployment and low wages. In 2012, most of the Government's social partners had agreed to sign a tripartite agreement that gave priority to employment growth, which included proactive education and vocational training policies. However, the Government had never implemented the agreement in a balanced way and had resorted instead to implementing labour reform. The policies pursued under the guise of consolidating the budget showed clearly that its new objective was to modify the labour market and to cut labour costs. The results were well known: rising unemployment, particularly among young people; an increase in long-term un-

employment; a drop in employment rates; a reduction in active employment policies; and a decline in productivity. It was unacceptable that the Government should give priority to balancing the budget rather than to active employment policies in favour of the workers, and especially young people.

The Employer member of Portugal recalled the difficult situation that Portugal was facing, and stated that the Government and social partners had acted together to find responsible solutions during this period. The conclusion of the Tripartite Agreement for Competitiveness and Employment and the Commitment to Growth, Competitiveness and Employment was evidence of the social dialogue that had taken place. The Memorandum of Understanding, signed with the Troika had had a recessive effect, resulting in the closure of more enterprises, and there had not been any improvement in the labour market since this financial assistance had been launched. The Memorandum of Understanding had not considered some important factors in the country's economy, and had contributed to further unemployment. Nonetheless, reforms took a long time to produce results, and the start of the recovery could now be observed. The revision of the Labour Code had been an attempt to adapt to the current financial circumstances of the country. The measures were innovative and had been approved by the four most representative employers' organizations and one of the two most representative trade union confederations. Such changes would have an effect on new labour contracts in the future, which could lead to more jobs. It was not true to say that those measures had contributed to unemployment. In his opinion, the accusation was unfair that the reform had facilitated the termination of employment and had introduced flexibility in working time, and failed to take into account the important innovations introduced, which had been accepted by four employers' federations and the General Workers' Union (UGT). The other trade union federations had rejected the measures, even though they had participated in all the meetings. He recalled that enterprises were essential in the recovery as enterprises provided employment. While various measures had been taken, at a cost of more than 2 billion euros, it was not yet possible to calculate the impact of those measures. Moreover, such measures needed to be improved to be more friendly to both businesses and workers. Nonetheless, Portugal was on the right path towards respecting its obligations under the Convention.

The Worker member of Spain stated that the facts on the ground, the economic figures and the general situation in Portugal confirmed that the country was worse off in terms of poverty and inequity. The plight of young people was particularly alarming, and because of the lack of employment opportunities their prospects were bleak. Youth unemployment had risen dramatically in recent years and wages, where there were jobs to be had, barely covered basic needs. In 2012, the poverty rate had reached 24.7 per cent, which meant that almost a quarter of the population was living on less than 434 euros a month. Youth unemployment (workers under 25 years of age) had risen from 28 to 37.5 per cent. Young people were the largest group among the long-term unemployed and, as a result, were also the largest group to emigrate. More than 300,000 Portuguese workers had left the country between 2011 and 2013, even though most of them were highly skilled. This was bound to have disastrous consequences for the birth rate and for the sustainability of the social security system. Most of the unemployed, especially among younger workers, had no social protection; coverage for unemployed workers under 25 was only 7 per cent and for those between 25 and 34, where the employment rate was lowest, only 33 per cent. High unemployment and workers' fear of losing their jobs encouraged exploitation and low wages. Priority should be given to employment creation, and austerity policies should be abandoned in the interest of young workers. The measures that were largely responsible for the difficult social and economic conditions of young Portuguese candidates for emigration needed to be corrected. It was vitally important that wages and pensions be improved, that social justice be promoted, that priority be given to the domestic market, that the minimum wage be increased and that workers' rights be protected.

The Worker member of Brazil, speaking also on behalf of the Worker members of Argentina, Uruguay and Venezuela, recalled the founding principles of the ILO and referred to the fourth paragraph of the preamble of the Convention. Legal bodies, such as the Committee, did not have the political legitimacy to determine which economic and social policies were best in times of difficulties. However, the Committee had the obligation to analyse the implementation of standards, and that included the determination of whether or not a certain policy was in conformity with those standards. In that regard, the Government of Portugal was implementing an economic and social policy that was not in conformity with the Convention. With reference to Article 1 of the Convention, it was evident from the report of the Committee of Experts that there was a continuous growth in unemployment in the country, while social protection continued to fall. The austerity policies implemented in Portugal had not generated employment, had not contributed to the free choice of employment and had not contributed to the economic growth and development of the country. While the policy decision was the responsibility of the Government of Portugal, it was the responsibility of the Committee to examine its conformity with the Convention. In closing, the speaker referred to the success of his own country in combating the crisis by raising salaries and distributing income.

The Government member of France, speaking also on behalf of the Government members of Cyprus, Germany, Greece, Italy and Spain, indicated that all those Governments were actively engaged in a coordinated campaign to reduce unemployment, especially among young people. Portugal too was fully committed to the campaign and the Governments she spoke for wished to express their solidarity with the Government of Portugal in its efforts to overcome the crisis in particularly difficult circumstances. It was important to reaffirm the aforementioned Governments' commitment to social dialogue, without which no long-term solution was possible, as well as to active policies aimed at productive and freely chosen full employment. The Portuguese Government was striving in that direction and would continue to do so. She concluded by recalling that the ILO played a major role in the multilateral system, that of promoting its international labour standards by means of increased collaboration with other multilateral organizations, especially the system's economic and financial institutions.

The Worker member of France, speaking also on behalf of the Worker member of Italy, stated that the social indicators in the country were worrying in a context of increasing debt and the erosion of the public services, social transfers and collective bargaining, which would result in an increase of inequalities and a drop in wages in real terms. The Government's cost-saving measures were seriously undermining the viability of the social security system and generating inequalities that threatened public safety, social stability and social, economic and environmental balances, thereby entrenching a whole generation in poverty and extreme precarity. The Programme of Economic and Financial Assistance, adopted in May 2011, had brought about a drop in the number of jobs in real terms, high unemployment rates, forced emigration, a

drop in fertility rates and the impoverishment of the country. Meanwhile, the Constitutional Court had ruled on eight occasions, most recently in May 2014, that the unprecedented measures adopted were unconstitutional, as they excluded any stimulus policy involving demand, job creation, public services or systems of solidarity and well-being for the population, in line with ILO standards, as advocated by the 2012 Oslo Declaration, which stated that structural reforms and competitiveness should not be in competition with stimulus measures and investment in the real economy.

The Government member of Angola was confident that the Government would manage to implement its active employment policies in the exceptional context of economic readjustment that currently prevailed. It had launched a programme for enterprises and independent employment under which young people were to benefit from job creation support. The Government had demonstrated its determination by resolving the issues surrounding employment promotion and the competitiveness of enterprises, and it was doing all it could to bring about an environment that was conducive to applying the Convention.

The Worker member of the United Kingdom recalled the requirements concerning an active employment policy set forth in the Convention. Compliance involved the Government's consideration of economic, social and education policies. In the context of the European crises, the Organisation for Economic Co-operation and Development placed particular importance on education and training measures which could help displaced workers find new job opportunities and could thus support the restructuring process. Turning to the situation in Portugal, in spite of some improvements, state social support had been reduced and scholarships had been abolished, so that fewer students were able to continue their studies. The growing unemployment rate of young people and workers aged between 35 and 45 had led to a growing skills gap, an increase in precarious work and short-term contracts. There was hence a need for concerted programmes to provide vocational and skills training so that jobseekers could attain lifelong learning skills. This was even more important due to the reduction of entitlements to compensation for dismissal. Moreover, higher qualified workers also had difficulty finding jobs in keeping with their qualifications and 20 per cent of workers had already left the country to seek employment opportunities abroad. Coming to the labour policy conducted by the Government since 2011 on the basis of the Memorandum of Understanding concluded with the Troika, she observed that the most significant change had been the new Labour Code, which however did not improve the situation. Other initiatives such as the "Personal Employment Plan" and encouragement from self-employment and entrepreneurship had also not changed the situation. In conclusion, she considered that the Government needed to coordinate measures to promote employment, which included in particular education of good quality and training measures.

The Government representative reiterated that his Government was implementing active measures to promote employment within the framework of Convention No. 122 and other ratified international agreements. It was also fulfilling its commitments as a member of the European Community and the Eurozone, within the framework of a stringent economic and financial adjustment programme signed with the Troika. The revisions of the Labour Code were undertaken as part of a wide process of social dialogue and agreed upon by the majority of the social partners, which had made for greater flexibility while putting a brake on job losses. Despite stringent national and international restrictions, in a context of financial, economic and social crisis, Portugal had not ceased to pursue active employment policies and had formulated a restructuring of the public employment service, both at the organizational level and with respect to its technical interventions. This had produced encouraging results, for example, there had been an increase in the number of persons covered by active employment measures in 2013, accounting for a 22 per cent increase over 2012, broken down as follows: employment measures were 40 per cent higher; vocational training measures were 17.3 per cent higher; and assistance for persons with disabilities had increased by 29 per cent over the same period. Portugal remained committed to its measures to promote full employment, within the extent of its possibilities and the abovementioned restrictions. It would have to adjust to using innovative instruments to boost the labour market and stimulate the economy, and it had already witnessed a gradual decline in unemployment since 2013. As pointed out by both the Employer and the Worker members, the Government was faced with structural problems, and only a healthy economy would enable it to create sustainable employment. Referring to the criticisms of the Worker members with respect to the increasingly precarious nature of employment, there had been a downward trend in the number of part-time labour contracts and a proportional increase in the number of open-ended contracts in the first quarter of 2014.

The Employer members indicated that when delving deeply into aspects of employment policy, differences could emerge but they could not be resolved by the Conference Committee, since the Convention and its supervision were such that there was a range of ways in which the objectives could be met according to national circumstances and practices. It was clear that the Government's objectives in implementing the relevant measures were consistent with the Convention. The Government was undertaking its work at the domestic level with a good understanding of the value of social dialogue, and they encouraged it to have its social partners, particularly its private sector, participate in the implementation of these measures, highlighting that while the private sector had been weakened by the crisis, it had the capability to help the Government effectively achieve compliance with the Convention. They indicated that the existing channels of dialogue could be expanded to that end, especially with respect to small and medium-sized enterprises in the country.

The Worker members said that rising unemployment did not necessarily mean that a country's employment policy had failed or that the government concerned was not applying Convention No. 122. The situation was more complicated. For example, the problems that Portugal was up against did not all derive from the measures it was obliged to take as a member of the European Union, nor even from the economic crisis. That said, one might wonder just how effective those measures were at solving the country's problems and, more than that, whether all the social backtracking they entailed was absolutely necessary for its economic recovery. One particular segment of the population, that is, workers and people on social benefits, seemed to suffer most from those measures, while other groups of society appeared untouched. Social justice meant spreading the extra burden caused by the country's difficulties equitably across the population as a whole, and it was that that gave an added value to tripartite consultation. It would be wrong to think that the protest vote in the recent European elections – often attributed to the extreme Right – pointed to an outright rejection of the European Union as a concept. But they did reflect a genuine concern about the Union's unilateral economic vision and about the fact that, as things stood, the juridical force of that vision was virtually constitutional, if not supra-constitutional. According to each European country's

historical background, they possessed a more or less acute sense of the links between their own well-being, on the one hand, and peace and open borders, on the other. The ILO itself could not possibly have forgotten the fierce debate which, at the turn of the century, gave the "worker issue" and the "social issue" all their relevance. Here and now, therefore, the ILO had an important role, a positive role, to play in reminding those who held the power of decision in Europe of the debate that had held sway at the time. In Portugal's case the ILO should contribute actively both to the Government's efforts to define a policy founded on the fundamental values of the Organization of which it was a Member, and to its partners' understanding of the reasons behind that policy.

Minimum Age Convention, 1973 (No. 138)

NIGER (ratification: 1978)

A Government representative noted with interest the comments of the Committee of Experts relating to the application by Niger of Convention No. 138. Niger had ratified the Convention on 2 December 1978, thus demonstrating its wish to protect and defend young people against child labour and to ensure that children were in a position to complete normal schooling. Niger had always fulfilled its obligations under the ILO Constitution by regularly sending to the ILO the reports due on ratified Conventions, including Convention No. 138. With regard to the scope of application of the Convention, a national survey of employment in the informal economy was conducted in 2012 by the National Statistical Institute (INS). An initial report on the informal economy and the labour market had been produced, but the data could not be communicated before their official adoption. Although child labour had not been covered by the report, it could provide indications, as other reports, especially those relating to decent work indicators, would cover these aspects in greater detail. Moreover, the survey period had coincided with the launch of the General Census of the Population and Habitat (RGPH-2012), results of which had been published in April 2014. The INS was the only accredited institution for this type of survey, which explained the delay in the finalization and official publication of the results of the survey.

With regard to compulsory schooling, legislative measures had been taken to ensure that children attended school for as long as possible. These included: the adoption of the Framework Act for the Education System of Niger (LOSEN), which made primary education compulsory for boys and girls in Niger; and the formulation of the letter setting out the Government's education policy, which prescribed compulsory schooling until the age of 16 years. This letter contributed towards the goals of the "Niger 2035 and PDES 2012–15" strategy for sustainable development and inclusive growth, and the formulation of the Sectoral Education and Training Programme (PSEF) 2014–24, which was a strategy paper for the application of the above Act. All these instruments were endorsed by the education partners. In the PSEF (2014–24), the Government undertook to stimulate social demand in the area of education and the promotion of the schooling of young girls at primary level, in accordance with an operational strategy based on the management committees of the educational establishments, the recruitment of women teachers in rural areas and income-generating activities for the parents. Other actions were also being taken to improve pre-school education and the non-formal education of young people from 9 to 15 years of age, in addition to awareness raising among parents. The work of the public bodies was supplemented by that of non-governmental organizations (NGOs) and associations operating through various networks, and particularly the adoption and implementation of the national action plan to eliminate child labour, which had been reviewed and validated with the support of the ILO.

With regard to authorization to employ children in hazardous work from 16 years of age, the Government representative observed that the occupational safety and health committees (CSSTs), set up at the level of enterprises covered by the Labour Code, were functioning normally. Furthermore, a national coordinating body has been created under Decree No. 365/MFP/T/DSST of 16 March 2012. This body had carried out a number of activities including: the training of members of the CSSTs; the participation in monthly activities concerning the prevention of occupational hazards; the capacity building of members; the organization of visits to enterprises in collaboration with the labour inspectorate; and the formulation and adoption of a three-year action plan (2013–15). He indicated that CSSTs existed in enterprises subject to the supervision of labour inspectors, an area in which it was rare to encounter child workers, because the CSSTs operated in enterprises with more than 50 employees. No labour inspection report had revealed such an offence. He added that child labour mostly existed in the informal economy. He concurred with the Committee that child labour existed in Niger, and recalled that the Government had committed, with the support of the development partners, the NGOs and associations, to eradicate this phenomenon. There was no prohibition in law for labour inspectors to intervene in establishments in this sector. However, labour inspectors found it difficult to identify child labour because of its complexity and the scarcity of resources, and they intervened more in the formal economy to prevent this phenomenon. Furthermore, the Minister of Labour had provided all the labour inspection services with a vehicle and increased their operating budget substantially. He emphasized that, whatever means were used to combat child labour, it was first and foremost a direct intervention on the part of the labour inspectors, in cooperation with the communities and the other actors in the informal economy, that would help to eradicate this problem. In order to ensure this, the Government was prepared to create conditions for the establishment of the institutional audit of labour inspection that it had requested from the ILO, and to propose actions liable to strengthen the capacities of intervention of labour inspections in the informal economy. In this respect, he expressed the hope that the activities of the second phase of the ILO support project for labour administration (ADMITRA) would also cover Niger. In conclusion, there needed to be strong cooperation between the various ministries to overcome the phenomenon of child labour. Niger intended pursuing the above initiatives in accordance with the application of Convention No. 138. Increased support from partners, including the ILO, was necessary to ensure that actions to combat child labour produced the desired effects.

The Worker members said that half of the population of Niger was under the age of 15 years and that population growth was 3.3 per cent per year. As a result, many children of school age were working, a significant proportion of whom were working in hazardous conditions. According to statistics from a national survey carried out in 2009, 50 per cent of children between 5 and 17 years of age were economically active in rural areas, representing 1.9 million children. According to the latest *Education for All Global Monitoring Report*, Niger was one of the ten countries with the highest number of children, almost 1 million, not enrolled in school. Three children out of four spent less than four years in school and nearly 50 per cent of girls could not read or write. They added that 1.6 million children were engaged in work prohibited by Con-

vention No. 138. Of these children, 1.2 million children were involved in hazardous work. Two out of three children between 5 and 17 years of age were working in dangerous conditions. These children of school age were working in difficult conditions and were performing tasks beyond their physical ability. They often worked with their families in rural areas, labouring the land, grinding cereals and looking after livestock. Despite the Minister of Labour's circular banning the use of children in gypsum and salt mines, no penalties had been issued in this respect. The Worker members noted that the Labour Code in Niger did not apply to work in the informal economy. They emphasized that the Government's response to the Committee of Experts' comments indicated that extending the Labour Code to the informal economy required the formal collaboration between various ministries and that the Government wished to first understand, by means of a national survey, the extent to which informal work was being performed by children. However, the Worker members noted that the Government had not provided any new information with regard to either the survey that should have been held in 2012 or the situation of children in the informal economy. They recalled that Convention No. 138 applied to all sectors of economic activity regardless of whether there was a contractual relationship. Moreover, referring to the 1967 Decree, which permitted the use of children in certain types of hazardous work from the age of 16, they called for workplace health and safety committees to engage in awareness raising and safety training. However, the Government had never provided information as to the nature of the activities carried out by these committees, which were supposed to ensure that the work carried out by these young persons did not jeopardize their health or safety. In conclusion, the Worker members recalled that, under Article 3(3) of Convention No. 138, young persons from the age of 16 were only permitted to undertake hazardous work on condition that their health, safety and morals were fully protected. However, that did not appear to be the case in Niger.

The Employer members agreed with most of the points raised by the Worker members. It was a case of frustration as it was a case of persistent failure to provide information and concrete evidence of progress on the important issue of ensuring that children received adequate basic education and were protected from being required to be engaged in activities that might be injurious to their physical or mental well-being. The Committee had previously noted that Niger's Labour Code did not apply to the informal economy and changing the scope of application of labour legislation would require formal collaboration between several ministries. Moreover, the Ten-Year Education Development Programme of 2002 was aimed at achieving an 80 per cent enrolment rate in primary school by 2012, and 84 per cent by 2015. Estimates by various organizations, including UNESCO, indicated a continuing low rate of school attendance by children between 7 and 12 years of age and a significant number of children who dropped out of school well before attaining the minimum age for admission to employment. According to the 2012 *Education for All Global Monitoring Report*, the gross primary school enrolment rate was 71 per cent in 2010 (64 per cent for girls and 77 per cent for boys), compared with 67.8 per cent (58.6 per cent for girls and 77 per cent for boys) in 2008–09. This increase in enrolment was, however, not matched by a corresponding increase of children who completed their schooling. Referring to statistics from 2009 on child labour, the Employer members noted that the Committee continued to lack any concrete information on which it could better assess the situation in Niger. With respect to Article 3 of the Convention, the Committee of Experts had asked the Government to provide information on the manner in which health and safety committees ensured that the work performed by young persons did not jeopardize their health and safety. Lack of information denied the Committee the ability to establish a view on the situation, and fuelled the continuing concern about the seemingly significant exposure to unsatisfactory work practices of an alarmingly large percentage of the nation's young people. The Employer members urged the Government to take the necessary measures to ensure that enterprise safety and health committees ascertained that the conditions of work of young persons aged between 16 and 18 years of age did not jeopardize their health and safety. They expressed deep concern at the high number of children engaged in work in Niger who were below the minimum age for admission to employment, and at the significant proportion of these children working in hazardous conditions. Considering that compulsory schooling was one of the most effective means of combating child labour, the Employer members strongly encouraged the Government to pursue its efforts and to take measures to enable children to attend compulsory basic education. They also called on the Government to: intensify its efforts to combat and progressively eliminate child labour in Niger; continue providing information on the application of the Convention in practice, including extracts from the reports of the labour inspection services indicating the number and nature of the contraventions reported and the penalties applied; and provide statistical data, disaggregated by sex and age group, on the nature, extent and trends of child labour and work by young persons under the minimum age specified by the Government when ratifying the Convention. They hoped that the Government would make every effort to take these actions in the near future.

The Worker member of Niger said that the extent of child labour in Niger largely depended on the sectors concerned; these included agriculture, livestock breeding, fishing, manufacturing industries, small-scale mines, quarrying and extractive industries, the informal economy, manufacturing and maintenance, and services. The extent and nature of the work could depend on the age of child labourers, which ranged from 7 to 13 years. It was common to find working children under 7 years of age, but in those cases they were with their parents or an adult member of the family instead of being at school. The causes of child labour included poverty, weak economic growth, ignorance by parents of the consequences of child labour, poor levels of education, unemployment, the physical disability of parents and the exodus of families from rural to urban areas or abroad. With regard to low levels of schooling, although access to education had improved with the school enrolment rate rising from 76.1 per cent in 2011 to 79.1 per cent in 2012, the completion rate for primary education of 55.8 per cent in 2012 was still relatively low. The gross enrolment rate varied from 108 per cent in urban areas to 71 per cent in rural areas, with 88 per cent for boys and 71 per cent for girls. With respect to unemployment, although human capital was the most abundant resource in Niger, employment opportunities remained relatively scarce, resulting in underemployment and unemployment for a large proportion of the active population. The proportion of the active population that was unoccupied was 56 per cent overall, with 40 per cent for men and 71 per cent for women, and 46 per cent and 59 per cent the respective figures for urban and rural areas. However, he indicated that there were other specific causes of child labour in Niger, particularly: inadequate public awareness of the consequences of child labour; demographic factors; difficulties in applying the legal and institutional framework; and socio-cultural factors, since customs and religion had a decisive influence on social attitudes and behaviour in Niger. The workers in Niger had sought, and would continue to seek, the sound appli-

cation of Convention No. 138 by the Government. He acknowledged that, in the current socio-economic and cultural context in Niger, the effective application of the Convention would require not only strong political will, as well as sustained technical assistance. As a result, he agreed with the comments of the Committee of Experts and suggested that statistical data on child labour in Niger should be updated with the participation of different partners, including the ILO. He called on the Government of Niger allocate a significant budget for education, which was the best alternative to child labour, and the ILO to provide technical assistance to ensure the effective operation of occupational safety and health committees in both the formal and informal economy. In conclusion, he indicated that it was vital for the ILO to support his country in the implementation of different actions to combat child labour.

The Government member of Norway, speaking on behalf of the Government members of Denmark, Finland, Iceland, Norway and Sweden, expressed grave concern with regard to the failure of the Government of Niger to provide the requested information concerning child labour in the informal economy and the action taken by the labour administration. This was a serious case and needed to be assessed together with the findings of the Committee of Experts on Niger's compliance with the Worst Forms of Child Labour Convention, 1999 (No. 182). Children under 18 years of age were being exploited in forced or compulsory labour in the form of trafficking, forced begging and the most hazardous types of work. Insufficient labour inspections meant that there was inadequate monitoring regarding children engaged in the worst forms of child labour. There was also a lack of investigation, prosecution and dissuasive sanctions for using children for purely economic ends. The Government needed to intensify its efforts to ensure the protection of children from these worst forms of child labour, in particular from hazardous types of work. Governments remained the main drivers of change. The Government needed to show political willingness and an ability to act in accordance with the principles of good governance and to fight corruption. It was necessary to strengthen labour administration, including labour inspection, labour protection and social security. She emphasized that one of the most effective means of combating child labour was to provide compulsory and accessible education. A national survey on the informal economy to measure the extent of children working on their own account would be beneficial and would facilitate effective intervention. Moreover, the Government was encouraged to seek technical assistance from the ILO to eliminate child labour in the country, recognizing the need for a joint effort to overcome the challenges in this critical area.

The Worker member of Zimbabwe expressed deep concern at the alarming number of children working in Niger. Despite the Labour Code, adopted in 2012, setting the minimum age for employment at 14 years of age, about half of children between 5 and 14 years of age were working and a third were engaged in hazardous work. Children working in mines were exposed to mercury and at risk of suffocation or death as a result of cave-ins. Children working in agriculture were exposed to serious workplace hazards. Children, especially girls, were working in domestic service and were particularly vulnerable to long hours, and physical and sexual abuse. The traditional practice of men taking a girl as a "fifth wife" was a grave issue, as they were slaves and their children were sold as slaves. Some children were sent to Koranic schools, and some teachers exploited these children by forcing them to beg or work as domestic or agricultural workers. He urged the Government to draw up appropriate laws and policies with the social partners to put an end to child labour.

The Worker member of Nicaragua regretted that the government authorities of Niger did not consider it a priority to ensure free access to public education, which was a guarantee for the development of persons and society. Education International was conducting a campaign to promote quality in, and access to, public education as a means of eliminating child labour. Statistics revealed a clear absence of short- and long-term policies, a lack of interest in guaranteeing positions for teaching staff and a lack of adequate economic resources. Exploitation of girls and boys in Niger was only possible because of the abdication by the Government from supervising and controlling enterprises and because employers encouraged such work. Responsibility for children dropping out of school lay not only with the Government but also with companies that allowed the use of child workers with the aim of maximizing revenue. Not guaranteeing access to quality public education had implications for economic growth and the strengthening of democracy, condemning the country to poverty. The best way to eliminate child labour was to ensure that all children attended school and their parents had decent jobs. In conclusion, he urged the Government of Niger to make a commitment to eliminating child labour, assigning the necessary economic and financial resources to public education, exercising greater controls on enterprises and considering education as a fundamental priority.

The Worker member of Swaziland said that there was a high prevalence of children working in Niger. Effective labour laws were essential to prevent child labour. Labour law and its enforcement fell short as it did not cover the informal economy and immediate action was necessary. While the law established the minimum age for work at 14 years and contained provisions restricting the number of hours worked by children between 14 and 18 years of age, there were no dissuasive sanctions for violations, despite the alarming number of children working. Penalties in criminal law did not go beyond one year's imprisonment. Inadequate policies left children unprotected and vulnerable. Legislation had to be extended to include domestic workers and the informal economy, and laws on child labour also needed to be reformed.

The Government representative emphasized Niger's commitment to continue with the implementation of Convention No. 138. He said that the debate appeared to reopen the discussions that had taken place in the Committee in 2005, but since then many developments had occurred. In this respect, he recalled the ILO high-level mission's conclusions on forced labour in Niger (2006). He stressed that the 2012 Labour Code did not restrict inspectors to carry out inspections in the informal economy, but he mentioned the lack of means and resources of the labour inspection services. With regard to occupational safety and health committees, they were established in enterprises with at least 50 workers in the formal economy. He also referred to the new education policy, for which a quarter of the national budget was allocated for education and occupational and technical training. With regard to the timing of the various surveys, the Government was committed to speeding up the completion of the survey on employment and the informal economy. In this respect, he requested the technical support of the ILO for the INS. Finally, the Government was committed to finalizing the process for the implementation of an occupational safety and health framework, in which the framework document for the occupational safety and health policy had been reviewed and validated.

The Worker members indicated that on 12 June the World Day Against Child Labour would be held, and this year the theme would be "Extend social protection: Combat child labour". The case of Niger demonstrated the importance of the World Day in combatting child labour

and of social protection for that purpose. Forms of labour which ran counter to fundamental human rights were obstacles to decent work. International Conventions identified child and forced labour as part of those unacceptable forms and required their permanent abolition. Such forms of labour were real concerns for Niger and their eradication should be of the utmost priority for the authorities. They urged the Government to establish an action plan in close cooperation with the social partners. This plan should: (i) give priority to the abolition of child labour, particularly in hazardous work; (ii) provide for a rise in the education budget from 4.5 to 6 per cent of Gross Domestic Product to increase the school enrolment rates and recruit qualified teachers; (iii) provide for alternatives to child labour for families' standards of living; and (iv) organize a basic social sector covering income, food, health and maternity. They concluded by requesting the Government to: (i) update the statistical data on child labour; (ii) extend the Labour Code to the informal economy; and (iii) ensure adequate application of the decree on hazardous work. They also called on ILO–IPEC to re-establish its partnership with Niger.

The Employer members agreed with the Worker members on the need for the members of the Committee to call for attention to be focused and priority given to the issue of child labour in Niger. There had been no disagreement among the speakers on the seriousness of the present situation. However, it had been acknowledged that the Government was aware of the problems. With respect to information and statistics, the Government should find a systematic way of effectively identifying the information that was needed in a timely manner. The Government was encouraged to collect, analyse and publish information and statistics, as part of the plan of action mentioned by the Worker members. The INS was the only organization dealing with information on child labour. The Employer members encouraged the Government to request technical assistance in relation to data collection, analysis and dissemination, and assistance on other matters. They also urged the Government to strengthen its inspection services. The Labour Code should apply in practice to all branches of the economy, including the informal economy. Measures needed to be taken without delay to address the issue of child labour in Niger.

Conclusions

The Committee took note of the oral information provided by the Government representative and the discussion that followed relating to the high number of children between the ages of 5 and 14 who were not attending school and who were involved in child labour, including hazardous work, as well as the phenomenon of child labour in the informal economy.

The Committee noted the Government's indication that it was taking several measures to keep children in school and that it was committed to the elimination of child labour in the country. The Committee further noted the Government's commitment to implement the Convention through various measures, including strengthening the labour inspectorate and the establishment of health and safety committees at the enterprise level. The Committee also noted the detailed information provided by the Government outlining the laws and policies in place to provide free and compulsory primary education, including a sectoral education and training programme from 2014 to 2024 (PSEF), as well as the allocation of a substantial percentage of its national budget for this purpose. It observed in this regard that the Government intended to take various measures to promote access to primary education, especially for young girls. The Committee also noted the Government's indication that a national survey of the informal economy was organized by the National Statistical Institute in 2012, but this survey did not include child labour in the informal economy. Finally, the Government representative had highlighted that child labour and its worst forms were the result of poverty, exclusion and underdevelopment. In this regard, the Committee noted that the Government of Niger had expressed its willingness to continue its efforts in cooperation with the social partners to eradicate child labour with the technical assistance and cooperation of the ILO.

While noting certain measures taken by the Government to combat child labour, the Committee nevertheless expressed its deep concern at the high number of children below the minimum age for admission to employment or work of 14 who were involved in child labour in Niger, and at the significant proportion of these children who worked under hazardous conditions. It urged the Government to strengthen its efforts to improve the situation and to combat child labour in the country with a view to eliminating it progressively, within a defined time frame, notably by developing a national policy to ensure the effective abolition of child labour and an action programme to combat child labour, with priority to be given to hazardous child labour. Moreover, while noting the difficulties encountered by the Government in monitoring the informal sector, it called on the Government to take the necessary measures to extend the scope of the Labour Code to the informal economy, to further strengthen the capacity and expand the reach of the labour inspectorate in this sector and to ensure that regular visits, including unannounced visits, were carried out so that penalties were imposed on persons found to be in breach of the Convention. In this regard, the Government was requested to provide extracts from the reports of the labour inspection services indicating the number and nature of the contraventions reported and the penalties applied.

The Committee noted with concern that low school enrolment and high drop-out rates continued to prevail for a large number of children. Underlining the importance of free, universal and compulsory education in preventing and combating child labour, the Committee strongly urged the Government to develop and enhance the education system, including by taking effective measures, within the framework of the PSEF, to ensure access to free basic and compulsory education for all children under the minimum age, with special attention to the situation of girls, with a view to preventing children under 14 years of age from working, and to reduce school drop-out rates.

While noting that occupational health and safety committees had been established and were active at the enterprise level, the Committee expressed its concern at the Government's indication that these committees rarely detected hazardous child labour in the course of their activities. The Committee strongly encouraged the Government to ensure that these health and safety committees carried out awareness-raising activities and training to ascertain that the conditions of work of young persons did not jeopardize their health and safety or well-being.

Moreover, in light of the lack of data on the number of children working under the minimum age, and noting the Government's indication that child labour largely took place in the informal economy, the Committee urged the Government to undertake a national survey of child labour in the informal economy in the very near future in order to make it possible to measure the extent of the phenomenon of children working in the informal economy, thereby enabling the labour administration to intervene more effectively in this field.

Recognizing the importance of policy coherence, the Committee encouraged international cooperation in order to promote poverty eradication, sustainable and equitable development and the elimination of child labour and, in this regard, it recommended that ILO–IPEC resume its activities in the country. It requested the Government to avail itself of ILO technical assistance to ensure the full and effective ap-

plication of this fundamental Convention, including the adoption of a time-bound action plan to address the issues raised by this Committee. It requested the Government to include in its report to the Committee of Experts for examination at its next session in 2014 complete information regarding all the issues raised by the Conference Committee and the Committee of Experts. The Committee expressed the hope that it would be able to note tangible progress in the application of this Convention in the very near future.

Indigenous and Tribal Peoples Convention, 1989 (No. 169)

CENTRAL AFRICAN REPUBLIC (ratification: 2010)

A Government representative recalled the context of the Committee of Experts' comments on its application of Convention No. 169. The Central African Republic was a vast country with low density population and borders that were not well controlled, which had over 650,000 people displaced due to internal violence. The transitional Government was trying to restore the authority of the State, with limited means for the maintenance of order at its disposal, while the international community had prohibited the re-armament of the national armed forces and administration was virtually non-existent outside the capital. Despite the presence of different peacekeeping forces, the two main armed militias, the Seleka and the Anti-Balaka, continued their violence against civilians targeted by their supposed religious identity. The situation in terms of humanitarian law and human rights was compounded by the inability of the judicial system, which fostered a sense of impunity. The indigenous peoples of the Central African Republic suffered in varying degrees from the conflict. The BaAka pygmies were not directly affected. Living in a semi-nomadic manner in the heart of the dense forest, their difficult cohabitation with the Bantu peoples was characterized by exploitation, discrimination and violence. The Mbororo Peul were the direct victims of the Seleka, which had seized some of their herds before imposing a duty of illegal grazing. The Anti-Balaka militia also attacked the cattle of the Mbororo Peul in the regions they controlled. Those persecutions had resulted in massive displacement of the Mbororo, both inside, from the north-west to the south-east of the country, and outside, to Cameroon, the Democratic Republic of the Congo, Chad and Sudan. Relocation measures had been taken with the support of the International Organization for Migration (IOM) to protect the Mbororo Peul people. Under the circumstances prevailing since March 2013, it was difficult for the Government to ensure the application of Convention No. 169, and the conflict affected the entire population and not only the indigenous peoples. The Government was counting on the active solidarity of the international community to overcome the serious crisis which the country faced. The Office could contribute through its assistance in the promotion of Convention No. 169.

The Employer members congratulated the Government on its ratification of Convention No. 169, particularly as it was the first African country to have done so, as well as on sending its first report, in June 2013, despite the exceptional circumstances in the country. The available information provided indicated that the Government was in a weak position and that the country was under serious threat. It was therefore difficult to speak of the effective application of Convention No. 169, in view of the absence of the institutions necessary to give effect to it. The ILO needed to enter into collaboration with the organizations of the United Nations with a view to strengthening national institutions, and only then could the effective implementation of the Convention be required. Once the present humanitarian and institutional crisis was over, the Government could be expected to use the Convention as a means of governance, including the obligation for prior informed consultation of the indigenous and tribal peoples. The Convention could serve as a general platform for the revival of social dialogue and consensus. The parties responsible should be urged to comply with Article 3 of the Convention to guarantee full respect for the human rights of the Aka and Mbororo.

The Worker members recalled that the Central African Republic was the first African country to ratify Convention No. 169 in 2010. However insecurity, the breakdown of public order and inter-religious tension had led to a situation of the mass violation of humanitarian and human rights, mainly targeting the Aka and Mbororo. Militias committed extra-judicial executions, torture, sexual abuse, rape and the forced recruitment of children, all of which constituted war crimes and crimes against humanity. Most of the violence was targeted at ethnic and religious groups. In the circumstances, the Committee of Experts was concerned at the aggravation of inter-community tension and at the violence that was directed specifically at indigenous people, consisting of the Aka and Mbororo. However, under Article 2 of the Convention, the Government was required to protect the rights of these peoples and to guarantee their integrity. In terms of safeguarding individual rights, institutions, property, work, culture and the environment of the Aka and Mbororo populations, there was no indication that any steps had been taken to give effect to the Ministerial Order of 1 August 2003 prohibiting the exploitation or export of the oral traditions of cultural minorities. The Government had also failed to indicate the form taken by the participation and cooperation of peoples called for in Article 5 of the Convention or how effect was given to Article 8 in relation to the preservation of their customs and institutions. The Government needed to undertake to protect the culture of ethnic minorities, recognize the traditional forms of justice of the Aka and Mbororo, reinforce the provisions of the Criminal Code prohibiting discrimination, take account of their linguistic difficulties in their access to justice and guarantee the effective exercise of their right to land.

The Worker member of Zambia echoed the Government's description of the political and social instability in the Central African Republic, which had begun in 2012. The situation had worsened the human rights and humanitarian crisis in the country, and there had been distressing stories of hardship. The grave situation had negatively impacted the indigenous people in the country. The number of displaced people had risen from 94,000 in 2012 to 625,000 in 2014. Similar numbers of people had fled the country, which had given rise to difficulties in host countries such as Cameroon, Chad and the Democratic Republic of the Congo. Reports referred to over 3,000 child soldiers, and the majority of the victims were women, children and the elderly spanning the Christian Muslim divide. He called upon the United Nations to make use of its mandate and the means available to it to protect the vulnerable civilians. An environment conducive to humanitarian aid should be created immediately while other efforts to end the conflict were under way.

The Worker member of France noted that the Aka and Mbororo were among the most vulnerable in the country and that they had been victims of violence and discrimination well before the present conflict, including being expelled from their land without compensation, confined to poorly paid jobs, and having limited or no access to health and education owing to their remoteness and the cost. The worst atrocities had been committed in a climate of civil war, to such a degree that the United Nations had warned of a threat of genocide. Land claims and displacement of peoples added to the existing tensions, in particular against indigenous peoples.

The Worker member of Mali raised the issue of the legal framework for the protection of indigenous peoples in the Central African Republic. The Aka pygmies and the Mbororo Peul did not benefit from official legal recognition which would ensure their statistical visibility and facilitate the coordination of public initiatives on their behalf. A specific legal framework needed to be developed to safeguard their cultural rights and to protect them against discrimination, including that faced by indigenous women. Indigenous peoples' access to justice also needed to be promoted, particularly through the removal of financial and linguistic obstacles. Lastly, the Labour Code should take account of the specific and often abusive conditions to which they were subjected, particularly in the forestry and tourism sectors.

The Government representative thanked the speakers for their understanding concerning the situation in his country. With the support of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) established by the Security Council by Resolution 2149 (2014), it was to be hoped that the authorities would be able to protect all of the indigenous peoples of the country including the Aka and Mbororo. The assistance and advice of the ILO should contribute to the search for a lasting solution giving all due consideration to international labour standards. For its part, the Government was firmly committed to this objective, in cooperation with employers' and workers' organizations, as well as representatives of the indigenous peoples.

The Employer members said that the case concerned a humanitarian crisis of as yet incalculable proportions. For that reason, there was an immediate need to collaborate with the United Nations system to gain entry to evaluate and review the compliance of Convention No. 169. The Employer members requested the Government to keep the Committee informed of any developments in that respect.

The Worker members thanked the Government representative and expressed their understanding of the challenges faced by the transitional Government. Despite those difficulties, compliance with the Convention must be secured urgently so that indigenous and tribal peoples could enjoy all of the rights guaranteed to them. Mechanisms of participation and consultation of the Aka and Mbororo must be strengthened in accordance with the Convention. The Government needed to provide information on the application of the Ministerial Decree of 1 August 2003, ensure formal recognition of traditional forms of justice and facilitate access to procedures to ensure the rights protected by the Convention. It should present a report in time for the next session of the Committee of Experts on the action taken up to now so that it could follow up the situation in its 2015 report. Finally, the request by the Government for technical assistance should be followed up.

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

UNITED STATES (ratification: 1999)

A Government representative expressed the Government's full support for the important role of the Conference Committee in the ILO's supervisory machinery. The Government took its obligations under ratified Conventions very seriously and had described in its article 22 reports the Government's aggressive actions to enforce existing laws against the worst forms of child labour and to explore new ways to increase protection for vulnerable young workers. No country was immune from the problem of child labour and each needed to address the problem within its own national context, which was the reason why the Convention focused on an objective and principle, while leaving the details of implementation to national determination such as deciding what, in each particular national context and reality, constituted hazardous child labour. The Government had ratified the Convention in good faith on the strength of an unanimous tripartite finding, followed by the advice and consent of the Senate that there were no impediments in existing law or practice to ratification, including with respect to agriculture. Citing the national process of enacting laws in the United States, he noted that, under the Administrative Procedure Act, the Government was required to solicit and consider the views of interested stakeholders and the national public. In 2011, the Department of Labor had proposed a rule to amend the Secretary's Orders for the employment of children in certain agricultural occupations, including addressing specific recommendations made by the National Institute for Occupational Safety and Health. The proposal had sought comments on whether to expand the list of agricultural occupations considered too hazardous for the employment of children under 16 years of age. The Department of Labor had received over 10,000 comments on the proposed rule, many of which were from parents who owned or operated farms and believed that the proposal would limit their children's ability to work legally and gain hands-on experience in agricultural occupations. Other commenters, including nearly 200 members of Congress and a number of agricultural education instructors, had expressed concerns that the rule would undermine American farming traditions and the preparation of the next generation of farmers and ranchers. While the Department also received comments supporting the proposed rule, it acknowledged the thousands of comments expressing concerns and withdrew the proposal in April 2012. Nevertheless, the Department had intensified its efforts to combat unlawful child labour and to protect the greatest number of young agricultural workers, including outreach to farmers, farm labour contractors, workers, worker advocates, parents, teachers, other federal agencies and others who provided services to farm workers. Those protection and outreach activities included education and training, as outlined in Recommendation No. 190. The Department of Labor's Wage and Hour Division (WHD) strictly enforced child labour provisions under the Fair Labour Standards Act and targeted enforcement in low-wage industries, including agriculture. The WHD had hired additional labour inspectors, sought the highest possible penalties for violations of child labour laws and, since Fiscal Year 2009, had conducted over 8,000 investigations in agriculture. Since 2009, the WHD had also conducted over 10,000 outreach events and would soon publish new educational materials specific to agriculture.

The Department of Labor had also developed and expanded a consular partnership programme to work with foreign embassies to inform migrant workers of, among others, child labour rights. That programme had resulted in the identification of many possible labour violations. In addition, the Occupational Safety and Health Administration (OSHA) had recently increased its focus on agriculture and had undertaken a number of enforcement, inspection and educational initiatives to reduce the number of injuries and illnesses of employees in farming, such as its Campaign to Prevent Heat Illness among Outdoor Workers. OSHA considered the age and experience of workers when examining situations that could be hazardous or likely to cause death or serious physical harm. In addition, the Environmental Protection Agency (EPA) had recently proposed modifications to its Worker Protection Standard to protect farm workers and their families from pesticide exposure, which included, for the first time, the requirement that children under 16 years of age would be prohibited from handling pesticides. Referring to a Human Rights Watch report on hazardous child labour in tobacco

farming in the United States, the speaker echoed the report's emphasis on the importance of engaging with workers, employers and others in protecting vulnerable children at work. WHD officials had spoken with the report's authors about their findings and ways to work together to ensure that young workers in agriculture were not working illegally. He reiterated the Government's firm commitment to ensuring full compliance with Convention No. 182 and indicated that it would continue to inform the ILO about its efforts to secure the prohibition and elimination of the worst forms of child labour in its next article 22 report, which would respond in full to the most recent observation of the Committee of Experts taking into account the comments and recommendations of the Conference Committee.

The Employer members stated that child labour was a problem of immense global importance. Eliminating child labour was a priority for the Committee and the private sector was committed to taking concrete steps to eliminate child labour. In supervising the case, it was important for the Committee to bear in mind the meaning of the term "worst forms of work", namely work that was, by its nature or the circumstances in which it was carried out, likely to harm the health, safety or morals of children. The term child applied to persons under the age of 18. Section 213 of the Fair Labor Standards Act authorized children from the age of 16 to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health, as permitted under the agreed exception in paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), on the condition that the health, safety and morals of young persons were fully protected. The exception had been explicitly agreed after consultation with the United States employers' and workers' organizations. They raised the question about why a complaint on non-compliance regarding children under 18 years of age working in agriculture and dangerous conditions had been made with respect to the United States. In 2010, on the recommendations of the National Institute for Occupational Safety and Health, the Wage and Hour Division of the Department of Labor had published a Final Rule on child labour provisions, which revised the existing Hazardous Orders (HOs) to prohibit children under the age of 18 from performing certain types of work. In 2011, a Notice of Proposed Rulemaking was issued, containing proposals to revise the child labour agricultural HOs. The proposed rule had been withdrawn in 2012 following a consultation process. This had been a democratic process and it was not unusual for a proposal to be withdrawn based on the responses of a public consultation exercise. The Wage and Hour Division continued to focus on improving the safety of children working in agriculture. The Employer members recalled that the Committee of Experts had welcomed the measures taken by the Government to protect agricultural workers, including those under the age of 18. Article 4 of Convention No. 182 stipulated that the types of work were to be determined by national laws or regulations or by the competent authority after consultation with the organizations of employers and workers concerned. The competent authority was to identify where these types of work existed, after consultation with the organizations of employers and workers concerned. Moreover, the list of the types of work was to be periodically examined and revised, once again, in consultation with the organizations of employers and workers concerned. All three requirements established in Article 4 had been complied with. Article 5 prescribed that members must, after consultation with its social partners, establish or designate appropriate mechanisms to monitor the implementation of provisions giving effect to the Convention. This too appeared to be occurring in the United States. They recalled that the mandate of the Committee of Experts was to undertake an impartial and technical analysis of how the Conventions were applied in law and in practice in member States. Its recommendations were intended to guide the actions of national authorities. In this case, there was no requirement for the United States to amend its national law and it would seem inappropriate to criticize the Government for deciding not to. The Committee was a technical committee and conclusions had to be based on technical issues arising from the ratification of a Convention.

The Worker members said that United States legislation allowed children to work from the age of 16 onwards, even where they were exposed to pesticides for long periods with the risk of serious injury. That information was based on official statistics relating to the number of fatal accidents on farms and on a Department of Labor document indicating that the fatality rate for young workers in agriculture was four times higher than for their peers in non-agricultural sectors. The proposed rule drafted by the Department of Labor in 2011 to regulate the issue had been withdrawn in 2012. The Government was focusing on awareness-raising and education rather than regulation, and the Worker members disapproved of this. They emphasized that opponents of the proposed rule seemed to be using images that appealed to public opinion in the United States. They recalled that the point of the debate was to focus on young workers, most of whom were migrants, sometimes in a precarious or illegal situation, not organized, with a limited knowledge of English, and were wage earners on farms. For that category of workers, education and grassroots action were not sufficient. For that reason, the Government should be required to go back to the drawing board with respect to the regulation that had been withdrawn.

The Worker member of the United States stated that the United States had made a move in the right direction by ratifying Convention No. 182 in 1999 and, since then, related laws and regulations had been improved to reduce the number of children working in dangerous and unhealthy working conditions. Many government-led programmes and training partnerships with workers' and employers' organizations had been supported in a range of sectors. Resources dedicated to enforcement had been increased. However, United States' laws failed to protect children working in agriculture. In 2011, the executive branch proposed changes to regulations that would have taken an important step forward. In 2012, the Government withdrew the proposed changes, which would have updated the agricultural child labour provisions of the Fair Labor Standards Act by updating the list of hazardous work prohibited for children under the age of 16. The regulations had been designed to prevent children from being hired to perform work that was hazardous to their health and welfare and bring parity to the agricultural and non-agricultural employment provisions affecting children. In 2013, the National Institute for Occupational Safety and Health estimated that more than 360,000 youths under the age of 16 worked on farms in 2009. While official figures indicated that only about 10 per cent of these children were hired workers, a large number of children were thought to be working "off the books" on farms. Nearly half of the estimated 197,000 16- and 17-year-olds who worked on farms were hired workers. All these points showed that hired farm workers were a large and vulnerable working population that included many children, were at a high risk of work-related injuries and had poor access to their rights. While the practice of allowing children to work, even on family farms, might be questioned, research and training programmes, which focused on labour issues on family farms, reported reduced injuries of family farm child workers in recent years. Testimonies from children had mentioned the valuable learning and an in-

creased sense of worth as a result of working on their family's farm. However, a slowly growing body of research that focused on hired migrant farm labour, including youth, did not point toward such an enriching work experience. It identified an extremely precarious workforce with many children and young persons who had reduced access to education and worker rights. Unfortunately, research such as the National Agricultural Workers Survey that was supported by the Department of Labor and focused on such hired workers was underfunded and its results and analysis inadequately used in implementing policies. Such research and information must be further developed and should weigh heavily in establishing an accurate national context for defining what work was safe and edifying for children in agriculture – and to evaluate whether the United States was in compliance with the Convention. As the United States continued to negotiate trade agreements that included commitments to core labour rights, including the elimination of the worst forms of child labour, it should increase rather than decrease its capacity to honour those commitments in supply chains that produced goods for trade. Governments, workers and employers seeking to meet these obligations agreed on the need to improve working conditions and the protection and respect for rights in these supply chains. Corporate codes could play a role in such efforts, but that role had limits. In order to achieve these goals, including the elimination of the worst forms of child labour, there was no substitute for legally binding laws and work rules.

The Worker member of Brazil recalled that the fight against child labour was one of the ILO's main challenges. An intense social dialogue had hallmarked the efforts made in his country. At the third Global Conference on Child Labour, held in Brasilia in 2013, significant commitments had been made by the 150 countries present. The case under review was of concern; attention was drawn to the information set out in the Committee of Experts' observation and that provided by the Government. He ten referred to the publication of Human Rights Watch. The report concerning child labour in the agricultural sector published in 2010 reported that children of 7 years of age or younger were involved in cotton, pear and strawberry harvesting. The majority of children interviewed were subjected to long strenuous work days and were paid less than adults and below the minimum wage, if at all. Testimonies contained in the report published in 2014 concerning child labour on tobacco plantations showed how dangerous the work in that sector was. In conclusion, the withdrawal of the proposed legislative changes mentioned by the Committee of Experts was a setback in the Government's fight against child labour.

The Government member of the Russian Federation thanked the representative of the Government of the United States for the information on the application of the Convention and took note of the oversight measures that were strengthened with a view to preventing injuries among young agricultural workers. On the basis of the information obtained during the discussion, it was noted that there was a seemingly high level of injuries among young agricultural workers between the ages of 16 and 18 in the United States. The awareness-raising work that had been carried out by the Department of Labor with regard to the dangers in agricultural work was noted. It was important to bear in mind that the workers were often young people who had just started their working lives and were not always in a position to fully evaluate the risks of hazardous work. Measures undertaken by the Government should be supplemented by a direct prohibition of hazardous work for young workers between the ages of 16 and 18 for types of work that would threaten their health and safety. Attempts at amending the legislation had been taken in 2011 but had not been conclusive. The speaker agreed with previous speakers that invited the Government to reconsider following through with this legislative amendment.

The Worker member of Canada stated that Canadian workers were concerned about the use of child labour in United States agriculture because it ethically contaminated the import of agricultural products into Canada, thus competing unfairly with the sale of Canadian-made goods. The speaker referred to the North American Agreement on Labour Cooperation (NAALC) which required the governments of Canada, Mexico and the United States to work together to "protect, enhance and enforce basic workers' rights", in each country. In its observation, the Committee of Experts referred to information found on the Department of Labor's website about the use of child labour in agriculture which validated this problem as an ongoing concern. United States imports entered Canada as products in the supply chains of multinational enterprises, operating in both countries. The case was well illustrated by looking at the tobacco industry, and the speaker referred to a Human Rights Watch report exposing child labour in the United States tobacco industry. Many more companies were involved in the cross-border supply chains for all agriculture products from the United States to Canada, not only for tobacco. The speaker then referred to the legislative changes the Government had proposed in 2011 and stated that the Government clearly understood the steps that needed to be taken on this issue. He urged the Government to do so.

The Worker member of the Netherlands said that agriculture was considered to be the third most hazardous sector for workers. Children were particularly vulnerable to the effects on health of pesticides and the risks of working with heavy machinery and sharp tools, and carrying out repetitive and physically straining work was damaging their development and health. The Government offered children in this sector less protection than children employed in other sectors. There were fewer restrictions concerning age and working times for children in agriculture and children working on family farms were afforded even less protection. Measures taken or planned to lessen the gap had been discussed but had not been pursued. The Government was urged to reconsider the withdrawal of the proposed legislative changes. The United States and the European Union were negotiating a Transatlantic Trade and Investment Agreement and imports of agricultural products from the United States to Europe were increasing at an annual rate of 3 per cent. Through increased trade and supply chains, agricultural products from the United States, which were produced under unacceptable conditions involving the worst forms of child labour, might reach European markets. Moreover, workers in Europe were concerned that the low standards of implementation of ILO fundamental Conventions, including Convention No. 182, in the United States could have a negative impact on the application of standards in Europe. While the Government's efforts to protect children from exploitation were appreciated, she urged the Government to close the protection gap between children in the agricultural and non-agricultural sectors.

The Worker member of Colombia observed that the Government of the United States had only ratified 14 ILO Conventions. He stressed that the case under consideration concerned workers between 16 and 18 years of age, many of whom were poor, migrants and engaged in particularly hazardous work. He recalled that, at the time of negotiation of the Free Trade Agreement, the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) had pressured the United States' Government to demand that labour standards be improved in Colombia, a pressure which had resulted, inter alia, in the adoption of the Labor Action Plan. He thought it paradox-

ical that the same Government which, at the time, had demanded better working conditions in Colombia was tolerating child labour in agriculture in its own country. The situation also disadvantaged Colombian workers as some 2 million of them were working in the United States, thousands of them in agriculture. Even more serious was the fact that United States legislation allowed young persons to work in agro-industrial activities that could be dangerous to their health. In conclusion, he requested the Committee to urge the Government to reconsider the draft legislation submitted for consultation by the Department of Labor in 2011.

The Employer member of the United States said that while he was often critical of the Government, in this instance there was no cause for criticism. A tripartite process was in place which compared national law to the provisions of the Convention to ensure compliance. The Government and its social partners had agreed that United States law was in line with the Convention. Since its ratification, neither the law nor the terms of the Convention had changed. There had, however, been a change in the position adopted by one of the social partners, which might in turn affect the prospects of ratification of Conventions in the future. The withdrawal of the proposed legislative amendment had been part of a democratic process. More than 10,000 comments had been received and analysed as a result of which the decision to rescind the proposed changes had been taken. Legislation was in line with the Convention. A Human Rights Watch report referred to during the discussion seemed to focus on the tobacco industry, which the proposed changes would not have affected. Referring to previous comments, the speaker noted that they seemed to focus on issues relating to supply chains and recalled that the Convention had to be implemented by governments.

The Government representative fully supported the ILO's supervisory machinery for ratified Conventions and thanked all those who had contributed to the discussion and offered recommendations. Special note had been taken of the comments made by the Worker member of the United States on the changing demographics of the agricultural workforce. The Government was working to adapt to these changes; further research and information would be valuable in this regard. The Government representative looked forward to continuing a dialogue with the Committee of Experts. Children were the future and it was important to protect them from labour that was unsafe, unhealthy or detrimental to their education and general well-being. This was an ongoing process in the United States and was approached with the urgency required under the Convention.

The Employer members thanked the Government for the considerable information provided. The Government attached great importance to the Convention and the work of the Committee. It had expressed its clear commitment to the Convention by means of the information provided and the initiatives undertaken, especially its monitoring mechanisms and the provision of information to youth in various languages. The Employer members expected the Government to ensure that its laws and practice complied with the Convention and to continue to monitor child labour in agriculture with due regard to their health, safety and morals. Private sector business was committed to taking concrete steps to eliminate the worst forms of child labour. There was a conflict that was not easily reconcilable between, on the one hand, a democratic legislative review process that involved over 10,000 public comments and, on the other, a call to address the issue of children between the ages of 16 and 18 engaged in agricultural work. In this case, however, there was no requirement for the Government to amend its legislation in the light of the provisions of the Convention. It would therefore be inappropriate to criticize the Government given the information that had been heard during the discussion.

The Worker members emphasized that the discussion was not about agricultural work in family-run farms but the working conditions of young wage earners, more often than not migrants, who could not easily be reached by awareness-raising campaigns or educational measures because of the context in which they worked. It was for this reason that the Government of the United States should be encouraged to regulate the type of work that had been discussed, in accordance with ILO standards. They also stressed that the United States did not require ILO technical assistance and the proposed rule-making to which the Government referred was perfectly adequate. This should nevertheless be brought into effect, and no one should be misled by the distorted picture that certain lobbyists had managed to convey on this issue. The Worker members added that the discussions on the American administrative and democratic procedures should not overwhelm the issue, because those who were being discussed were young workers, often migrants, who had less possibility of putting forward their opinions or interests than other groups of more organized groups. The Worker members concluded by suggesting that the Government report on the initiatives that would be taken, thereby allowing the Committee of Experts to analyse this matter in its next report.

YEMEN (ratification: 2000)

A Government representative said that the Committee was right in indicating that the situation of children was serious in his country, as they were harmed due to their involvement in armed conflict and in prohibited tasks which jeopardized their health and safety and were contrary to Convention No. 182. He indicated that economic problems were the reason behind parents pushing their children onto the labour market, whether inside or outside the country, in order to meet the household's basic needs for food and housing. He highlighted the Government's political will to eliminate child labour, including children being recruited by armed groups or sent abroad for employment, as the Government considered this to be one type of human trafficking. This political will was reflected in article 54 of the Constitution, which specified that basic education was compulsory until the age of 15 and that children who were not 15 years of age were not authorized to work. There were also national laws which penalized recruitment by armed groups, child smuggling outside Yemen and their entry into the labour market. In this connection, Ministerial Order No. 11 of 2013 specified the tasks in which the employment of children over 15 and under 18 years of age was prohibited and the tasks which were authorized. He added that, in view of the events of the Arab spring and the youth revolution which had occurred on 11 February 2011, Yemen had encountered many difficulties which had led to the cessation of the activities of a few companies and therefore to diminishing employment due to internal conflicts and the lack of security and stability. This in turn had caused families to push their children into unofficial recruitment by armed groups and types of work which were prohibited for children.

It should be noted that Yemenis had reached consensus on a new Yemen through the comprehensive National Dialogue Conference, and on a new Constitution. Consequently, laws and regulations would be formulated by the constitutional committee in order to safeguard the right of children to education and to ensure their withdrawal from any indecent work, such as enlistment by armed groups. In this connection, he referred to a recent action plan signed on 14 May 2014 between the Government of Yemen and the United Nations (UN), to end and prevent

the recruitment of children by the Yemeni armed forces. He stressed the need of his country for material and moral assistance through launching economic projects and providing jobs for the unemployed, as well as supporting poor families to encourage them to ensure the return of their children to school. He concluded by requesting ILO technical assistance with a view to re-establishing teams of qualified staff to combat child labour.

The Worker members said that the case of Yemen concerned two of the worst forms of child labour, namely their forced recruitment by armed groups and hazardous work. The political events of 2011 had exacerbated the country's economic and social problems, poverty, unemployment, especially youth unemployment, and the increased number of child soldiers and children at work. With regard to the forced recruitment of children, they recalled the figures contained in reports by the Secretary-General to the UN Security Council (2012) and by UNICEF (2010) concerning the number of children killed and injured, the cases of recruitment and use of children conscripted by government forces, as well as the recruitment of children forcefully enrolled in armed groups. Furthermore, the legislation of 1990 established the minimum age for military service at 18 years of age and required the Government of Yemen to ensure that no young person under 18 years of age was conscripted. In addition, the Ministry of the Interior had ordered the full implementation of Police Act No. 15 of 2000, which established 18 years as the minimum age of recruitment and the release of any children in government security forces. They added that, in its report to the Committee on the Rights of the Child, the Government had admitted that the current legislation did not specifically provide for clear penalties for the involvement of children in armed conflicts, for the enrolment of children under the age of 18 or for inciting children to bear arms. A draft amendment to the Penal Code established penalties for the trafficking and sale of children, and penalties had been established for the use of children in drug trafficking, but no provision seemed to have been adopted specifically penalizing the forced recruitment of children. With regard to children involved in hazardous work, the National Child Labour Survey carried out in 2010 in collaboration with ILO–IPEC indicated that there were 1.3 million children working in Yemen, which accounted for the low school attendance rate, especially among young girls, and for high drop-out rates. One in two child workers were involved in hazardous work, especially in agriculture, where they were exposed to pesticides in the production of khat, for example, as well as in fishing, where they were exposed to extreme conditions and dangerous equipment. The Worker members indicated that the Labour Code allowed children aged between 14 and 18 years to be involved in light work, provided that it did not interfere with their schooling. They pointed out the contradiction between the new Ministerial Ordinance which prohibited children under 18 years of age from being involved in hazardous work in industry and fishing, and section 49(4) of the Labour Code, which banned dangerous work for children under 15 years of age. In accordance with Article 3(d) of Convention No. 182, no child under 18 years of age was to be involved in hazardous work. The Worker members recalled the lack of information provided on the measures taken by the labour inspection services, and emphasized the lack of budgetary means for the transport of inspectors. They concluded that the Committee of Experts had been justified in considering this case as a double-footnoted case.

The Employer members agreed with the Worker members on the issues they had raised. They reiterated that the issues affecting Yemen were not only of significant interest to the members of the Committee, but also to the general public. They revised the question of whether the issue of children being recruited by the military might better be dealt with by other UN agencies. Upon reflection, however, the Employer members concluded that, as it concerned work which was forced and involved children, it indeed fell within the scope of the Committee's work. They were pleased that the social partners could agree on the matter and wanted to see the situation change in Yemen. Some of the problems were outside the scope of the Government's control, such as the fact that militias were recruiting children. However, children were also recruited by Government forces, a matter that clearly fell within the Government's control. The UN had verified reports that children as young as 13 were recruited by the Government. A report issued by the Government of the United States showed that children as young as 11 were being recruited. Such information and the issues raised by the Worker members were a serious concern and a concerted effort was needed to change the situation.

A representative of the European Union (EU), speaking on behalf of the EU, as well as Turkey, the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Norway, Ukraine, the Republic of Moldova, Armenia and Georgia, said that the European Union fully supported the implementation of the eight fundamental ILO Conventions in Yemen. The recommendations set out in the conclusions of the National Dialogue Conference, in particular those regarding the right to education and the prohibition of child labour and recruitment of child soldiers, were to be welcomed. The Yemeni authorities had made efforts to implement the recommendations through an action plan to bring an end to the recruitment of children by Government forces, and through their work aimed at amending legislation on the rights of the child. He urged the Government to adopt the Child Rights Bill laying down the minimum age for marriage at 18. Effective time-bound measures needed to be taken to ensure that children were removed from armed groups and forces, families received support and children were reintegrated into society, including into the school system or vocational training. The EU would continue to support the authorities and relevant partners in Yemen to ensure the effective implementation of the measures, notably through its Juvenile Justice Programme, developed jointly with UNICEF. The Government was encouraged to make use of technical cooperation activities and to comply with its reporting obligations.

The Worker member of Japan emphasized that the use of children under the age of 18 in armed conflict in Yemen was a serious violation of the Convention. Moreover, he expressed concern about the fulfilment of some of the Government's obligations. Areas of concern included the recruitment of children in state armed forces and allied armed groups and their participation in armed conflict; the recruitment of children in armed opposition groups and their use in armed conflict; and the lack of penalties and accountability for the recruitment and use of children in armed conflict. There had been numerous internal armed conflicts in Yemen and multiple reports of the Yemeni army recruiting children. There had also been reports of children being used as scouts, spies and human shields. Reports by the Office of the United Nations High Commissioner for Human Rights (OHCHR) also stated that children wearing military uniform had been directly involved in the violence. He noted that the Ministry of the Interior had sent a letter to the heads of all security forces instructing them to adhere to the minimum age of recruitment of 18 and releasing any underage members. He urged the Government to ensure that the minimum age for recruits was strictly enforced and that military units were regularly monitored in order to detect and prevent underage recruitment. Child soldiers should be released as soon

as possible and receive appropriate assistance for their rehabilitation and social integration.

The Government member of Switzerland welcomed the political progress made in Yemen and especially the successful conclusion of the National Dialogue Conference. He supported the statement by the EU, to which he wished to add a few points. Child labour, particularly the use of children in armed conflicts, was a matter of the gravest concern, and Switzerland was dismayed by the persistent practice of recruiting children into the armed forces. His country supported the Committee of Experts' conclusions and recommendations. Recruiting children in armed conflicts was a violation not only of Convention No. 182, but also of Articles 32 and 38 of the UN Convention on the Rights of the Child, which Yemen had ratified. He added that adequate sanctions must be applied by the Government to punish the involvement of children in armed conflict. Switzerland was prepared to stand by Yemen to help it deal with its migration issues, including the protection of migrants and the provision of basic services for vulnerable groups, especially refugees and other people displaced and affected by the war.

The Worker member of Norway, speaking on behalf of the trade unions of the Nordic countries, said that children in Yemen continued to be victims of serious violations of children's rights, which had been confirmed by the Committee of Experts and other UN bodies. Children in Yemen were vulnerable to recruitment and involvement in the ongoing civil conflict. They had been observed in the ranks of the Central Security Forces, the Republican Guard and the First Armoured Division. Many had been enlisted by military officers, family members or sheiks. Rebel groups were also using children in armed conflict. About 1.3 million children in Yemen were engaged in the worst forms of child labour, such as in the fishing industry, agriculture, quarries and mines, as well as in armed conflict. Yemen was a transit and destination country for children subject to forced labour and trafficking. Some children travelled to Saudi Arabia, where they were forced into domestic service or prostitution. Some children were forced to smuggle drugs across the border to Saudi Arabia and some children, whose families supported ethnic Houthi rebels, were forced to serve in Houthi militias. With regard to girls, many were subjected to sex trafficking in Yemen or Saudi Arabia. She expressed deep concern at the violations of children's rights. She urged the Government to take immediate and effective measures to put an end to the forced and compulsory recruitment of children in armed conflict. It should strengthen labour inspection to prevent children from undertaking hazardous work and from being trafficked. Penalties for such offences should be introduced and anyone forcibly recruiting children should be prosecuted and punished. She appealed to the Government to take its membership of the ILO seriously and to comply with Convention No. 182.

The Worker member of Italy expressed her deep concern regarding the continued violations of Convention No. 182 in Yemen. The Government had submitted a report on the Convention, claiming it was applied through constitutional rules, laws and regulations. However, major gaps remained in those texts and legislation on the minimum age for work was contradictory. In addition, existing norms were not translated into practice. Children were often subjected to exploitation, extreme poverty, hunger, illness, trafficking and sexual exploitation. Many of them were involved in armed conflicts or performed very dangerous work. Many girls worked in domestic service, often as slaves, unable to leave their employers' homes and were exposed to physical, psychological and sexual abuse. While there were estimations of the number of children affected, the real extent was unknown. There was no information on the number of arrests, investigations and prosecutions for offences related to the worst forms of child labour. Access to education represented a very serious cause for concern. Yemen had one of the lowest enrolment rates in primary and secondary education in the world. Child labour was not happening in isolation; Yemen was one of the poorest countries in the Arab region and the world, progress regarding the Millennium Development Goals was slow and unemployment was rising. It had one of the highest birth rates and the second highest malnutrition rate. However, poverty could not be used as an excuse to keep child labour as it, in fact, perpetuated poverty cycles and kept children out of education and development opportunities. She urged the Government to move quickly to address these serious concerns of the Worker members and the international community. Immediate specific measures should be taken to prevent severe and systematic child rights violations which were an obstacle to social justice, fair development and future opportunities.

The Worker member of Yemen indicated that the Government was not interested in implementing Convention No. 182, despite its ratification. He added that the justifications used by the Government before the Conference Committee were not at all convincing because the Government had not even formulated a draft law. He therefore urged the Government to take its responsibility and ensure collaboration between the relevant bodies in order to implement the Convention in view of the rising numbers of working children. The situation required all concerned to make efforts to combat the phenomenon. He added that children continued to work and were subjected to exploitation in dangerous work. Serious action was therefore required by the Government, the ILO and workers in order to implement the Convention. To this end, he called upon all political forces in Yemen to sign a code of honour which would end the recruitment of children by armed groups. He also called upon the international community to help his country overcome this difficult situation. He concluded that there was an urgent need for the ILO to play a more important role to follow the situation closely. He therefore called upon the ILO to send a high-level mission as soon as possible to follow up on the issue, and to make recommendations that could be implemented.

The Government member of Egypt invited ILO member States to consider Yemen's political, economic and social situation carefully and recalled the ongoing fighting which made it difficult for it to implement Convention No. 182. The Government of Yemen had acknowledged its responsibilities and hoped to remedy the situation. Meanwhile, the Government of Egypt invited the ILO to provide Yemen with assistance to prevent the situation from deteriorating and to help the country eradicate child labour completely. He supported those member States that had called for the elimination of child labour. In conclusion, he stated that the situation in Yemen was exceptional and called for extensive assistance.

The Government representative indicated that over the previous three years the country had witnessed child recruitment in armed conflict by armed groups, such as the Houthi and Al Qaeda, but not by the Government. The country's economic and general climate accounted for this situation. In 2011, the country had undertaken to implement all possible programmes to eradicate child labour. Up to 2010, the number of child workers had been around 600,000, but that number currently stood at 1.5 million. The Yemeni Government was in a difficult situation due to the economic climate, armed conflict which affected even the capital, and the situation of violence. That had resulted in the destabilization of the country, which led people to resort to the recruitment and exploitation of child workers. The Government had adopted a

decree in 2012 which prohibited the recruitment of children in the army and security forces and he emphasized the importance of taking into account the causes of child labour resulting from the violence and insecurity in Yemen. He concluded that the country was firmly committed to implementing the core ILO Conventions and the Conventions concerning the rights of the child. He recalled, in that respect, that the country recognized the problem of the minimum age of marriage, but the question of the minimum age of admission to employment had been regulated.

The Worker members welcomed the request for technical assistance made by the Government. With a view to starting to eliminate two of the worst forms of child labour discussed by the Committee, they believed that the Government should launch a series of actions and programmes at the legislative level, in particular amending the Labour Code, the law concerning the rights of children and the ministerial ordinances in order to ensure legislative coherence and conformity with Convention No. 182, and the adoption of criminal penalties for violations of the legislation. At the political level, it was necessary to formulate and implement a national plan of action against the forced recruitment of children; establish a system of inspection in rural areas and in sectors where the worst forms of child labour occurred; and develop a database in this sphere, particularly with regard to the trafficking of children. In social terms, they added that the Government should draw up a programme for the disarmament, demobilization and reintegration of children recruited by armed forces or armed groups and should reduce child labour, particularly in agriculture and fisheries. While still bearing in mind the difficult situation in the country, the Worker members called on the Government to draw up a plan of action specifying the measures, phases and timeframes established in it with ILO assistance, which had already been requested by the Government. The plan should focus on child protection in order to prevent the recruitment of new child soldiers and provide for their return to normal life. In the meantime, they urged the Government to modify the national legislation and inform the Committee of Experts at its November 2014 session of the progress made, in particular regarding implementation of the plan of action. They also called on the Government to accept an ILO assistance mission.

The Employer members acknowledged the difficulties faced by the Government of Yemen. Some of the issues discussed were not within the Government's control, although many were. The Government could, for example, control child recruitment in the armed forces. Moreover, the Government had not denied that child recruitment in the armed forces was happening. Workers and employers were in agreement about the seriousness of the matter, which was ripe for ILO supervision. Agreement on how to deal with the issue should not prove problematic. The Employer members welcomed the fact that the Government was requesting ILO technical assistance to address the difficulties that had been discussed.

Conclusions

The Committee took note of the oral information provided by the Government representative and the discussion that followed concerning the compulsory recruitment of children for use in armed conflict in the country as well as the engagement of children in hazardous work.

The Committee noted the Government's statement that an action plan to end the recruitment and use of children for armed conflict was signed on 14 May 2014 between the Government and the UN. This action plan represented a commitment to ensuring that children were no longer involved in armed conflict and to prevent further recruitment. It included measures to: (i) align domestic legislation with international norms and standards prohibiting the recruitment and use of children in armed conflict; (ii) issue and disseminate military orders prohibiting the recruitment and use of children below the age of 18; (iii) investigate allegations of recruitment and use of children by the Yemeni government forces and ensure that responsible individuals were held accountable; and (iv) facilitate access to the UN to monitor progress and compliance with the action plan.

While noting the adoption of this action plan, the Committee shared the serious concern expressed by several speakers about the situation of children under 18 being recruited and forced to join armed groups or the government forces. The Committee deplored the persistence of this practice, especially since it led to other violations of the rights of children, in the form of abductions, murders and sexual violence. The Committee emphasized the seriousness of such violations of Convention No. 182 and urged the Government to take immediate and effective measures, as a matter of urgency, to put a stop in practice to the forced recruitment of children under 18 years by the government forces and associated forces, in particular by ensuring the effective implementation of the newly adopted action plan. It also strongly urged the Government to take the necessary measures to establish sufficiently effective and dissuasive penalties for the offences related to the use of children in armed conflict and to ensure that the perpetrators of these egregious crimes are prosecuted. The Committee called on the Government to take effective and time-bound measures to ensure that children removed from armed groups and government forces received appropriate assistance for their rehabilitation and social integration, including reintegration into the school system or into vocational training.

With regard to the issue of children engaged in hazardous work, the Committee noted the Government's indication that the country faced many difficulties because of the internal conflict that had been ongoing over the past three years. Many companies had left Yemen and this had resulted in unemployed adults pushing their children into the labour market. The Government acknowledged that the situation of child labour, including hazardous child labour was extremely serious in the country and had increased considerably over the past three years. In this regard, it wished to avail itself of assistance from member States and the ILO to help in better implementing the Convention.

While acknowledging the difficult situation prevailing in the country, the Committee noted with serious concern that approximately 1.5 million children were engaged in child labour in the country, the majority of whom were employed in hazardous occupations and economic activities, including agriculture, the fishing industry, mining and construction. In this regard, the Committee requested the Government to strengthen the capacity and expand the reach of the labour inspectorate in enforcing Ministerial Order No. 11 of 2013 on child labour and hazardous work, including in rural areas. It urged the Government to ensure that regular unannounced visits are carried out by labour inspectors so as to ensure that persons who infringe the Convention are prosecuted and that sufficiently effective and dissuasive sanctions are applied. It also requested the Government to take effective and time-bound measures to withdraw children under 18 from working in hazardous conditions and to provide for their rehabilitation and social integration.

Underlining that education contributed to combating the worst forms of child labour, the Committee strongly encouraged the Government to provide access to free and public basic education for all children, particularly children removed from armed conflict and children engaged in hazardous work, with special attention to the situation of girls. In this regard, the Committee called on ILO member States to provide assistance to the Government of Yemen in line with Article 8 of the Convention, with special priority on facilitating free and public basic education and vocational training

for children removed from the worst forms of child labour. Noting the information highlighted by several speakers that the worst forms of child labour were the result of poverty and underdevelopment in Yemen, the Committee encouraged the Government to avail itself of ILO technical assistance in order to achieve tangible progress in the application of the Convention. It also requested the Office to undertake a technical assistance mission in this regard.

Finally, the Committee requested the Government to provide a detailed report to the Committee of Experts addressing all the issues raised by this Committee and the Committee of Experts for examination at its next meeting. The Committee expressed the firm hope that it would be able to note tangible progress in the application of the Convention in the very near future.

II. Submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

Observations and information

(a) Failure to submit instruments to the competent authorities

A Government representative of Sudan indicated that the Conventions and Recommendations adopted from 1994 to 2012 had been submitted to the competent authorities.

A Government representative of Kazakhstan stated that the documents concerning submission had been brought to the attention of the Parliament.

A Government representative of Mauritania indicated that the Department of Labour had undertaken to rectify the delay in the submission of instruments before 31 July 2014. The comments of the present Committee, like those of the Committee of Experts, were certainly appreciated and taken into account. In fact, following an observation in 2013 from the Committee of Experts on the Labour Inspection Convention, 1947 (No. 81), labour inspectors had been given instructions concerning that Convention, and the number of inspectors had risen from ten in 2013 to 13 in 2014.

A Government representative of Brazil said that the Government was working to identify the best way of handling this issue in a comprehensive way, in accordance with the specific constitutional competencies of all the institutions involved in this procedure and in the context of tripartite dialogue. The primary objective was to avoid any recurrence of this situation in the future. Brazil had made progress in consolidating social dialogue. Hence, on the basis of her country's experience, there was renewed confidence that the historical heritage of the Organization would serve as an inspiration for reaching the consensus that was needed to move forward in the debate.

A Government representative of Kuwait indicated that the Government was currently carrying out consultations, including with the social partners, on the possibility of ratifying the Conventions concerned, with a view to eventually submitting the instruments to the competent authorities. He recalled that in 2013, the Committee of Experts had welcomed the fact that all the instruments adopted by the Conference had been submitted by the competent minister to the Council of Ministers, and then to the National Assembly. This was a long and complicated procedure both in terms of logistics and administration and was subject to factors beyond the Government's control such as the timing of parliamentary sessions. A national committee has been set up this year to deal with this constitutional obligation and to accelerate the process. Its creation was the outcome of technical cooperation received from the ILO. The results of the national committee's work would be communicated to the Committee.

A Government representative of Libya wished to comment on both paragraphs 106 and 113 of the General Report. He indicated that Libya was going through a critical transitional phase, in its march towards the establishment of a democratic State. In spite of the present circumstances, the Ministry of Labour and Rehabilitation in the transitional Government had paid great attention to formulating draft laws on labour and trade unions. It had also set up a committee responsible for the preparation of reports on ratified Conventions and replies to the Committee of Experts' comments. Libya had thus complied with its constitutional obligation. Furthermore, the Ministry had forwarded the Conventions adopted at previous sessions of the Conference to the relevant sectors for their examination and positions as to their ratification with a view to their eventual submission to the General National Congress, which was not exactly a Parliament given the present situation. The speaker indicated that his Government had communicated to the Office information to this effect which had probably arrived after the publication of the report. He pledged that his Government would keep the Office informed of any new developments in this regard, and that every effort would be made to meet Libya's constitutional obligations.

A Government representative of Jordan explained that the constitution of Jordan had been amended in November 2011, and that the changes required the Government to examine all national legislation to ensure its conformity with the new Constitution. In January 2014, Jordan had ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102). The Government had always submitted instruments to the competent authorities and would shortly be in a position to submit information in this respect.

A Government representative of Papua New Guinea referred to the progress made within the Government's implementing agency in relation to the obligation of submission to the competent authorities, including through the preparation of a draft document concerning the submission of 19 instruments to the National Executive Council. This initial progress had been hindered in late 2012, when the implementing agency had undertaken administrative changes affecting its technical capacity to ensure that the submission would reach the competent authority. In view of the large number of instruments to be submitted to the competent authority, further technical and legal consultations were needed prior to submission. Nevertheless, he reaffirmed his Government's commitment to address this failure and the internal technical capacity issues. Information would be communicated to the Committee in the near future.

A Government representative of Suriname informed the Committee that, on the previous day, her Government had submitted the report on the Worst Forms of Child Labour Convention, 1999 (No. 182). The Conventions adopted had not been submitted to the competent authorities due to an administrative problem. A document for submission to the competent authority (the National Assembly) was in the final stages of preparation, and her Government hoped to be able to meet its obligation by the end of 2014.

A Government representative of Bangladesh stated that 37 ILO instruments had been submitted to the competent authority of Bangladesh, the Tripartite Consultative Council (TCC). At its July 2013 meeting, the TCC had recommended that Bangladesh should ratify the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) and the Maritime Labour Convention, 2006; Bangladesh had, accordingly, ratified those Conventions in 2014. He recalled however that any labour-related issue including ILO instruments needed to be discussed by the standing parliamentary committee related to the Ministry of Labour and Employment.

A Government representative of Bahrain said that his Government had sent a document detailing his country's position on the procedure for submission in March. Article 19 of the Constitution gave member States a great deal of freedom as to the appropriate procedures, including when the Executive was the competent authority for examining instruments that had been adopted.

The Committee took note of the information provided and of the explanations given by the Government representatives who had taken the floor. The Committee took note of the

specific difficulties mentioned by certain delegates in complying with this constitutional obligation, and in particular the promises to submit shortly to parliaments the instruments adopted by the International Labour Conference.

The Committee pointed out that a particularly high number of governments had been invited to provide explanations on the important delay in meeting their constitutional obligation of submission. As had been done by the Committee of Experts, the Committee expressed great concern at the failure to respect the obligation to submit Conventions, Recommendations and Protocols to competent authorities. Full compliance with the obligation to submit meant the submission of the instruments adopted by the Conference to national parliaments and was a requirement of the highest importance in ensuring the effectiveness of the Organization's standards-related activities. The Committee recalled in this regard that the Office could provide technical assistance to contribute to compliance with this obligation.

The Committee expressed the firm hope that the countries mentioned, namely Angola, Bahrain, Belize, Brazil, Comoros, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Dominica, El Salvador, Equatorial Guinea, Fiji, Guinea, Haiti, Iraq, Jamaica, Jordan, Kazakhstan, Kyrgyzstan, Kuwait, Libya, Mali, Mauritania, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Syrian Arab Republic, Tajikistan, Uganda and Vanuatu, would transmit in the near future information on the submission of Conventions, Recommendations and Protocols to the competent authorities. The Committee decided to mention these cases in the corresponding paragraph of the General Report.

(b) Information received

Albania. Since the meeting of the Committee of Experts, the ratification of the Promotional Framework of Occupational Safety and Health Convention, 2006 (No. 187) was registered on 24 April 2014.

Bangladesh. Since the meeting of the Committee of Experts, the instrument of ratification of the Maritime Labour Convention, 2006 was received on 28 April 2014, but not registered pending information under Standard A.5, paragraph 10.

Congo. Since the meeting of the Committee of Experts, the ratification of the Maritime Labour Convention, 2006 was registered on 7 April 2014.

Seychelles. Since the meeting of the Committee of Experts, the ratification of the Maritime Labour Convention, 2006 was registered on 7 January 2014.

III. Reports on unratified Conventions and Recommendations (article 19 of the Constitution)

(a) Failure to supply reports for the past five years on unratified Conventions and Recommendations

The Committee took note of the information provided.

The Committee stressed the importance it attached to the constitutional obligation to transmit reports on unratified Conventions and Recommendations. In effect, these reports permitted a better evaluation of the situation in the context of General Surveys of the Committee of Experts. In this respect, the Committee recalled that the ILO could provide technical assistance to help in complying with this obligation.

The Committee insisted that all member States should fulfil their obligations in this respect and expressed the firm hope that the Governments of the Democratic Republic of the Congo, Equatorial Guinea, Guinea, Guinea-Bissau, Libya, Marshall Islands, Solomon Islands, Saint Kitts and Nevis, Sao Tome and Principe, Sierra Leone, Somalia, Tuvalu and Vanuatu, would comply with their future obligations under article 19 of the ILO Constitution. The Committee decided to mention these cases in the corresponding paragraph of the General Report.

The Worker members emphasized the importance of the discussion of member States' non-compliance with their standards-related obligations. The fact that some of the countries cited the previous year were no longer on the list showed that the discussion served a purpose. The governments that had spoken should be thanked and should all be encouraged to take the necessary steps to address their shortcomings.

(b) Information received

Since the meeting of the Committee of Experts, reports on unratified Conventions and Recommendations have subsequently been received from the following countries: **Brunei Darussalam** and **Tajikistan**.

(c) Reports received on unratified Convention No. 131 and Recommendation No. 135

In addition to the reports listed in Appendix II on page 203 of the Report of the Committee of Experts (Report III, Part 1B), reports have subsequently been received from the following country: **Mongolia**.

Appendix I. Table of Reports received on ratified Conventions

(articles 22 and 35 of the Constitution)

Reports received as of 12 June 2014

The table published in the Report of the Committee of Experts, page 590, should be brought up to date in the following manner:

Note: First reports are indicated in parentheses.
Paragraph numbers indicate a modification in the lists of countries mentioned in Part One (General Report) of the Report of the Committee of Experts.

Algeria
24 reports requested

- All reports received: Conventions Nos. 3, 14, 17, 19, 24, 29, 32, 42, 44, 81, 87, 89, 97, 98, 100, 101, 111, 119, 120, 127, 142, 144, 155, 181

Angola
17 reports requested

- 11 reports received: Conventions Nos. 12, 17, 18, 19, 27, 29, 88, 98, 100, 105, 111
- 6 reports not received: Conventions Nos. 1, 14, 87, 89, 106, 107

Belgium
15 reports requested

- All reports received: Conventions Nos. 1, 14, 82, 87, 98, 107, 132, 140, 144, 149, (150), (155), (161), (168), 171

Brunei Darussalam
1 report requested

- All reports received: Convention No. (138)

Bulgaria
24 reports requested

- All reports received: Conventions Nos. 1, 3, 12, 14, 17, 19, 24, 25, 27, 30, 32, 42, 44, 52, 81, 87, 95, 98, 102, 106, 144, 177, 181, 183

Congo
8 reports requested

- 5 reports received: Conventions Nos. 14, 89, 98, 144, 149
- 3 reports not received: Conventions Nos. 81, 87, 182

Djibouti
51 reports requested

(Paragraph 53)

- 33 reports received: Conventions Nos. 1, 11, 12, 13, 14, 17, 18, 19, 24, 26, 29, 37, 38, 52, 77, 78, 81, 87, 88, 89, 96, 98, 99, 100, 101, 105, 106, 111, 120, 122, 138, 144, 182
- 18 reports not received: Conventions Nos. 9, 16, 22, 23, 53, 55, 56, 63, 69, 71, 73, 94, 95, 108, 115, 124, 125, 126

Dominican Republic
10 reports requested

(Paragraph 53)

- All reports received: Conventions Nos. 1, 52, 87, 98, 106, 107, 111, 144, 171, 172

Ecuador
31 reports requested

(Paragraph 53)

- All reports received: Conventions Nos. 81, 87, 95, 97, 98, 100, 101, 102, 103, 106, 110, 111, 115, 117, 118, 119, 121, 123, 128, 130, 136, 139, 142, 144, 148, 149, 152, 153, 159, 162, 169

El Salvador
6 reports requested

- 3 reports received: Conventions Nos. 107, 144, 155
- 3 reports not received: Conventions Nos. 87, 98, 142

Eritrea
2 reports requested

(Paragraph 53)

- All reports received: Conventions Nos. 87, 98

Fiji **6 reports requested**

- All reports received: Conventions Nos. 87, 98, 144, 149, 169, 172

France **15 reports requested**

- All reports received: Conventions Nos. 3, 14, 52, 82, 87, 96, 98, 101, 106, 137, 140, 142, 144, 149, 152

Guyana **26 reports requested**

- 14 reports received: Conventions Nos. 87, 95, 98, 100, 108, 111, 129, 138, 140, 144, 149, 151, 172, 175
- 12 reports not received: Conventions Nos. 11, 12, 29, 94, 105, 115, 131, 135, 137, 139, 141, 142

Kazakhstan **8 reports requested**

(Paragraph 50)

- 7 reports received: Conventions Nos. 100, 111, 122, 138, (167), 182, (185)
- 1 report not received: Convention No. (162)

Lao People's Democratic Republic **8 reports requested**

(Paragraph 53)

- 7 reports received: Conventions Nos. 6, 29, 100, 111, 138, (144), 182
- 1 report not received: Convention No. 4

Lebanon **22 reports requested**

- 19 reports received: Conventions Nos. 1, 29, 30, 52, 59, 71, 77, 78, 89, 90, 95, 100, 106, 111, 131, 138, 152, 172, 182
- 3 reports not received: Conventions Nos. 14, 122, 142

Malawi **19 reports requested**

- 16 reports received: Conventions Nos. 19, 26, 29, 81, 89, 97, 98, 100, 107, 111, 129, 138, 144, 150, 159, 182
- 3 reports not received: Conventions Nos. 99, 105, 149

Malaysia **4 reports requested**

- All reports received: Conventions Nos. 29, 95, 100, 144

Mali **17 reports requested**

(Paragraphs 44 and 53)

- All reports received: Conventions Nos. 6, 11, 14, 17, 18, 19, 26, 29, 52, 95, 100, 105, 111, 138, 144, 182, 183

Malta **16 reports requested**

- All reports received: Conventions Nos. 1, 14, 32, 77, 78, 95, 96, 98, 100, 106, 111, 117, 124, 131, 132, 149

Mauritania **16 reports requested**

- 1 report received: Convention No. 122
- 15 reports not received: Conventions Nos. 3, 14, 29, 33, 52, 81, 89, 100, 101, 102, 111, 112, 114, 138, 182

Mongolia **8 reports requested**

(Paragraph 53)

- 7 reports received: Conventions Nos. 100, 111, 122, 123, 138, 144, 182
- 1 report not received: Convention No. 103

Nicaragua **14 reports requested**

- 13 reports received: Conventions Nos. 1, 3, 14, 30, 78, 100, 110, 111, 117, 122, 140, 142, 169
- 1 report not received: Convention No. 4

Panama **15 reports requested**

- 13 reports received: Conventions Nos. 3, 29, 30, 52, 81, 88, 89, 94, 105, 110, 122, 138, 182
- 2 reports not received: Conventions Nos. 107, 117

Portugal

18 reports requested

- All reports received: Conventions Nos. 1, 14, 29, 81, 87, 103, 105, 106, 117, 129, 131, 132, 138, 142, 149, 171, 175, 182

Slovakia

23 reports requested

(Paragraph 53)

- 14 reports received: Conventions Nos. 1, 14, 29, 42, 52, 90, 98, 105, 122, 139, 148, 171, 182, 183
- 9 reports not received: Conventions Nos. 27, 81, 123, 129, 138, 140, 142, 156, 159

Spain

22 reports requested

- All reports received: Conventions Nos. 1, 4, 14, 29, 30, 81, 94, 101, 103, 105, 106, 117, 122, 129, 132, 138, 140, 142, 153, 169, 172, 182

Suriname

9 reports requested

- All reports received: Conventions Nos. 14, 29, 41, 81, 101, 105, 106, 118, 182

Thailand

7 reports requested

(Paragraph 53)

- 4 reports received: Conventions Nos. 14, 29, 105, 138
- 3 reports not received: Conventions Nos. 19, 122, 182

Turkey

17 reports requested

- All reports received: Conventions Nos. 14, 26, 29, 77, 81, 94, 95, 98, 99, 105, 122, 123, 138, 142, 152, 153, 182

Grand Total

A total of 2,176 reports (article 22) were requested,
of which 1,755 reports (80.65 per cent) were received.

A total of 143 reports (article 35) were requested,
of which 141 reports (98.60 per cent) were received.

Appendix II. Statistical table of reports received on ratified Conventions
(article 22 of the Constitution)

Reports received as of 12 June 2014

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1932	447	-		406	90.8%	423	94.6%
1933	522	-		435	83.3%	453	86.7%
1934	601	-		508	84.5%	544	90.5%
1935	630	-		584	92.7%	620	98.4%
1936	662	-		577	87.2%	604	91.2%
1937	702	-		580	82.6%	634	90.3%
1938	748	-		616	82.4%	635	84.9%
1939	766	-		588	76.8%	-	
1944	583	-		251	43.1%	314	53.9%
1945	725	-		351	48.4%	523	72.2%
1946	731	-		370	50.6%	578	79.1%
1947	763	-		581	76.1%	666	87.3%
1948	799	-		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
1977	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2288	520	22.7%	1406	61.4%	1641	71.7%
2000	2550	740	29.0%	1798	70.5%	1952	76.6%
2001	2313	598	25.9%	1513	65.4%	1672	72.2%
2002	2368	600	25.3%	1529	64.5%	1701	71.8%
2003	2344	568	24.2%	1544	65.9%	1701	72.6%
2004	2569	659	25.6%	1645	64.0%	1852	72.1%
2005	2638	696	26.4%	1820	69.0%	2065	78.3%
2006	2586	745	28.8%	1719	66.5%	1949	75.4%
2007	2478	845	34.1%	1611	65.0%	1812	73.2%
2008	2517	811	32.2%	1768	70.2%	1962	78.0%
2009	2733	682	24.9%	1853	67.8%	2120	77.6%
2010	2745	861	31.4%	1866	67.9%	2122	77.3%
2011	2735	960	35.1%	1855	67.8%	2117	77.4%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals.							
2012	2207	809	36.7%	1497	67.8%	1742	78.9%
2013	2176	740	34.1%	1578	72.5%	1755	80.6%

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